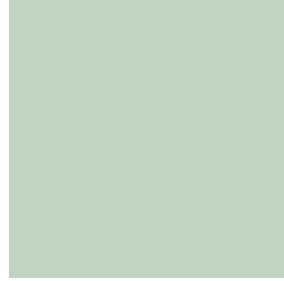


2023 UPDATE



**BULGARIA**



# COUNTRY REPORT

## Acknowledgements & Methodology

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

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

The information in this report is up-to-date as of 31 December 2023, unless otherwise stated.

## The Asylum Information Database (AIDA)

The Asylum Information Database (AIDA) is managed 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.



This report is part of the Asylum Information Database (AIDA), partially funded by the European Union's Asylum, Migration and Integration Fund (AMIF) and ECRE. The contents of this report are the sole responsibility of ECRE and can in no way be taken to reflect the views of the European Commission.



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## Glossary & List of Abbreviations

<b>Closed reception centre</b>	Detention centre for asylum seekers managed by the SAR
<b>Humanitarian status</b>	Subsidiary protection under the recast Qualification Directive
<b>Zero integration</b>	Period during which all beneficiaries of international protection have been left without any integration support in Bulgaria
<b>ACET</b>	Assistance Centre for Torture Survivors
<b>AMIF</b>	Asylum, Migration and Integration Fund
<b>ASA</b>	Agency for Social Assistance   Агенция за социално подпомагане
<b>BHC</b>	Bulgarian Helsinki Committee
<b>CERD</b>	Committee on Elimination of Racial Discrimination
<b>CoM</b>	Council of Ministers   Министерски съвет
<b>CRF</b>	Closed reception facilities
<b>CPT</b>	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
<b>EASO</b>	European Asylum Support Office
<b>EC</b>	European Commission
<b>ЕСГРАОН</b>	Civil national database
<b>ЕГН</b>	Unique identification number   Единен граждански номер
<b>ЛНЧ</b>	Unique identification number for short-term or long-term residents, including asylum seekers   Личен номер на чужденец
<b>EUAA</b>	European Union Agency for Asylum
<b>Eurodac</b>	European fingerprint database
<b>Frontex</b>	European Border and Coast Guard Agency
<b>LAR</b>	Law on Asylum and Refugees
<b>LARB</b>	Law on Aliens in the Republic of Bulgaria   Закон за чужденците в Република България
<b>MOI</b>	Ministry of Interior
<b>NLAB</b>	National Legal Aid Bureau
<b>NPIR</b>	National Programme for the Integration of Refugees
<b>RRC</b>	Registration-and-reception centre
<b>RSD</b>	Refugee status determination
<b>SGBV</b>	Sexual and Gender based Violence
<b>SOP</b>	Standard Operating Procedures
<b>SANS</b>	State Agency for National Security   Държавна агенция “Национална сигурност”
<b>SAR</b>	State Agency for Refugees   Държавната агенция за бежанците
<b>SIS</b>	Schengen Information System

**TCN**

Third country national

**UNICEF**

United Nations Children's Fund

**UNHCR**

United Nations High Commissioner for Refugees



## Statistics

### Overview of statistical practice

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

### Applications and granting of protection status at first instance: 2023

	Applicants in 2023 (1)	Pending at end of 2023	Total decisions in 2023 (2)	Total substantive decisions (3)	Refugee status	Subsidiary protection	Humanitarian protection (4)	Rejection (5)
<b>Total</b>	22,518	11,951	24,949	8,738	106	5,682	N/A	2,950
Breakdown by countries of origin of the total numbers								
Syria	12,416	6,774	13,167	5,759	72	5,550	N/A	137
Afghanistan	5,906	4,179	6,426	194	10	17	N/A	167
Morocco	2,580	192	3,282	1,985	0	2	N/A	1,983
Iraq	695	192	1,007	281	5	19	N/A	257
Egypt	184	61	168	57	0	0	N/A	57
Algeria	131	24	155	84	0	0	N/A	84
Pakistan	104	92	116	11	1	4	N/A	6
Stateless	93	59	107	47	0	34	N/A	13
Iran	82	72	93	31	1	22	N/A	8
Russia	75	115	149	114	14	5	N/A	95

Source: State Agency for Refugees.

(1) “Applicants in year” refers to the total number of applicants, not only to first-time applicants.

(2) Statistics on decisions cover the decisions taken throughout the year, regardless of whether they concern applications lodged that year or in previous years.

<sup>1</sup> SAR, Statistics and reports, available at: <https://bit.ly/2ur0Y1a>.

<sup>2</sup> Ministry of Interior, Migration statistics, available at: <https://bit.ly/48C57wC>.

(3) The total 24,949 decisions issued include 8,738 substantive decisions (status granting, status refusals, inadmissibility and manifestly unfounded decisions) and 16,211 decisions terminating asylum procedures due to absconding.

(4) The national law does not provide for any other form of additional protection except the humanitarian statuses, which is based on article 15 QD, i.e. it is a term used to transpose this article of the Qualification Directive into national law.

(5) "Rejection" only covers negative decisions on the merit of the application.

### Applications and granting of protection status at first instance: 2023

	Substantive rejection rate	Substantive protection rate	Refugee rate	Subsidiary protection rate
<b>Total</b>	44%	66%	1%	65%
Breakdown by countries of origin of the total numbers				
Syria	3%	97%	1%	96%
Afghanistan	86%	14%	5%	9%
Morocco	99.9%	0.1%	0%	0.1%
Iraq	90%	10%	2%	8%
Egypt	100%	0%	0%	0%
Algeria	100%	0%	0%	0%
Pakistan	55%	45%	9%	36%
Stateless	28%	72%	0%	72%
Iran	26%	74%	3%	71%
Russia	84%	16%	12%	4%

Source: State Agency for Refugees. Calculations made by the author based on official data on asylum decisions.

Note: These rates are calculated based on substantive decisions only (including inadmissibility), excluding rejections due to absconding.

**Gender/age breakdown of the total number of applicants: 2023**

	Men	Women
<b>Number</b>	20,297	2,221
<b>Percentage</b>	90%	10%

	Adults	Children	
		Accompanied	Unaccompanied
<b>Number</b>	16,798	1,877	3,843
<b>Percentage</b>	75%	8%	17%

Source: State Agency for Refugees.

**First instance and appeal decision rates: 2023**

	First instance		Appeal	
	Number	Percentage	Number	Percentage
<b>Total number of decisions</b>	<b>24,949<sup>3</sup></b>		<b>427</b>	
Positive decisions	5,788	23%	74	17%
• <i>Refugee status</i>	106	0.4%	<i>not available</i>	<i>not available</i>
• <i>Subsidiary protection</i>	5,682	22%	<i>not available</i>	<i>not available</i>
Negative decisions	2 950	12%	353	83%

Source: State Agency for Refugees.

<sup>3</sup> SAR reg. No. №РД05-31 from 15 January 2024: including decisions for discontinuation of asylum procedures due to absconding.

## Overview of the legal framework

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

Title in English	Original Title (BG)	Abbreviation	Web Link
Law on Asylum and Refugees	Закон за убежището и бежанците	LAR	<a href="https://lex.bg/laws/ldoc/2135453184">https://lex.bg/laws/ldoc/2135453184</a> (BG)
Law on Aliens in the Republic of Bulgaria	Закон за чужденците в Република България	LARB	<a href="https://bit.ly/2Z7e4ee">https://bit.ly/2Z7e4ee</a> (BG)

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

Title in English	Original Title (BG)	Abbreviation	Web Link
Regulations on the implementation of the Law on Aliens in the Republic of Bulgaria <i>Amended by: CoM № 129 of 5 July 2018</i>	Правилник за приложение на Закона за чужденците в Република България (ППЗЧРБ)	LARB Regulations	<a href="https://bit.ly/3Tdqtfr">https://bit.ly/3Tdqtfr</a> (BG)
Ordinance № 332 of 28 December 2008 for the responsibilities and coordination among the state agencies, implementing Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, Commission Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003, Council Regulation No 2725/2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention and Council Regulation (EC) No	Наредба приета с ПМС №332 от 28.12.2008 за отговорността и координацията на държавните органи, осъществяващи действия по прилагането на Регламент (ЕО) № 343/2003 на Съвета от 18 февруари 2003 г. за установяване на критерии и механизми за определяне на държава членка, компетентна за разглеждането на молба за убежище, която е подадена в една от държавите членки от гражданин на трета страна, Регламент (ЕО) № 1560/2003 на Комисията от 2 септември 2003г. за определяне условията за прилагане на Регламент (ЕО) № 343/2003 на Съвета за установяване на критерии и механизми за определяне на държавата членка, която е компетентна за разглеждането на молба за убежище, която е подадена в една от държавите членки от гражданин на трета страна,	ORD 332/08	<a href="http://bit.ly/1IJ1Cl5">http://bit.ly/1IJ1Cl5</a> (BG)

407/2002 of 28 February 2002 laying down certain rules to implement Regulation (EC) No 2725/2000	Регламент (ЕО) № 2725/2000 на Съвета от 11 декември 2000г. за създаване на система "ЕВРОДАК" за сравняване на дактилоскопични отпечатъци с оглед ефективното прилагане на Дъблинската конвенция и Регламент (ЕО) № 407/2002 на Съвета от 28 февруари 2002 г. за определяне на някои условия за прилагането на Регламент (ЕО) № 2725/2000 относно създаването на системата "ЕВРОДАК" за сравняване на дактилоскопични отпечатъци с оглед ефективното прилагане на Дъблинската конвенция		
Ordinance № I-13 of 29 January 2004 on the rules for administrative detention of aliens and the functioning of the premises for aliens' temporary accommodation	Наредба № I-13 от 29 януари 2004 за реда за временно настаняване на чужденци, за организацията и дейността на специалните домове за временно настаняване на чужденци	ORD I-13/04	<a href="https://bit.ly/4bPwXs6">https://bit.ly/4bPwXs6</a> (BG)
Internal Rules of Procedure in immigration detention centers under the Migration Directorate of the Ministry of Interior, adopted on 16 June 2016 (№5364p-20628)	Правилник за вътрешния ред в специалните домове за временно настаняване на чужденци при Дирекция "Миграция" при Министерството на вътрешните работи, утвърден с № 5364p-20628 от 16.06.2016 г. от директора на дирекция "Миграция" - МВР	Detention Rules	<a href="https://bit.ly/2RnPVxr">https://bit.ly/2RnPVxr</a> (BG)
Ordinance № 208 of 12 August 2016 on rules and conditions to conclude, implement and cease integration agreements with foreigners granted asylum or international protection	Постановление № 144 от 19 юли 2017 г. за приемане на Наредба за условията и реда за сключване, изпълнение и прекратяване на споразумение за интеграция на чужденци с предоставено убежище или международна закрила	Integration Ordinance	<a href="https://bit.ly/3P0tayl">https://bit.ly/3P0tayl</a> (BG)

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

The report was previously updated in **March 2023**.

### National context

The year of 2023 was marked by two very distinctive phases for the national political situation. The first one extended from 3 February to 6 June 2023, when the pro-Russian, anti-EU and anti-refugee president Rumen Radev<sup>4</sup> appointed his second-in-the-row caretaker cabinet.<sup>5</sup> It took over from the previous caretaker cabinet, also appointed by Radev, which governed the country from 2 August 2022 to 2 February 2023. The caretaker cabinets were a result firstly of a vote of 'no confidence' in June 2022, and then of a failed attempt to form a regular government following the general elections held on 2 October 2022. This period, similar to the second half of 2022, was characterised not only by idleness to undertake whatever positive measures to support the national refugee system,<sup>6</sup> but by a strive to limit as much as possible the existing scarce reception conditions, especially vis-à-vis the refugees from the war in Ukraine.<sup>7</sup> Under national arrangements, instead of the national Asylum Agency, the government is responsible for granting and managing temporary protection.<sup>8</sup>

After general elections - the fifth since 2021 - held on 2 April 2023, a new regular government was formed.<sup>9</sup> However, it was designed as a rotational government by a broad coalition of otherwise opposing political entities, having as a main objective preventing the appointment of another caretaker cabinet by Radev. This made it difficult to adopt executive decisions, and resulted in strenuous bargaining, often reverted agreements and congested reforms as a whole.<sup>10</sup> The national asylum system was particularly affected, as asylum policies fell outside the government's agenda with continuously delayed adoption of LAR amendments and TP integration program, as well as lack of funding support to provide even the most basic reception conditions (see [Reception Conditions](#)).

### Asylum procedure

❖ **Access to the territory:** Bulgaria continued to apply different approaches to granting access to the territory for persons seeking asylum and people fleeing the war in Ukraine. While the displaced persons from Ukraine rightfully continued to have unimpeded access to the territory and to the available temporary protection, asylum seekers from the Global South arriving with the mixed migratory flows, continued to suffer lack of any sanctioned pathways to enter the territory. It resulted in growing pushbacks along the EU's external border with Türkiye and the internal Schengen border with Greece. The national monitoring mechanism<sup>11</sup> established 9,897 alleged pushbacks affecting 174,588 persons, which was almost double the number registered in 2022.<sup>12</sup> Notwithstanding, the year of 2023 also marked a national record high of asylum applications since the establishment in 1993 of the national asylum system - with 22,518 registered applicants. This marked a 10% increase<sup>13</sup> in comparison with the previous year (see [Access to the territory and push backs](#)). Another 1,254,470

<sup>4</sup> Politico, Republic of Radev: Bulgaria's impasse empowers its elusive president, 31 March 2023, available at: <https://bit.ly/3uPEir2>.

<sup>5</sup> БТА, Президентът Румен Радев назначи служебно правителство с министър-председател Гълъб Донев, 2 February 2023, available in Bulgarian at: <https://bit.ly/49yZtMX>.

<sup>6</sup> SAR reg.№ЦУ-РД05-123/27.02.2024.

<sup>7</sup> AIDA 2022 Temporary Protection Bulgaria, Content of temporary protection, d. Housing, March 2023, available at: <https://bit.ly/3TexLj2>.

<sup>8</sup> Article 2(2) in conjunction with Articles 80-81 LAR.

<sup>9</sup> Lex.bg, Парламентът избра ротационното правителство Денков-Габриел, 6 June 2023, available in Bulgarian at: <https://bit.ly/3USL3mx>.

<sup>10</sup> Balkan Insight, Bulgaria Coalition Cracks Widen Ahead of Govt Rotation, 8 February 2024, available at: <https://bit.ly/3UXCwP2>.

<sup>11</sup> Tripartite Memorandum of Understanding (MoU) among Border Police, UNHCR and Bulgarian Helsinki Committee, signed on 14 April 2010.

<sup>12</sup> Ibid., 5,268 alleged pushbacks affecting 87,647 persons in 2022.

<sup>13</sup> SAR statistics, 2022: 20,407 asylum applicants / 2023:22,518 asylum applicants, available at: <https://bit.ly/3URtrYe>.

Ukrainians gained access to the territory of Bulgaria in 2023, of whom 24,441 individuals<sup>14</sup> registered under the temporary protection scheme. As of the end of the year 52,580 temporary protection holders were remaining in the country. Thus, in 2023 the national asylum system was engaged with 75,098 persons, seeking or enjoying some of the available types of protection in Bulgaria.

- ❖ **Access to the procedure:** Overall, migrants apprehended did not enjoy direct access to the asylum procedure. Only 2% of them reportedly received direct access and accommodation in a SAR reception centre without first being sent and detained in a MOI deportation centre.<sup>15</sup> The improvement, first noticed in 2022, with respect to the access to procedure of the so called 'self-reported' asylum seekers continued. Asylum seekers considered 'self-reported' are those who managed to enter and reach SAR registration centres independently, without being apprehended by the police and detained. In the past, the asylum agency consistently refused to register them directly, instead alerting the police, which was arresting and detaining the self-reported asylum seekers in deportation centres of the Ministry of the Interior. In some cases, this malpractice was affecting families with minor children and pregnant women. This trend changed from 2022, when this practice affected a total of 94 persons (0.5%) out of 20,407 asylum seekers registered in the country. In 2023, only 48 asylum seekers (0.2%) out of 22,518 suffered from this practice.<sup>16</sup> Close to no unlawful asylum procedures were registered in MOI deportation centres, with just 1 asylum procedure implemented in violation of the law<sup>17</sup> in Lyubimets detention centre<sup>18</sup> (see [Registration of the asylum application](#)).
- ❖ **Absconding and secondary movements:** The absconding rate remained high. 48% (16,211 persons) out of 33,703 asylum seekers with pending proceedings abandoned the asylum procedure in Bulgaria in 2023.<sup>19</sup> This represented a minor increase compared to 46% in 2022 on the background of 26% in 2021, 39% in 2020, and 83% in 2019. The usual reasons motivating asylum seekers to abandon their asylum procedures in Bulgaria and abscond were the congested procedures, low recognition rates for some nationalities, poor reception conditions as well as the lack of any integration support or programs (see [Reception Conditions](#)).
- ❖ **Length and quality of the procedure:** In 2023, the SAR dealt with the biggest annual number of 16,139 asylum applicants pending determination at the same time<sup>20</sup> since its establishment in 1993, despite having issued the highest number of asylum decisions in a year, with a total of 24,949 decisions. Out of them, 106 decisions granting refugee status, 5,682 decisions granting humanitarian status, 2,950 refusals of international protection, of which 2,574 in accelerated procedure and 16,211 discontinuations of the procedure, mainly due to absconding. It represented 2,079 decisions monthly on average, issued by 32 case workers. The average length of the procedure decreased from 4 to 6 months<sup>21</sup>. Several improvements in the standards and quality of the asylum procedure were also observed,<sup>22</sup> which provided for better safeguards for asylum applicants pending the status determination (see [Procedures](#)).

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<sup>14</sup> See: <https://ukraine.gov.bg/>.

<sup>15</sup> Monthly Situation Report for December 2023: 61 asylum seekers, of whom according to MOI statistics: 35 unaccompanied children referred to Agency for Social Assistance by the Border police, available in Bulgarian at: <https://bit.ly/49x8Dd3>.

<sup>16</sup> Bulgarian Helsinki Committee, 2023 Annual Refugee Status Determination Monitoring Report, 31 January 2024, available at: <https://bit.ly/4bU9INC>.

<sup>17</sup> §5 Additional Clauses, LAR: SAR can implement asylum procedures outside its premises at places designated for this purpose by an order of the SAR Chairperson prior the establishment of its transit centers; the Pastrogor transit center was open on 3 May 2012. Source: Citybuild, available in Bulgarian at: <https://bit.ly/3IKJIMO>.

<sup>18</sup> Bulgarian Helsinki Committee, 2023 Annual Refugee Status Determination Monitoring Report, 31 January 2024, available at: <https://bit.ly/4bU9INC>.

<sup>19</sup> 22,518 asylum seekers who applied in 2023 and 11,185 asylum seekers pending determination from 2022, SAR, reg. №05-72 from 26 January 2023 and reg. №ПД05-40 from 16 January 2023.

<sup>20</sup> SAR, Annual report on procedures for international protection in 2023, available in Bulgarian at: <https://bit.ly/3wDKXoU>.

<sup>21</sup> SAR, reg. №05-72 from 26 January 2023.

<sup>22</sup> Bulgarian Helsinki Committee, 2023 Annual Refugee Status Determination Monitoring Report, 31 January 2024, available at: <https://bit.ly/4bU9INC>.



- ❖ **Pilot project on accelerated procedure:** After series of bilateral meetings held during the first quarter of 2023 between the Austrian Migration Service and Bulgarian MOI and SAR, a pilot project<sup>23</sup> was launched focusing on an increase in the application of accelerated procedures by the national asylum authority in the Pastrogor Transit centre (located near the Bulgarian-Turkish border). This procedure was set to target applicants from specific nationalities, which were increasingly reaching Austria and were included in its safe countries of origin list.<sup>24</sup> In practice it was observed that the procedure was applied in cases of nationals mainly from Algeria, Morocco and Tunisia. The declared objective of the project was to enable the Bulgarian authorities to increase the pace of the asylum procedure for nationals from these countries, and if unsuccessful, to return them in an expedited manner to their countries of origin, thus preventing secondary movements. The initial implementation was set for the period March – September. On 20 March 2023, the European Commission (EC) took over from Austria with the project period fixed for 6 months, i.e. until 31 August 2023. In return, the Commission provided operational and technical support focused on initial screening and referral. During the pilot project's implementation period, a total of 1,582 (58%)<sup>25</sup> of all asylum applicants from these nationalities were registered and processed in Pastrogor transit centre, with a total of 1,235 decisions issued, or 78% of applicants processed under the pilot project, representing 35% of all decisions taken with respect to these three nationalities in 2023.<sup>26</sup> Altogether, 1,014 decisions (82%) issued within the project were issued as of 31 August, the pilot project's end date. The SAR reported that in over 90% of these cases the applicants in question had left the opened Pastrogor transit centre, and absconded before they could be referred to MOI for deportation, if refused. If assessed statistically vis-à-vis all the decision issued with respect to these nationalities in 2023 resulted, as follows – Algeria: 155 decisions in total in 2023, of which 0% recognition, 54% refused in accelerated procedure, 46% absconded; Morocco: 3,262 decisions in total in 2023, of which 0.06% recognition, 0.6% refused in general procedure, 60% refused in accelerated procedure, 39.8% absconded; and Tunisia: 70 decisions in total in 2023, of which 0% recognition, 1% refused in general procedure, 73% refused in accelerated procedure, 27% absconded. Other more indirect outcomes of the pilot project related to the EC stating to be willing to renew it in 2024, as well as to support the digitalization of the national asylum procedure database, with the official endorsement of the latter expected by the end of March 2024 (see [Accelerated procedure](#)).
- ❖ **Recognition and refusal rates:** In 2023, the overall recognition rate decreased from 91% in 2022 to 66% of all decisions on the merits. Both refugee recognition and subsidiary protection rates continued to decrease. Refugee recognition decreased to 1%,<sup>27</sup> while subsidiary protection (humanitarian status) decreased more significantly to 65% in 2023.<sup>28</sup> The rejection rate reached 34%,<sup>29</sup> when considering only decisions issued on the substance of asylum claims. Among the top 5 countries of origin of asylum seekers entering Bulgaria in 2023 were Syria and Afghanistan. These two nationalities together represented 81% of the total arrivals, - 55% from Syria and 26% from Afghanistan. Except for Syrian nationals, over an extended period before 2022, recognition rates for other nationalities remained low. Applicants from Afghanistan and Türkiye were treated discriminatory and their cases overwhelmingly considered as manifestly unfounded, which resulted in extremely low recognition rates.<sup>30</sup> After more than a decade being considered as non-credible applicants, interrupted by a significant improvement in recognition rates in 2022, in 2023 Afghan nationals once more faced

<sup>23</sup> Thereinafter in the paragraph, State Agency for Refugees, Asylum Procedure Quality Directorate, Annual report on national asylum procedures in 2023, published on 12 January 2024, available in Bulgarian at: <https://bit.ly/3wDKXoU>.

<sup>24</sup> AIDA Update on Austria, 5 May 2023, available at: <https://bit.ly/3uTimLz>.

<sup>25</sup> SAR statistics, 2740 applicants in 2023, of whom: Algeria – 131, Morocco – 2580 and Tunisia – 29 applicants.  
<sup>26</sup> SAR statistics, Algeria: 155 decisions issued, of which 131 relating applications submitted in 2023 and 22 pending from 2022; Morocco: 3262 decisions issued, of which 2580 relating applications submitted in 2023 and 682 pending from 2022; Tunisia: 70 decisions issued, of which 29 relating applications submitted in 2023 and 41 pending from 2022.

<sup>27</sup> Previous refugee recognition rates: 2% in 2022; 4% in 2021; 13% in 2020; 13% in 2019; 15% in 2018; 14% in 2017; 25% in 2016; 76% in 2015; 69% in 2014.

<sup>28</sup> Previous subsidiary protection rates: 89% in 2022; 57% in 2021; 47% in 2020; 15% in 2019; 20% in 2018; 18% in 2017; 19% in 2016; 14% in 2015; 25% in 2014.

<sup>29</sup> Previous rejection rates: 9% in 2022; 39% in 2021; 39% in 2020; 71% in 2019; 65% in 2018; 68% in 2017; 56% in 2016; 10% in 2015; 6% in 2014.

<sup>30</sup> AIDA update on Bulgaria, 23 February 2022, Differential treatment of specific nationalities in the procedure.



reduced recognition compared to the previous year, with 14% overall recognition rate (5% refugee recognition rate and 9% subsidiary protection rate) against 65% rejection rate<sup>31</sup>. The vast majority (97%) of Afghan applicants<sup>32</sup> continued to abscond before receiving a first instance decision, which was issued on the merits in just 3% of the caseload.<sup>33</sup> Applications from Turkish nationals were rejected in 100% of the cases.

- ❖ **Relocation and resettlement:** Since 2015, Bulgaria accepted 86 individuals under the relocation scheme, of whom 76 from Greece and 10 from Italy. Since the EU-Türkiye deal, out of the agreed number of 110 individuals in total 94 Syrian refugees have been resettled so far. No relocations from Greece and Italy and 9 resettlements from Türkiye were implemented in 2023. Bulgaria has also been included in the Cyprus voluntary relocation mechanism, with 94 Syrian asylum seekers relocated until the end of 2023. Bulgaria was also included in the Cyprus voluntary relocation mechanism with 94 Syrian asylum seekers relocated until the end of 2023 (see [Legal access to the territory](#)).

### *Reception conditions*

- ❖ **Reception centres:** Since 2015, the conditions in all national reception centres have been gradually deteriorating, with support limited to accommodation, nutrition and rudimentary medical help without provision of psychological care or assistance.<sup>34</sup> They continued to experienced recurring problems regarding infrastructure and material conditions, and in some instances failed to provide even the most basic services, including adequate nutrition and sanitation of personal and communal spaces. In 2022 an SAR internal revision of the reception centres' capacity revealed it<sup>35</sup> to be far below long-time stated 5,160 places, mainly because the designated premises were unfit for living. In 2023, SAR continued to report at its disposal only 3,592 places<sup>36</sup> in all of its reception centres. This was mainly due to the fact that the SAR did not received any of the finances requested for repairs or refurbishment<sup>37</sup> in its 2020, 2021, 2023 or 2024 annual budgets. Just BGN 120,000 including VAT were provided in 2022, and no funds were allocated in 2023, while the SAR estimate necessary for the most necessary refurbishment at the end of 2023 was at the amount of BGN 10,953,746.<sup>38</sup> Therefore, the reception conditions in the asylum agency's facilities, where applicants are accommodated pending their asylum case, continued to be at minimum standards in terms of material conditions if not below, as in the case of Ovcha Kupel shelter discussed below. In 2023, the asylum agency SAR did not receive any funds for refurbishment or much needed partial repairs,<sup>39</sup> leaving some of reception centres, e.g. the oldest reception facility of Ovcha Kupel shelter in Sofia in a state of complete dilapidation.<sup>40</sup> Towards the end of the year the Vrazhdebna shelter, which was the only SAR reception facility to provide relatively adequate conditions, suffered a fire. It remained closed for a month to be cleaned and sanitized, but no proper repairs have been made due to the lack of funding, which led to a deterioration compared to its previous overall adequate condition. Regular water, hot water, repair of utilities and equipment in bathrooms, rooms and common areas remain problematic. Vermin infestation, such as bedbugs, lice, cockroaches and rats also remain among the most persisting problems in reception centres for many years. Occupants from all reception centres, except in **Vrazhdebna**, have complained about the poor sanitary conditions, especially regarding soiled mattresses infested with bedbugs which regularly cause health issues, i.e. constant skin inflammations and allergic reactions. This problem arose after 2013 and has been continuously

<sup>31</sup> 2022 AIDA update: 49% overall recognition with 14% refugee recognition rate and 35% subsidiary protection rate.

<sup>32</sup> 6,205 discontinued procedures out of all 6,399 decisions taken in 2023 with respect to Afghan nationals.

<sup>33</sup> See, Table Statistics, page 7 of this report: 194 Afghan decisions on the merits.

<sup>34</sup> See, AIDA Country Updates on Bulgaria: Forth Update from October 2015, 2016 Update from February 2017, 2017 Update from February 2018, 2018 Update from January 2019, 2019 Update from February 2020, 2020 Update from February 2021 and 2021 Update from February 2022.

<sup>35</sup> 118th Coordination meeting held on 22 December 2022.

<sup>36</sup> 127th Coordination Meeting held on 28 December 2023.

<sup>37</sup> SAR reg.№ЦУ-РД05-123/27.02.2024.

<sup>38</sup> SAR reg.№ЦУ-РД05-123/27.02.2024.

<sup>39</sup> SAR reg.№ЦУ-РД05-123/27.02.2024.

<sup>40</sup> Bulgarian Helsinki Committee, Legal Network reports to SAR for the period 1 February 31 October 2023, reg. №Б-108 from 10 November 2023.

neglected until 2023. As a result of the monthly disinfection, pest control and desacarization which began in May 2022<sup>41</sup> and continued in 2023<sup>42</sup> on the basis of contracted services, the situation with regard to bedbugs noticeably improved; similar measures were undertaken in both MOI detention centres in Busmantsi and Lyubimets. Only by September 2023 SAR received the first instalment of the next instalment of AMIF funding, and was as such able to re-appoint cleaning staff. Until then, SAR had to organise the cleaning of all reception centres with the assistance of the centre's population. However, as mentioned above, crumbling buildings and poor sewage and bathroom conditions meant that, despite some improvements, sanitation levels in the centres barely reached the necessary minimum.

Food in reception centres provided through catering arrangements with the value of three meals per day agreed to BGN 5.01, without VAT, or, BGN 6.02 equal to EUR 3.08, as per the lowest price condition within an already scarce budget, maintained at extremely low quality. Just in 2023 the rate of inflation reached +9.5% adding to +17% in 2022.<sup>43</sup> The individual monthly allowance provided for in the law is not translated into practice as it is not provided since 2015.<sup>44</sup> For this reason, in 2023 asylum seekers continued to complain not only about food quality, but also about its insufficient quantity. The main factor that helped avoiding a point of critical malnutrition for asylum seekers was the high rate of abandonment of the procedure by Afghan asylum seekers.

The running costs for medicines and medical supplies, Bulgarian language courses as well as urgent maintenance and refurbishment were covered only to the extent of the remaining funds of a SAR within its already restricted 2023 budget. The only other assistance provided by SAR were sanitary packages. The costs of prescribed medicines, lab tests or other medical interventions which are not covered in the health care package, as well as for purchase of baby formula, diapers and personal hygiene products, are still not covered, thereby raising concerns despite the efforts of SAR to address them through different approaches. (see [State of facilities](#)). Due to the country's fundamental shortage of general practitioners, the reduced staff and the lack of full-time medical specialists in the centres led to situations in 2023 when only 1 doctor was responsible for all three SAR reception centres in Sofia. During the year no nurses were available in any of these centres, as the last one left in the beginning of 2023. Even though asylum seekers were health insured, due to its budget restraints SAR failed to meet the urgent medical expenses, which were not covered by the National Health Insurance Fund (NHIF). As a consequence, 20 such urgent interventions were paid for by the Red Cross. The medical care of asylum seekers was mainly carried out in the surgeries organised in Sofia and Harmanli reception centres with a total of 18,167 outpatient examinations until the end of the year.<sup>45</sup> The access of asylum seekers to repeated and specialized medical treatment remained impeded.

The most serious concern remained the safety and security of asylum seekers accommodated in reception centres. These continue to be seriously compromised due to the presence of smugglers, drug dealers and sex workers who have access to reception centres during the night hours without any interference from the private security staff. Both in Sofia, but mainly in Harmanli SAR received many security or public disorder complaints during 2023, which especially in Harmanli escalated in public demonstrations and committees requesting the centre in this place to be made of a closed type facility.<sup>46</sup> In 2023, non-governmental organisations once more<sup>47</sup> raised concerns regarding safety of reception centres.<sup>48</sup> After that, the SAR again submitted several requests to the Ministry of Interior<sup>49</sup> to provide police guards in replacement of private security of reception centres, but it was not before the end of the year when MOI initiated a procedure,<sup>50</sup> to investigate the possibility for SAR reception

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<sup>41</sup> SAR, reg. No. PД05-72 from 26 February 2023.

<sup>42</sup> SAR reg. №ЦУ-РД05-123/27.02.2024.

<sup>43</sup> National Statistical Institute, available in Bulgarian at: <https://bit.ly/3KMYHT5>.

<sup>44</sup> SAR, Order No 31-310, 31 March 2015, issued by the Chairperson Nikola Kazakov.

<sup>45</sup> Ibid.

<sup>46</sup> Haskovo.Live, Хармани излезе на протест с искане бежанският център да стане от затворен тип, published on 23 October 2023, available in Bulgarian at: <https://bit.ly/48CQqJL>.

<sup>47</sup> Bulgarian Helsinki Committee, reg.No.Б-67 from 4 August 2022.

<sup>48</sup> Bulgarian Helsinki Committee, reg.No.Б-88 from 18 September 2023.

<sup>49</sup> SAR, reg. No. №PД05-31 from 15 January 2024

<sup>50</sup> 127th Coordination meeting, held on 28 December 2023.

centres to be guarded by the national gendarmerie. Currently, a police car is secured only in the largest Harmanli reception centre. However, even in this centre only one car is provided and is located at the central entrance, therefore proving insufficient to ensure the safety and security of nearly 4,000 individuals accommodated in the centre. Other reception centres in the country continue to be guarded by private security companies, which for the purposes of cost effectiveness usually mainly employ men of retirement age or above as guards. Therefore, security services result more performative than effective.<sup>51</sup>

- ❖ **Safe zone for unaccompanied children:** The two safe zones for unaccompanied children at the Sofia reception centre continued to be maintained under an IOM project, funded by AMIF until the end of 2024. Overall, the conditions in the safe zones were better compared to all other SAR accommodation premises. However, in the common dormitories in "Voenna Rampa" and "Ovcha Kupel" shelters the safe zones were created only by assigning them separate floors, despite the abovementioned serious security problems existing in reception centres and their surroundings. This practice can thus indirectly affect the situation of unaccompanied children. In 2023, the number of unaccompanied children who sought protection in Bulgaria continued to grow,<sup>52</sup> and the capacity of the two safe zones (a total of 288 places) proved insufficient to shelter all newcomers. Many unaccompanied children continued to be accommodated outside the safe-zones in mixed premises with adults and without proper support and guaranteed personal safety, including in the largest reception centre in Harmanli, South-Central Bulgaria in the border area with Türkiye. In mid-2023 the construction of a third safe zone began in this biggest SAR reception centre with funding from Swiss Migration Board through UNICEF (see [Reception of unaccompanied children](#)).
- ❖ **Access to social benefits:** Asylum seekers who decide to live outside reception centres at their own expenses are not entitled to any social benefits.<sup>53</sup> Asylum seekers who are not self-sufficient are entitled to accommodation in the available reception centres, three meals per day, basic medical assistance and psychological support,<sup>54</sup> even though the latter is not secured in practice. Monthly cash allowance is not provided since 2015.<sup>55</sup> Access to any other social benefits under the EU *acquis* is not guaranteed by law, nor provided in practice, still raising concerns about compliance with Articles 17, 18 and 25 of the recast Reception Conditions Directive (see [Access and forms of reception conditions](#)).
- ❖ **Access to the labour market:** During the asylum procedure, asylum seekers have unconditional access to the labour market after a period of three months from their registration.<sup>56</sup> In 2023, the State Refugee Agency issued 579 work permits to asylum seekers who were looking to support themselves while their asylum claims were being processed.<sup>57</sup> Out of them, only 2 asylum seekers and 17 persons granted international protection were employed through employment programs, while the rest found work independently and on their own initiative.<sup>58</sup> At the same time a total of 1,484 persons with temporary protection were employed through employment programmes<sup>59</sup> (see [Access to the labour market](#))

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<sup>51</sup> Bulgarian Helsinki Committee, reg.No.Б-88 from 18 September 2023

<sup>52</sup> 2023: 3,843 unaccompanied children / 2022: 3,348 unaccompanied children / 2021: 3,172 unaccompanied children.

<sup>53</sup> Article 29 (9) LAR.

<sup>54</sup> Article 29 (1) LAR.

<sup>55</sup> SAR, Order No 31-310, 31 March 2015, issued by the Chairperson Nikola Kazakov.

<sup>56</sup> Law on Asylum and Refugees (LAR), Article 29 (3).

<sup>57</sup> SAR, reg. No. №PД05-31 from 15 January 2024.

<sup>58</sup> Employment Agency, reg. No. PД08-2852 from 22 December 2023.

<sup>59</sup> Ibid.

## *Detention of asylum seekers*

- ❖ **Detention in pre-removal centres:** The average detention duration in 2023 was of 5 working days or 7 calendar days,<sup>60</sup> in full conformity with the law,<sup>61</sup> despite the overall 10% increase<sup>62</sup> of asylum population compared to previous year. As a result, of all third-country nationals who applied for protection in a police detention centre, 82%<sup>63</sup> were released on average 1 day before the statutory deadline, and 0% were unlawfully detained for more than 6 months. First introduced in 2015, the SAR practice of registering asylum seekers in police pre-removal (detention) centres to meet the registration deadline,<sup>64</sup> as well as conducting proceedings and delivering decisions in these detention centres, was not sanctioned by national courts,<sup>65</sup> which in general perceived it as an insignificant infringement of the procedure. In 2022, the SAR almost completely abandoned this malpractice, with only 1 registration and only 1 determination conducted in a police pre-removal detention centre.<sup>66</sup> This positive approach was maintained in 2023 as well with just 1 procedure of a first applicant<sup>67</sup> held in general immigration facilities in contrast with national law (see [Registration and determination of asylum seekers in immigration detention](#)).
- ❖ **Detention in closed reception centres:** National legislation allows detention pending the asylum procedure, although on limited conditions and for the shortest period possible.<sup>68</sup> Since the introduction of the provision,<sup>69</sup> in total 150 asylum seekers have been detained in closed reception centre<sup>70</sup> pending their status determination situation mainly based on national security grounds, of whom 32 asylum seekers in 2023.<sup>71</sup> The average duration of detention in closed reception centres increased, reaching 78 days on average in 2023<sup>72</sup> (see [Asylum detention](#)).

## *Content of international protection*

- ❖ **Integration:** In 2023, the Vitosha districts of the metropolitan municipality remained the only one to establish integration agreements with newly recognized refugees in Bulgaria. In 2023, 22 individuals signed integration agreements.<sup>73</sup> No other integration measures or activities were planned, funded or available to individuals granted international protection – refugee or humanitarian status. No program for the integration of displaced persons from Ukraine under temporary protection was not adopted throughout 2023. Thus, Bulgaria marked its 10th regrettable anniversary of the national “zero integration” policy (see [Content of International Protection](#)).
- ❖ **Cash support:** In 2023, UNHCR's cash-based interventions in Bulgaria evolved to address the persistent challenges faced by vulnerable households, particularly those with disabilities, women, children, and older persons at risk. Transitioning from one-off assistance to a multi-transfer approach, the UNHCR cash programme ensured regular basic needs support for periods of up to four months. Thus, against a background of scarce national social support and a lacking social system, UNHCR

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<sup>60</sup> 2022: 6 calendar/4 working days; 2021: 7 calendar/5 working days; 2020: 8 calendar/6 working days; 2019: 11 calendar/9 working days; 2018: 9 calendar/7 working days; 2017: 19 calendar/15 working days; 2016: 9 calendar/7 working days; 2015: 10 calendar/8 working days; 2014: 11 calendar/9 working days; 2013: 45 days/32 working days.

<sup>61</sup> Article 58(4) LAR, Article 6(2) APD: 6 working days.

<sup>62</sup> 2022: 20,407 asylum seekers / 2023: 22,518 asylum seekers.

<sup>63</sup> Bulgarian Helsinki Committee, 2023 Annual Refugee Status Determination Monitoring Report, 31 January 2024, available at: <https://bit.ly/4bU9INC>.

<sup>64</sup> 6 working or 8 calendar days as per Article 58(4) LAR in conjunction with Article 6(1) APD.

<sup>65</sup> See, AIDA updates on Bulgaria in 2019 to 2021.

<sup>66</sup> BHC 2022 Annual RSD Monitoring report, 1.1.2. Procedure at the police detention centers, available at: <https://bit.ly/3Y3WzJJ>, 6.

<sup>67</sup> Bulgarian Helsinki Committee, 2023 Annual Refugee Status Determination Monitoring Report, 31 January 2024, available at: <https://bit.ly/4bU9INC>.

<sup>68</sup> Article 45b LAR.

<sup>69</sup> State Gazette No.80 from 16 October 2015, enforced on 1 January 2016.

<sup>70</sup> A special compartment allocated in Busmantsi detention centre's premises.

<sup>71</sup> SAR, reg. No. №PД05-40 from 16 January 2023.

<sup>72</sup> 2022: 56 days; 2021: 86 days; 2020: 91 days; 2019: 252 days; 2018: 192 days, 2017: 202 days.

<sup>73</sup> Statistics provided by the Deputy Chair on Social Matter of the State Agency on 15 February 2024; 2022: 20 beneficiaries of international protection; 2021: 83 beneficiaries of international protection.

provided vital financial aid for over 13,600 individuals in 6,200 households, focusing on those with serious medical conditions, disabilities, elderly individuals without family support, and single parents with dependents. However, limited budget resources necessitated prioritization based on vulnerabilities, leaving some obvious needs unmet, particularly in healthcare support. UNHCR stated<sup>74</sup> it continue its targeting strategies in 2024 in order to sustain its funding, and it will enhance coordination to effectively support the most vulnerable among the individuals granted protection in Bulgaria.

- ❖ **Special measures for unaccompanied children:** The asylum authority, SAR, continued to actively search opportunities to accommodate unaccompanied children in licensed family-type children's centers (ЛHCT). During the asylum procedure such efforts were undertaken mainly regarding minor asylum-seeking children,<sup>75</sup> children with special needs or such identified as being at increased risk of trafficking or harm. After recognition, these efforts targeted all unaccompanied children, excluding those in family reunification procedures, who were allowed to wait for the reunification with their parents or other family members in SAR reception centres.<sup>76</sup> As a result of this positive practice, a total of 43 unaccompanied children were accommodated during the course of the year in specialized childcare centres, of whom 2 were asylum seeking children and 41 children granted international protection. Altogether eleven licensed childcare centres have engaged in this practice in localities across the country, namely in Sofia, Burgas, Vidin, Ruse, Kardzhali, Novo Selo and Zvanichevo. At the same time the lack of specialized training of the childcare centre's staff to work with unaccompanied children seeking or granted protection should be acknowledged and taken into account as well as the lack of secured interpretation at least for the initial period of accommodation and adjustment (see [Reception of unaccompanied children](#)).
- ❖ **Cessation and withdrawal:** The national law envisaged an additional to the 1951 Refugee Convention cessation clause.<sup>77</sup> The law permitted cessation or revocation of the international protection if the status holders fail, in a period of thirty days, to renew their expired Bulgarian identity documents or to replace them if they have been lost, stolen or destroyed. The undue cessation of international protection has affected 4,405 status holders in total since then, respectively – 770 persons in 2018; 2,608 persons in 2019; 886 persons in 2020 and 100 persons in 2021 and 41 persons in 2022. In 2023 this malpractice this malpractice was fully abandoned by SAR with 0 cessations made on this additional ground (see [Cessation and review of protection status](#) and [Withdrawal of protection status](#)).

## Temporary protection (see [Temporary Protection Annex](#))

### *Temporary protection procedure*

- ❖ **Legal framework:** According to the national law,<sup>78</sup> the central agencies or administrations have the right to issue acts with an automatic legal effect, which create rights to an indefinite number of persons, defined by common circumstances or characteristic. Under the national asylum law,<sup>79</sup> the government (Council of Ministers) grants temporary protection with such an act, if it is activated by a decision of the EU Council, the latter also determining its duration. Therefore, the government's act to grant temporary protection is group-based, collective and automatic by nature thus covering all individuals from the specified country with an immediate legal effect. On 10 March 2022 the Bulgarian government adopted Decision No.144,<sup>80</sup> granting temporary protection to displaced persons from Ukraine, which entered into force on the date of its publication on 14 March 2022. The decision was

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<sup>74</sup> UNHCR representation in Bulgaria, Communication from 11 April 2024.

<sup>75</sup> Articles 3 and 4 Law on Persons and Entities: 0-13 minors / 14-17 adolescents.

<sup>76</sup> SAR, Rules and procedures on the accommodation of unaccompanied children granted international protection in foster families, social or integrated socio-medical care facilities for children of a residential type, adopted in October 2022.

<sup>77</sup> Article 42(5) LAR, State Gazette No. 89 from 16 October 2020.

<sup>78</sup> Article 65 of Administrative Procedure Code.

<sup>79</sup> Article 2(2) LAR.

<sup>80</sup> COM №144 from 10 March 2022, available in Bulgarian at: <https://bit.ly/3rVTT33>.



given explicitly a retroactive effect to cover all persons displaced from Ukraine from 24 February 2022 onward. Prior to it until 14 March 2022 all Ukrainian refugees who claimed asylum in Bulgaria were still registered as asylum seekers (applicants for international protection) with individual determination procedures and decisions. Hence, from 15 March 2022 onward and throughout 2023 any Ukrainian refugee who entered the country and stated before the authorities a request to seek protection was immediately issued a document,<sup>81</sup> certifying their legal status as a person granted a temporary protection in Bulgaria and valid for its duration.<sup>82</sup> The duration of the national temporary protection was extended twice<sup>83</sup> since its enactment in 2022, with the present deadline set on 4 March 2025.

- ❖ **Access to asylum:** The national asylum law established the right of the TP holders to also submit an individual application for international protection.<sup>84</sup> However, an asylum procedure is not open and the application of the TP holder is not examined or decided prior the end of duration of the temporary protection.<sup>85</sup> In 2023, the SAR initiated draft amendments<sup>86</sup> of the national asylum law, which among other envisaged to introduce the right of temporary protection holders to be able to apply prior its expiration for international protection and granted a subsidiary protection as a minimum in an expedited determination procedure.

#### *Content of temporary protection*

- ❖ **Residence permit:** In general, the Bulgarian asylum system does not require any additional residence permit to be issued by the immigration police for the beneficiary of the granted protection to be able to remain in the country on its account. Hence, the decision granting international protection issued by the asylum authority (SAR) is sufficient for the protection holder to be able to apply for an identity document that is issued automatically. This arrangement applies also to TP beneficiaries. The decision of the government to grant temporary protection is sufficient for them to be *automatically* issued the respective TP document, if and when they approach a registration office.<sup>87</sup>
- ❖ **Rights of temporary protection holders:** The scope of rights to which the TP holders are entitled are outlined by the law and apply for the duration of the temporary protection.<sup>88</sup> Therefore, all displaced persons granted temporary protection have the right to:
  - remain in the country
  - work and have access to vocational trainings
  - appropriate accommodation or means of accommodation if necessary
  - social assistance
  - health insurance, medical assistance and services under the conditions and procedures applicable for the Bulgarian citizens,<sup>89</sup> with the exception of medical assistance provided under Regulation (EEC) No. 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the EU.
  - return freely to their country of origin.

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<sup>81</sup> Article 41(1), item 4 LAR, see at: <https://bit.ly/3ghv4Mo>.

<sup>82</sup> 4 March 2025.

<sup>83</sup> COM №95 from 1 February 2023 and COM №94 from 25 January 2024.

<sup>84</sup> Article 68(1), item 2 LAR.

<sup>85</sup> Ibid.

<sup>86</sup> Law on Asylum and Refugees draft amendments, published for public consultations on 5 January 2024, available in Bulgarian at: <https://bit.ly/49yPqHK>.

<sup>87</sup> COM №144 from 10 March 2022, available in Bulgarian at: <https://bit.ly/3rVTT33>.

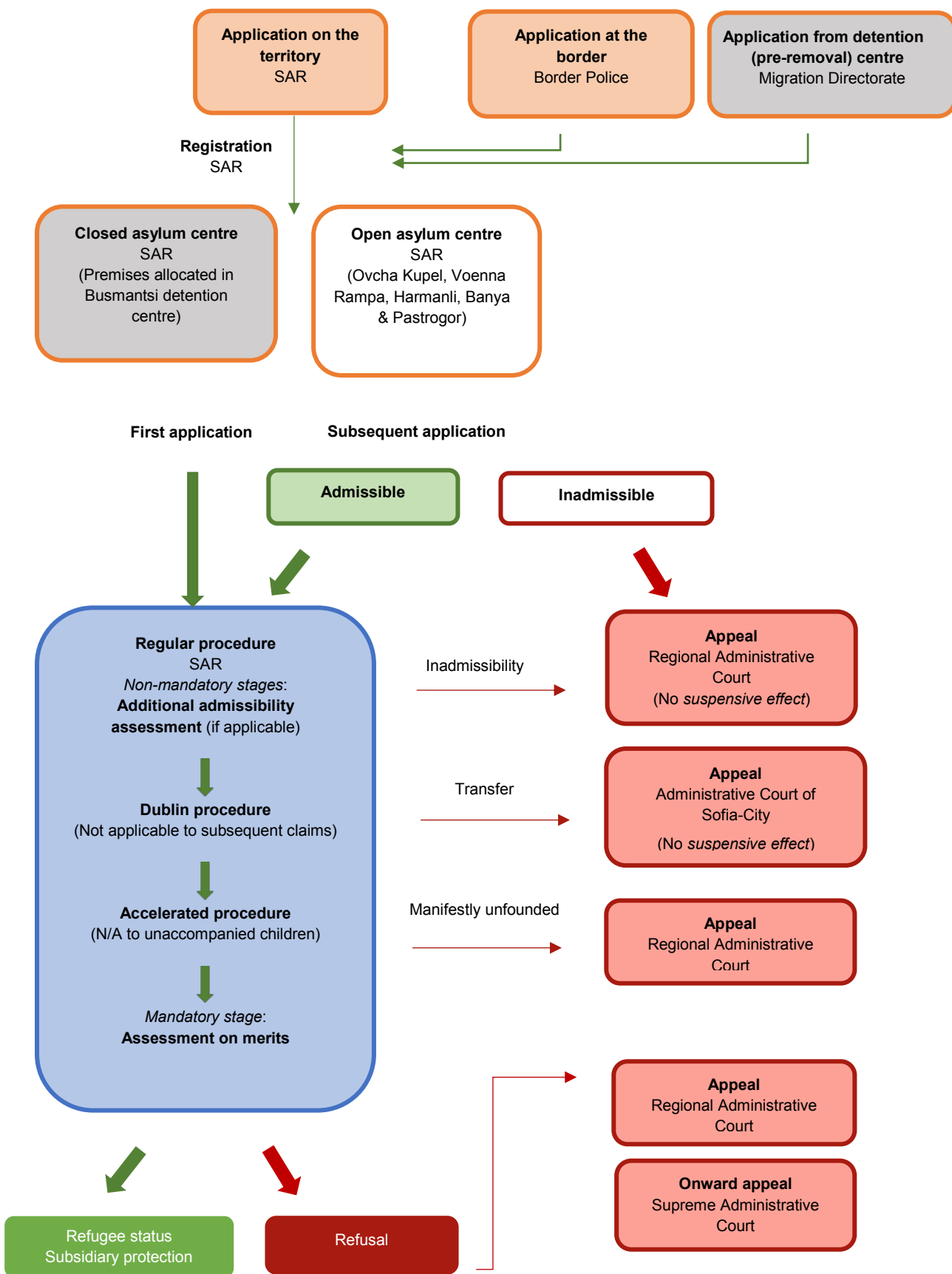
<sup>88</sup> Article 39(1) LAR.

<sup>89</sup> Amended, State Gazette №32/2022 enforced on 26 April 2022.

# Asylum Procedure

## A. General

### 1. Flow chart



## 2. Types of procedures

### Indicators: Types of Procedures

1. Which types of procedures exist in your country?
- ❖ Regular procedure:
    - Prioritised examination:<sup>90</sup>  Yes  No
    - Fast-track processing:<sup>91</sup>  Yes  No
  - ❖ Dublin procedure:  Yes  No
  - ❖ Admissibility procedure:  Yes  No
  - ❖ Border procedure:  Yes  No
  - ❖ Accelerated procedure:<sup>92</sup>  Yes  No
  - ❖ Other:  Yes  No
2. Are any of the procedures that are foreseen in the law, not being applied in practice?  
 Yes  No

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

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

## 4. Determining authority

Name in English	Number of staff as of 31 December 2023	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the determining authority?
State Agency for Refugees (SAR)	401 <sup>93</sup>	Council of Ministers	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Source: SAR.

<sup>90</sup> For applications likely to be well-founded or made by vulnerable applicants. See Article 31(7) recast Asylum Procedures Directive.

<sup>91</sup> Accelerating the processing of specific caseloads as part of the regular procedure.

<sup>92</sup> Labelled as "accelerated procedure" in national law. See Article 31(8) recast Asylum Procedures Directive.

<sup>93</sup> SAR, reg. №05-72 from 26 January 2024.



The SAR is competent for examining and deciding on applications for international protection. It is thus the authority competent for granting or not the two existing types of international protection; namely the refugee status or the subsidiary protection (“humanitarian status”).<sup>94</sup> The SAR has different Units composed of caseworkers dealing with specific procedures, such as the Dublin Unit handling Dublin procedures, and specialised caseworkers dealing with accelerated procedures.

In case of mass arrivals where individual asylum applications cannot be processed, a temporary protection status is granted by the government following a collective decision made by the EU Council.<sup>95</sup> The SAR has an advisory role to the government in this respect when it decides whether to communicate to the EU Council a request for temporary protection decisions to be taken on a group basis in cases of a mass influx of asylum seekers who flee from a war-like situation, gross abuse of human rights or indiscriminate violence. These forms of individual or collective protection can be applied without prejudice to the authority of the Bulgarian President to grant asylum to any foreigner based on the national constitution if he or she is persecuted for convictions or activities undertaken to protect internationally recognised rights or freedoms.<sup>96</sup>

Moreover, the chairperson of the SAR who is responsible for taking the first instance decision on the asylum claim is also in charge of the appointment of the SAR officials responsible for taking decisions in the Dublin procedure<sup>97</sup> and in the accelerated procedure.<sup>98</sup>

Internal guidelines provide an extensive description of each procedural step and activity to be undertaken by all SAR staff involved in processing applications for international protection (e.g. registrars, social workers, caseworkers, officials of the legal department etc.) They do not regulate, however, how to conduct interviews, instead they refer to EASO interviewing guidelines.<sup>99</sup> For the first time in 2023, the SAR Internal guidelines were published and made available to third parties.<sup>100</sup>

Regarding the decision-making process, the SAR has an *ex-ante* review mechanism in place whereby the caseworker, the head of the respective reception centre and the legal department of the SAR must agree on a draft decision that is then transferred to the SAR’s chairperson for the final decision. In the upcoming amendment of the national asylum law,<sup>101</sup> the SAR included the proposal to establish a legal department responsible for the revision of draft decisions, as a response to the previous UNHCR and NGO critique about the quality of the eligibility decisions.<sup>102</sup>

In terms of quality assurance and control, UNHCR is authorized by law to monitor every stage of the asylum procedure. The Agency’s implementing partner, the Bulgarian Helsinki Committee, also exercises this right on behalf of UNHCR. The quality monitoring activities carried out by the Bulgarian Helsinki Committee on behalf of UNHCR involve evaluation of the following stages of the procedure: eligibility interviews, first instance decisions, and appeal hearings in court.

The SAR has further established a Quality of Procedure Directorate which controls the quality of the procedure through regular and random sampling of decisions. Based on its findings, the Quality of Procedure Department issues guidance on the interpretation of legal provisions and the improvement of different stages of the procedure. The issued guidance remains internal and not shared nor made public.

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<sup>94</sup> Article 2(3) LAR.

<sup>95</sup> Article 2(2) LAR.

<sup>96</sup> Article 27(1) in conjunction with Article 98(10) Bulgarian Constitution.

<sup>97</sup> Chapter VI, Section Ia LAR.

<sup>98</sup> Article 70 LAR.

<sup>99</sup> Article 47 (4) SAR Internal Guidelines.

<sup>100</sup> State Agency for Refugees, available in Bulgarian at: <https://bit.ly/49Titpr>.

<sup>101</sup> Law on Asylum and Refugees draft amendments, published for public consultations on 5 January 2024, available in Bulgarian at: <https://bit.ly/3TbGP8m>.

<sup>102</sup> Bulgarian Helsinki Committee, 2023 Annual Refugee Status Determination Monitoring Report, 31 January 2024, available at: <https://bit.ly/3SX3ST7>.

In September 2022, four years after the end of the previous operating plan, the EUAA and Bulgaria signed a new operating plan with the aims of strengthening the authorities' capacity to implement the TPD and providing special training to national personnel for the effective implementation of the TPD and the rules of the Common European Asylum System.<sup>103</sup> In order to adapt to the persisting pressure on the Bulgarian asylum and reception systems, the operational plan was amended in December 2022.<sup>104</sup> In the July 2023, the EUAA and Bulgaria agreed on a new operational plan covering the period 2023-2024.<sup>105</sup>

In 2023, the EUAA deployed 11 experts to Bulgaria:<sup>106</sup> 6 external experts, 2 EUAA staff members, 2 Member State experts and 1 temporary agency worker. They were deployed as 2 roving teams, 2 junior asylum and/or reception operation experts, 2 junior Dublin Regulation experts, and other asylum and reception experts.<sup>107</sup> As of 19 December 2023, there were still 7 EUAA experts deployed in Bulgaria, as 2 junior asylum and/or reception operations experts, 2 junior Dublin Regulation Expert, 1 roving team, 1 asylum information provision expert and 1 reception vulnerability expert.<sup>108</sup>

## 5. Short overview of the asylum procedure

Asylum can be claimed on the territory, at borders before the Border Police staff, or in detention centres before the Migration Directorate staff, either of which are obligated to refer it immediately to the SAR.<sup>109</sup> The SAR is required to formally register the referred applications no later than 6 working days from their initial submission before another authority. The asylum application should be made within a reasonable time after entering the country, except in the case of irregular entry / residence when it ought to be made immediately,<sup>110</sup> otherwise it could be ruled out as manifestly unfounded.<sup>111</sup> The law does not foresee a maximum time limit for lodging the asylum application. If the asylum application is made before a state authority other than the SAR, status determination procedures cannot legally start until the asylum seeker is physically transferred from the border or detention centre to any of the SAR's reception centres for the so-called registration "in person" or "personal registration".<sup>112</sup>

The asylum procedure stages are unified in one, single regular procedure. Dublin and accelerated procedures are now considered as non-mandatory phases of the status determination, applied only by a decision of the respective caseworker, if and when information or indications are available to either engage the responsibility of another Member State to determine the asylum application in question,<sup>113</sup> or to consider the asylum application as manifestly unfounded respectively.<sup>114</sup>

**Admissibility procedure:** An application can be deemed inadmissible if the applicant has been granted protection or a permanent residence permit in another EU Member State or "safe third country".<sup>115</sup> An admissibility assessment is also conducted with respect to subsequent applications which provides the opportunity to consider their admissibility based on a preliminary examination whether new elements or findings have arisen or been presented by the applicant relating to his personal situation or country of

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<sup>103</sup> EUAA, 'EUAA deploys to Bulgaria as over 530,000 Ukrainians enter the country', 6 September 2022, available at: <http://bit.ly/3kXMaBK>.

<sup>104</sup> EUAA, Operational Plan 2022-2023 agreed with the European Union Agency for Asylum and Bulgaria, December 2022, available at: <https://bit.ly/46wdfyf>.

<sup>105</sup> EUAA, Operational Plan 2022-2023 agreed with the European Union Agency for Asylum and Bulgaria, July 2023, available at: <https://bit.ly/3le14fb>.

<sup>106</sup> EUAA personnel numbers do not include deployed interpreters by the EUAA in support of asylum and reception activities.

<sup>107</sup> Information provided by the EUAA, 26 February 2024.

<sup>108</sup> Information provided by the EUAA, 26 February 2024.

<sup>109</sup> Article 58(4) Law on Asylum and Refugees (LAR).

<sup>110</sup> Article 4(5) LAR.

<sup>111</sup> Article 13(1), items 11-12 LAR.

<sup>112</sup> Article 61a(1) in conjunction with Article 68(1) item 1 LAR.

<sup>113</sup> Article 67c(2) LAR.

<sup>114</sup> Article 70(1) LAR.

<sup>115</sup> Article 15 LAR.

origin.<sup>116</sup> In the upcoming amendment of the national asylum law,<sup>117</sup> following recommendations by the Commission, provided during the negotiations and implementation<sup>118</sup> of the EC-Bulgaria pilot project on accelerated procedure, both admissibility and accelerated procedure's grounds were re-worded and reorganized in the text of the law to fully correspond to the respective provisions of the APD.

**Accelerated procedure:** The accelerated procedure is presently applied by a decision of the respective caseworker, if and when there is information or indications to consider the application as manifestly unfounded based on a number of different grounds.<sup>119</sup> A decision should be taken within 14 working days from lodging, otherwise the application has to be examined under the regular procedure. The accelerated procedure is not applicable to unaccompanied children. In the upcoming amendment of the national asylum law<sup>120</sup> following the recommendations from the European Commission both admissibility and accelerated procedure's grounds were re-worded and re-structured to correspond to the respective provisions of the APD.

**Regular procedure:** The regular procedure (titled under the law as a "Procedure for granting of an international protection") requires detailed examination of the asylum application on its merits. A decision should be taken within 4 months from the lodging of the asylum application but this deadline is indicative, not mandatory. The deadline can be extended by 9 additional months with an explicit decision in this respect by the Head of the SAR,<sup>121</sup> but in any case the SAR must conclude the examination procedure within a maximum time limit of 21 months from the lodging of the application.<sup>122</sup>

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

- ❖ Dublin / Subsequent application: A non-suspensive appeal must be submitted within 7 days to the Administrative Court of Sofia, which has exclusive competence, in one instance;<sup>123</sup>
- ❖ Accelerated procedure: A suspensive appeal must be submitted within 7 days to the territorially competent Regional Administrative Court, in one instance.
- ❖ Inadmissibility / Regular procedure: A suspensive appeal must be submitted within 14 days to the territorially competent Regional Administrative Court.

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

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

**Return decision:** Bulgaria's approach regarding return decisions for unsuccessful applicants for international protection is that police authorities are obliged to automatically issue a return order to all

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<sup>116</sup> Articles 76a to 76c LAR; Article 76d in conjunction with Article 13(2)-(4) LAR.

<sup>117</sup> Law on Asylum and Refugees draft amendments, published for public consultations on 5 January 2024, available in Bulgarian at: <https://bit.ly/3TbGP8m>.

<sup>118</sup> SAR, Annual report on procedures for international protection in 2023, available in Bulgarian at: <https://bit.ly/3lgTCjm>.

<sup>119</sup> Article 70(1) LAR. The 14 applicable grounds are set out in Article 13(1) LAR.

<sup>120</sup> Law on Asylum and Refugees draft amendments, published for public consultations on 5 January 2024, available in Bulgarian at: <https://bit.ly/3TbGP8m>.

<sup>121</sup> The State Agency for Refugees is managed by a Chairperson: Article 46 et seq. LAR.

<sup>122</sup> Article 75(5) LAR.

<sup>123</sup> Article 84(4) LAR.

irregular third country nationals (hereafter referred to as TCNs), apprehended at the border or inside the country's territory.<sup>124</sup> If the TCN applies for international protection, the implementation of the return order is suspended until the decision of the asylum authority becomes final.<sup>125</sup> If the asylum applicant is granted a positive decision, the return order is cancelled, and if in case of a negative decision, the return can be implemented immediately.

## B. Access to the procedure and registration

### 1. Access to the territory and push backs

#### Indicators: Access to the Territory

1. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs?  Yes  No
2. Is there a border monitoring system in place?  Yes  No
3. Who is responsible for border monitoring?  National authorities  NGOs  Other
4. How often is border monitoring carried out?  Frequently  Rarely  Never

No institutional or practical arrangements or measures exist to ensure a differentiated approach to border control that gives access to the territory and protection for those who flee from war or persecution.

#### 1.1 Push backs at land borders

Access of asylum seekers to the territory remained severely constrained in 2023.

Back in 2018, the government banned access to the 234 km border fence<sup>126</sup> built along the Bulgarian-Turkish border, as well as the possibility to take pictures or filming it by introducing a 300-meters security zone similar to border arrangements during the communist regime.<sup>127</sup> It is however a common knowledge that the border fence can easily be crossed,<sup>128</sup> and that many sections of it are damaged beyond repair.<sup>129</sup> In 2021 the caretaker cabinet,<sup>130</sup> transferred the responsibility for the management of the border fence from the district governors to the Ministry of Interior,<sup>131</sup> with repairs by specialised army units realised only sporadically, as was the case also for 2023.<sup>132</sup> In 2022, Frontex launched a new operation at EU's external land border,<sup>133</sup> Joint Operation Terra with standing corps officers, patrol cars and thermo-vision vehicles, taking place across 12 EU Member States, including Bulgaria. In 2023, the Operation Terra continued with the Frontex personnel deployed in Bulgaria throughout the year reaching collectively 1,831 corps

<sup>124</sup> Article 41 LARB.

<sup>125</sup> Article 67 LAR.

<sup>126</sup> Darik News, 'Забраняват заснемането на оградата по границата с Турция', 30 May 2018, available in Bulgarian at: <https://bit.ly/3K8bgFR>.

<sup>127</sup> From 9 September 1944 to 10 November 1989.

<sup>128</sup> 24 hours, 'Нови дупки по оградата с Турция', 24 February 2023, available in Bulgarian at: <https://bit.ly/3uQb4br>.

<sup>129</sup> HaskovoLive, 'Какво се случва с падналата ограда по границата с Турция?', 19 May 2021, available in Bulgarian at: <https://bit.ly/4bOsNAF>; XNews, 'Димитър Стоянов: Оградата на границата ни с Турция е ненадеждна', 8 November 2022, available in Bulgarian at: <https://bit.ly/3laSRbP>.

<sup>130</sup> dir.bg, 'Назначиха проверка за разрушената ограда на границата с Турция', 20 May 2021, available in Bulgarian at: <https://bit.ly/3FohyO2>.

<sup>131</sup> Darik News, 'МВР поема управлението върху оградата по българо-турската граница', 23 September 2021, available in Bulgarian at: <https://bit.ly/3A8K8Cd>.

<sup>132</sup> Mediapool, 'Имаме план. Военните започват пореден ремонт на оградата по границата с Турция', 26 October 2023, available in Bulgarian at: <https://bit.ly/3uQbdvV>.

<sup>133</sup> FRONTEX, Frontex launches new land operation, 2 April 2022, available at: <https://bit.ly/3Yx2A1W>.

officers.<sup>134</sup> In its bi-annual report<sup>135</sup> on Frontex operational activities, the European Council clarified that these included operational response, situational monitoring, capacity building and returns, with additional deployments, particularly at the border with Türkiye, as well as in other areas, focused on combatting cross border crime and fundamental rights monitoring with an input from Fundamental Rights Office (FRO). As in previous years, Frontex staff continued to work in mixed teams with the national guards and under the command of the Bulgarian border authorities. In September 2023, the European Commission stated that Bulgaria should be admitted to the EU's free-movement zone without any further delay as it has proved its capability to be member of the Schengen area.<sup>136</sup>

These measures were taken against the background of constantly increasing migratory pressure along the external EU border with Türkiye. Where 3,487 migrants entered the country in 2020, 10,799 in 2021, and 16,767 in 2022, in 2023 this figure reached 18,554 individuals.<sup>137</sup> The peak was registered in August, with 5,025 individuals who accessed the country during this month alone. The number of new arrivals represented a 10% increase in comparison with the previous year, which meant that it was overall more limited than in previous years, as the increases registered in 2022 and 2023 were respectively of 55% and 205% compared to the previous year. The main contributing factors for this continuing increase relate to the precarious situation in Afghanistan, especially with respect to the total oppression of women under the Taliban regime as well as the political and economic instability in the neighbouring Türkiye, which motivated many Syrian refugees who lived there for nearly 10 years to move onward and seek protection in Europe. The alleged deportations to Syria initiated by the Turkish authorities in 2022,<sup>138</sup> and the devastating earthquake in Southern Türkiye on 6 February 2023 indeed exacerbated the situation of the nearly 3.6 million Syrian refugees living in Bulgaria's neighbouring country. The SAR anecdotal assessment,<sup>139</sup> conducted between February to October 2023 found more than 80% of Syrian asylum applicants in 2023 to have been legally residing in Türkiye before their arrival to Bulgaria with their family members there who were expected to join them at a later stage.

Irregular migrants apprehended in Bulgaria: 2016-2023								
Apprehension	2016	2017	2018	2019	2020	2021	2022	2023
Irregular entry	4,600	743	689	489	510	1,386	2,298	1,803
Irregular exit	4,977	2,413	353	494	924	1,097	2,337	1,990
Irregular stay on the territory	9,267	1,801	1,809	1,201	2,053	8,316	12,092	14,761
Total apprehensions	18,844	4,957	2,851	2,184	3,487	10,799	16,767	18,554

Source: Ministry of Interior, Migration Statistics, December 2016: <http://bit.ly/2Fx9h1Y>; December 2017: <http://bit.ly/2ntEXaR>; December 2018: <https://bit.ly/2sBEJ4z>; December 2019: <https://bit.ly/372jvz7>; December 2020: <https://bit.ly/3i01bgF>; December 2021: <https://bit.ly/3fhMfk>, December 2022: <https://bit.ly/3kRy7xE>, December 2023: <https://bit.ly/49u1JVY>.

Since 1 January 2017, the Ministry of Interior no longer discloses the number of prevented entries in its publicly available statistics. However, in January 2024, the Interior Minister reported<sup>140</sup> to have prevented a total of 180,000 irregular entries throughout the course of the year. This recognised practice resulted in a continuing and exponential increase of pushbacks along the border with Türkiye. The national

<sup>134</sup> Teleconference with General Directorate Border Police readmission sector on 16 January 2024.

<sup>135</sup> Council of the European Union, External border management activities in the first half of 2023, 6 September 2023, available at: <https://bit.ly/3lcDxvl>.

<sup>136</sup> Politico, Von der Leyen wants Bulgaria, Romania in Schengen ASAP, 13 September 2023, available at: <https://bit.ly/3IIIJhj>.

<sup>137</sup> MOI statistics, December 2023, available in Bulgarian at: <https://bit.ly/49u1JVY>.

<sup>138</sup> Human Rights Watch, Turkey: Hundreds of Refugees Deported to Syria, EU Should Recognize Turkey Is Unsafe for Asylum Seekers, available at: <https://bit.ly/3YiNz3y>.

<sup>139</sup> Teleconference with SAR Deputy Chairperson on 15 February 2024.

<sup>140</sup> Iskra.bg, Увеличен миграционен натиск по българските граници: Предотвратени са близо 180 000 опита за незаконни влизания у нас, 17 January 2024, available in Bulgarian at: <https://bit.ly/3UUXduX>.



monitoring mechanism<sup>141</sup> registered another negative record regarding pushbacks in 2023, with 9,897 alleged pushbacks affecting 174,588 persons. The data were collected through a regular - weekly and daily - border monitoring, implemented by observers from the Bulgarian Helsinki Committee, a non-governmental organisation whose access to the border was arranged firstly in the 2004 Bi-lateral border monitoring agreement,<sup>142</sup> replaced in 2010 by the Tri-Partite Memorandum of Understanding.<sup>143</sup> The BHC observers are positioned on the spot to monitor two main geographically designated border areas along the Bulgarian-Turkish border, respectively, the field area starting from Kapikule-Svilengrad-Ormenion border triangle to Hamzabeyli-Lesovo border crossing point (in the area of Svilengrad border police precinct) as well as Sakar and Strandzha mountains area, stretching from Elhovo to the Black Sea coast (in the area of Elhovo, Bolyarovo, Sredets, Malko Tarnovo and Rezovo border police precincts). Verbal abuse and physical violence, reported since 2015,<sup>144</sup> as well as the humiliating practices of unlawful detention, strip searches and illegal confiscation of footwear, clothing and other belongings, continued in massive proportions. Out of 510 asylum seekers interviewed in 2023 in the context of the national monitoring mechanism,<sup>145</sup> 373 consented to share their experiences on their attempt to cross the border with Türkiye. Among them, 163 individuals (44%) reported to have suffered pushbacks varying from 1 to 19 times, before being able to enter, reach assistance and register as asylum seekers. Another tragic consequence of the lack of safe legal entry channels to the Union's territory at the Bulgarian external border with Türkiye, widely publicised in 2023,<sup>146</sup> was the increasing death toll among the migrants who attempted to enter irregularly. More than 70 migrants have been found deceased in this year alone in the densely forested areas of Strandzha and Sakar mountains which stretch along the Bulgarian-Turkish border. According to the medical examiners,<sup>147</sup> also corroborated by those who successfully entered Bulgaria,<sup>148</sup> main causes were exhaustion, dehydration, malnutrition at many instances in combination with opioid use or overdose, the latter forced by smugglers and traffickers to accelerate the walking pace of smuggled groups and individuals.

Out of 18,554 migrants apprehended in 2023, 1,385 asylum seekers (7%) were able to apply for international protection at the national entry borders and only 2% of them (i.e. 61 individuals) had direct access to the asylum procedure without being detained, out of whom 35 (57%) were unaccompanied children handed over by the Border police to the social services<sup>149</sup> under the referral arrangements introduced in 2018.<sup>150</sup> The remaining 98% who were able to apply at entry borders were sent to the Ministry of Interior's pre-removal (detention) centres. These numbers attest a slight improvement, considering that in 2022 just 1% (49 out of 4,233 asylum seekers) of the applicants at entry border had direct access to procedure and protection, but still worse than in 2021 when 3% (34 out of 1,065 asylum seekers) enjoyed such access.

## 1.2 Border monitoring

Under the 2010 tripartite Memorandum of Understanding between the Border Police, UNHCR and the Bulgarian Helsinki Committee (BHC),<sup>151</sup> with funding provided by UNHCR, all three parties have access to any national border or detention facility at land and air borders, including airport transit zones, without limitations on the number of monitoring visits. Access to these facilities is unannounced and granted

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<sup>141</sup> Tripartite Memorandum of Understanding (MoU) among Border Police, UNHCR and Bulgarian Helsinki Committee, signed on 14 April 2010.

<sup>142</sup> Bi-lateral Memorandum between National Border Police Service with the Ministry of Interior and Bulgarian Helsinki Committee, signed on 15 December 2004.

<sup>143</sup> Tripartite Memorandum of Understanding (MoU) among Border Police, UNHCR and Bulgarian Helsinki Committee, signed on 14 April 2010.

<sup>144</sup> See, AIDA, Fourth Update on Bulgaria, 30 September 2015, page 20-21.

<sup>145</sup> Tripartite Memorandum of Understanding (MoU) among Border Police, UNHCR and Bulgarian Helsinki Committee, signed on 14 April 2010.

<sup>146</sup> Bulgaria On Air, Бразда с трупове: Трафиканти оставят мигранти да умрат на границата между България и Турция, 1 December 2023, available in Bulgarian at: <https://bit.ly/3PIJom3>.

<sup>147</sup> Telegraph, Странджа-Сакар осеяни с трупове на бежанци, 17 September 2023, available in Bulgarian at: <https://bit.ly/3OXFpLX>.

<sup>148</sup> See footnote 128.

<sup>149</sup> MOI statistics, December 2023, available in Bulgarian at: <https://bit.ly/49u1JVY>.

<sup>150</sup> Article 63k-63l LARB Regulations.

<sup>151</sup> The Bulgarian Helsinki Committee had a bilateral agreement with the Border Police from 2004 to 2010.

without prior permission or conditions on time, frequency or circumstances of the persons detained. Border monitoring visits along the Bulgarian-Turkish border are implemented minimum once a week in Kapitan Andreevo, Elhovo, Bolyarovo, Sredets, Malko Tarnovo and Rezovo BCPs as well as at the Bulgarian-Greek border at Novo Selo BCP. The BHC lawyers can interview the detainees and check the border registers. Monthly reports are prepared and shared internally. On their basis, the parties prepare and publish an annual border monitoring report.<sup>152</sup>

In 2023, the Bulgarian Helsinki Committee under its UNHCR funded project carried out regular border monitoring visits on a weekly basis, but depending on the concrete situation on a daily basis as well, at the border with Greece and Türkiye, Serbia and Northern Macedonia as well as Romania vis-a-vis Dunav Most BCP at Ruse Border Police Precinct as well as ad hoc visits at the Sofia Airport transit hall. During these visits, the Bulgarian Helsinki Committee can also obtain information from police records when needed to cross-check individual statements, but has access only to border detention facilities, not to border-crossing points *per se*.

### 1.3 Legal access to the territory

National legislation and arrangements in principle do not envisage humanitarian visas or humanitarian reasons as legal grounds for permitting entry to or the right to stay in the country's territory.<sup>153</sup> There are several exclusions in the law, when humanitarian reasons can be taken into account during the visa procedure, but all of them relate to an alleviation of requirements to submit some of the documents, supporting the visa application or proving the grounds for its granting. The law allows the visa application on humanitarian or emergency grounds to be submitted outside the country of origin of the visa applicant.<sup>154</sup> The visa application can also be submitted on humanitarian or emergency grounds at the border crossing points (BCPs).<sup>155</sup> However, in these cases the border police can issue only transit visas with a 3-days validity, or a short-term visa stay with a 15 days validity.

At the beginning of the 2015-2017 first EU relocation scheme, Bulgaria pledged 1,302 relocations, mainly from Italy and Greece. However, with the exception of 10 Eritrean nationals that were relocated in 2017, no one else has been relocated from Italy ever since, despite numerous requests and advocacy efforts. Relocations from Greece, however, have been implemented more frequently with the latest pledge being made in April 2020 following the call from the European Commission on Member States to assist the relocation of unaccompanied asylum-seeking children stranded at Greek Aegean islands.<sup>156</sup> Following this call, 11 children were effectively relocated to Bulgaria. In 2021, following the Taliban conquest of Kabul, the government further pledged the relocation of 70 Afghan nationals with their families who worked for the Bulgarian embassy and military deployments in Afghanistan.<sup>157</sup>

In 2022, no new relocations were implemented mainly due to mass arrivals from Ukraine, but in 2023 94 Syrians were relocated from Cyprus, while 76 applicants from Greece and 10 from Italy. Thus, the number of relocated persons reached a total of 180, including 70 evacuees from Afghanistan. The countries of origin varied from Syria and Afghanistan to Iraq, Eritrea, Pakistan, Egypt, while some of the relocated persons were stateless. Out of all the relocated persons, except those relocated from Afghanistan, 78 individuals have been recognised as refugees so far, 44 individuals have been granted subsidiary protection ("humanitarian status"), 2 individuals were rejected, 1 individual accepted a voluntary return to his country of origin, 53 procedures are pending and 1 procedure was terminated.

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<sup>152</sup> The border monitoring reports are available at: <https://bit.ly/3mjDhNz>.

<sup>153</sup> Article 5 Ordinance for Rules and Criteria for Visa Issuing and Visa Regime.

<sup>154</sup> Article 11 (6) Ordinance for Rules and Criteria for Visa Issuing and Visa Regime.

<sup>155</sup> Article 10 (2) Ordinance for Rules and Criteria for Visa Issuing and Visa Regime.

<sup>156</sup> Free Europe, 'България ще участва в схема за презаселване на мигранти от Гърция', 16 April 2020, available in Bulgarian at: <https://bit.ly/33wWJ5K>.

<sup>157</sup> Nova TV, News Report, 'България дава убежище на до 70 афганистанци', 25 August 2021, available in Bulgarian at: <https://bit.ly/33wxK2r>.

Regarding resettlement, the government decided to resettle 100 Syrians from Türkiye on 29 March 2017, based on the arrangements outlined in the 2016 EU-Türkiye deal.<sup>158</sup> Up until 31 December 2023, Bulgaria resettled a total of 94 Syrian nationals from Türkiye, with 9 new resettlements implemented in 2022. All of them were granted international protection.

There is no official list of criteria applied in relocation or resettlement procedures in Bulgaria, but families with children are prioritized as a matter of practice. The SAR does not conduct security interviews with relocation candidates on site in Italy or Greece, but these are conducted with resettlement candidates in Türkiye. The SAR liaison officer examines the relevant files together with the Italian and Greek authorities. A document check of the relocated and resettled persons is performed by the State Agency for National Security (SANS) in Bulgaria and Türkiye, after which clearance is given for the relocation or resettlement to be carried out.

All relocated and resettled persons are being admitted directly to a regular procedure. All of them are accommodated in the refugee reception centre (RRC) in Sofia, **Vrazhdebna** shelter, which is considered as a model reception centre with material conditions above the minimum standards. Food, health care, initial orientation and social mediation is provided on site. However, no one receives monthly payment or other financial allowance nor pocket money, which is the treatment of all asylum seekers in Bulgaria since the abolition of the social financial assistance in February 2015 (see section on [Forms and Levels of Material Reception Conditions](#)).

## 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 lodging 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

An asylum application can be made either before the specialised asylum administration, the SAR, or before any other state authority, which will be obligated to refer it immediately to the SAR.<sup>159</sup> Thus, asylum can be requested on the territory, at the borders before the Border Police staff, or in detention centres before the Migration Directorate staff of the Ministry of Interior. The asylum application should be made within a reasonable time after entering the country, except in cases of irregular entry or residence when it ought to be made immediately.<sup>160</sup> Failure to make an application within a reasonable time or immediately in those cases can be a ground for rejecting it as manifestly unfounded under the [Accelerated Procedure](#).<sup>161</sup>

If the asylum application is made before an authority different than the SAR, then status determination procedures cannot legally start until the asylum seeker is transferred from the border / detention centre and accommodated in any of the SAR's premises for registration to lodge the claim in person.<sup>162</sup> Under the law, this personal registration is to be implemented in any of the territorial units (see [Types of](#)

<sup>158</sup> Council of Ministers, Decision №750 from 30 November 2017.

<sup>159</sup> Article 58(4) LAR.

<sup>160</sup> Article 4(5) LAR.

<sup>161</sup> Article 13(1), items 11-12 LAR.

<sup>162</sup> Article 61a(1) LAR.



Accommodation) of the SAR and within 3 working days after the making of the asylum application. Exceptions to this deadline are allowed only in cases where the asylum application is lodged before a different government authority or institution, in which case the deadline is set at 6 working days.<sup>163</sup>

No significant delays were noted with respect to the release and registration of asylum seekers who applied while in immigration detention centres. In 2023 the average Duration of Detention was of 7 calendar / 5 working days, within the statutory time-limit.<sup>164</sup> For comparison, in 2022 the average detention duration was of 6 calendar / 4 working days. Registration took place without any delay compared to the established EU minimum standard.<sup>165</sup>

An important improvement, firstly monitored in 2022<sup>166</sup> was maintained in 2023. It relates to the access to procedure of the so called 'self-reported asylum seekers', i.e. those who managed to enter and travel in Bulgaria undetected by the police to turn up on their own directly at a SAR reception centre (Sofia, Banya, Harmanli or Pastrogor) and seek protection. Since 2016 the SAR has been refusing to register the self-reported asylum seekers, instead it has been alerting the local police departments. As a result, the asylum seekers subjected to this practice have been arrested and detained in MOI pre-removal centres. For example, in 2021 this affected 196 newly arrived asylum seekers, among whom families with minor children and pregnant women. In 2022, the practice was implemented in a more limited number of instances,<sup>167</sup> as was the case also in 2023<sup>168</sup> when it affected 48 out of 22,518 persons (0.2%) who had lodged an asylum application.<sup>169</sup> The cases in which SAR refused to register self-reported asylum seekers were reported regarding the reception centres in Ovcha Kupel (Sofia) and Harmanli.

Another improvement registered in 2022 and maintained in 2023 relates to registrations and status determinations carried out - in violation of the law - by SAR in MOI immigration detention centres. Under existing legal provisions,<sup>170</sup> while SAR can in fact detain asylum seekers pending the asylum procedure, it has the power to do so only in closed SAR reception centres. Since 2015, SAR began to carry out registrations and asylum procedures in MOI immigration detention centres instead. In 2023, SAR reduced to a minimum this unlawful practice, carrying out only 1 procedure in a MOI immigration detention centre in Lyubimets.<sup>171</sup>

At the end of the process, the asylum seeker receives a registration card (регистрационна карта) in paper format. It should be noted, however, that the registration card is not issued to subsequent applicants.<sup>172</sup>

Under the law,<sup>173</sup> the SAR must inform the State Agency for National Security (SANS - Държавна агенция "Национална сигурност") of the registration of every asylum application. The SANS then conducts security assessments based on interviews with applicants, which are often held as soon as they are arrested by police, border and immigration officers. In practice, the SAR follows these assessments without conducting further investigations and rejects applications accordingly, even when the information is classified. National courts notoriously refuse to check or verify the facts raised by the SANS as security concerns in individual cases. As a result, in the past the European Court on Human Rights (ECtHR) repeatedly ruled that Bulgaria has been regularly violating the right to an effective remedy.<sup>174</sup> In 2023, a

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<sup>163</sup> Article 61a(1) LAR in conjunction with Article 58(4) LAR.

<sup>164</sup> Article 6(1) recast Asylum Procedures Directive.

<sup>165</sup> Article 6(1) recast Asylum Procedures Directive.

<sup>166</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring Report, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

<sup>167</sup> Ibid.

<sup>168</sup> Bulgarian Helsinki Committee, 2023 Annual Refugee Status Determination Monitoring Report, 31 January 2024, available at: <https://bit.ly/3OTqvGv>.

<sup>169</sup> Ibid.

<sup>170</sup> Article 45(b) etc. LAR.

<sup>171</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring Report, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

<sup>172</sup> Article 76c(3) LAR.

<sup>173</sup> Article 58 (10) LAR.

<sup>174</sup> ECtHR, *Al-Nashif and other v. Bulgaria*, Case N50963/99, 20 September 2002; *Musa and other v. Bulgaria*, Case N61259/00, 11 January 2007; *Hassan v. Bulgaria*, Case 54323/00, 14 June 2007; *Bashir and other v.*

decision<sup>175</sup> of the Supreme Administrative Court referring to CJEU jurisprudence (*Országos Idegenrendészeti Főigazgatóság and Others*, C-159/21, 22 September 2022) upheld that the result of the SANS written opinion considering a certain person a threat to national security should not be mandatorily taken into account in SAR decisions. The court found that the asylum agency not only had the jurisdiction but also the obligation to assess whether the evidence for it was sufficient and satisfactory, and that SAR cannot automatically uphold the SANS opinion, and exclude asylum-seekers from international protection only on this basis.

## C. Procedures

### 1. Regular procedure

#### 1.1 General (scope, time limits)

##### Indicators: Regular Procedure: General

- |   |   |
|---|---|
| 1. Time limit set in law for the determining authority to make a decision on the asylum application at first instance:    | 6 months  |
| 2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Backlog of pending cases at first instance of 31 December 2023:  | 11,951  |
| 4. Average length of the first instance procedure in 2023:  | 4 to 6 months   |

The LAR sets a 6-month time limit for deciding on an asylum application admitted to the regular procedure.<sup>176</sup> The LAR requires that, within 4 months of the beginning of the procedure,<sup>177</sup> caseworkers draft a proposal for a decision on the asylum application concerned. The asylum application should firstly be assessed on its eligibility for refugee status. If the answer is negative, the need for subsidiary protection on the account of a general risk to the applicant's human rights should also be considered and decided upon. The interviewer's position is reported to the decision-maker, who has another 2 months for consideration and decision. If evidence is insufficient for taking a decision within 6 months, the law allows for the deadline to be extended for another 9 months, but it requires the whole procedure to be limited to a maximum duration of 21 months. Determination deadlines are not mandatory, but only indicative. Therefore, even if these deadlines are exceeded, this does not affect the validity of the decision.

In 2023, the general 6 months deadline for issuing an asylum decision was observed in 100% of case.<sup>178</sup> According to the SAR, the average duration of asylum procedures on the merits ranges from 4 to 6 months,<sup>179</sup> although according to the available independent reports<sup>180</sup> the four-months deadline was observed in 95% of the monitored cases.

Since 2020, the country experienced a significant increase in the number of arrivals, which reflected on the number of asylum applications. In 2023, the number of new arrivals continued to increase, reaching

Bulgaria, Case N65028/01, 14 June 2007; C.G. and other v. Bulgaria, Case N1365/07, 24 April 2008.; Raza v. Bulgaria, Case N31465/2008, 11 February 2010; Kaushal and other v. Bulgaria, Case N1537/08, September 2010; GC and other v. Bulgaria, Case N1365/07, 24 June 2008; O.D. v. Bulgaria, Case N34016/18, 10 October 2019 ; M.A. and other v. Bulgaria, Case N5115/18, 20 June 2020.

<sup>175</sup> Supreme administrative court, Decision №11467 from 22 November 2023, available in Bulgarian at: <https://bit.ly/3T9EZER>.

<sup>176</sup> Article 75 (1) LAR.

<sup>177</sup> Article 74 LAR.

<sup>178</sup> SAR, Annual report on procedures for international protection in 2023, available in Bulgarian at: <https://bit.ly/3wDKXoU>.

<sup>179</sup> SAR, reg. No. №PД05-31 from 15 January 2024.

<sup>180</sup> Bulgarian Helsinki Committee, 2023 Annual Refugee Status Determination Monitoring Report, 31 January 2024, available at: <https://bit.ly/3SX3ST7>.

a total of 22,518 asylum seekers (+10%), 20,407 asylum seekers in 2022 (+85%), 10,999 asylum seekers (+212% increase) in 2021 and 3,525 asylum seekers in 2020.

In 2023, SAR reached the highest ever annual number of decisions issued with 24,949 decisions in total, of which 106 decisions granting refugee status, 5,682 decisions granting humanitarian status, 2,950 refusals of international protection and 16,211 discontinuations of the procedure, mainly due to absconding.<sup>181</sup> Despite this, at the end of 2023 11,951 asylum cases were still pending, out of which 772 applications submitted in December, which made 74% annual decision-making rate.<sup>182</sup> This was likely due to the fact that the backlog of pending cases increased in previous years, going from 2,021 cases in 2020, 7,556 cases in 2021 to more than 8,000 cases at the beginning of 2022<sup>183</sup> SAR staff competent to issue eligibility decisions counted 32 case-workers.<sup>184</sup>

46% (16,211 persons) of all 33,703 asylum seekers with pending applications in 2023<sup>185</sup> abandoned their procedures in Bulgaria. This was a slight increase compared to 45% in 2022, but even more significant when compared to 26% in 2021 and 39% in 2020, though still lower than 83% in 2019. The usual reasons motivating asylum seekers to abandon the asylum procedure in Bulgaria and abscond were the low recognition rate for certain nationalities, poor reception conditions, lack of integration opportunities, but most importantly their plans to reach other EU countries as a final destination from the onset of their flight. While in 2022 the Afghan applicants for the first time in a decade enjoyed a significantly higher recognition rate than in previous years, with 49% overall recognition (14% refugee recognition / 35% subsidiary protection rate), in 2023 the overall recognition rate once more lowered, going to 14 (5% refugee recognition / 9% subsidiary protection) with the rejection rate standing at 84%. This likely motivated most of them (68%),<sup>186</sup> though less than in 2022 (95%)<sup>187</sup> to abscond before their first instance decision, issued on the merits in just 2%<sup>188</sup> of the caseload.

Out of the 24, 949 decisions taken, 74% of asylum procedures were terminated (discontinued) *in absentia*:

First instance SAR decisions on asylum applications: 2023		
In-merit decisions		
Refugee status	106	8,738
Subsidiary protection	5,682	
Unfounded	376	
Manifestly unfounded	2,510	
Inadmissible	64	
Abandoned applications		
Terminated	16,211	16,211
Total	24,949	

Source: SAR.

## 1.2 Prioritised examination and fast-track processing

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

<sup>181</sup> SAR, Annual report on procedures for international protection in 2023, available in Bulgarian at: <https://bit.ly/3lgTCjm>.

<sup>182</sup> SAR, reg. No. №ПД05-31 from 15 January 2024: 33,703 applications pending decision, of which 22,518 submitted in 2023 and 11,185 pending from 2022; source: SAR.

<sup>183</sup> Teleconference with SAR Deputy on Procedure from 20 January 2023.

<sup>184</sup> SAR, reg. No. №ПД05-31 from 15 January 2024.

<sup>185</sup> Ibid.

<sup>186</sup> SAR, reg. No. №ПД05-31 from 15 January 2024: 6,205 discontinued procedures out of all 9,156 Afghan applicants pending in 2023, of whom 5,906 applied in 2023 and 3,250 were pending from 2022.

<sup>187</sup> See, AIDA 2022 Update on Bulgaria, March 2023.

<sup>188</sup> See, Table Statistics, page 7 of this report: 194 Afghan decisions on the merits.

### 1.3 Personal interview

#### Indicators: Regular Procedure: Personal Interview

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

After registration is completed, a date for an interview is set. The law requires that asylum seekers whose applications were admitted to the regular procedure be interviewed at least once regarding the facts and circumstances of their applications.<sup>189</sup> The law requires that the applicant be notified in due time of the date of any subsequent interviews. If the interview is omitted, decisions cannot be considered in accordance with the law, unless it concerns a medically established case of insanity or other mental disorder.<sup>190</sup> In practice, all asylum seekers are interviewed at least once to determine their eligibility for refugee or subsidiary protection (“humanitarian status”). Further interviews are usually only conducted if there are contradictions in the statements or if some facts need to be clarified.<sup>191</sup> In 2020, amendments to the LAR extended the opportunity to gather expert opinions, including on age, gender, medical, religious, and cultural issues as well as such specific to children.<sup>192</sup> The law also introduced instructions on COI sources and information gathering.<sup>193</sup>

In 2023,<sup>194</sup> timely invitations for personal interviews were sent in 37% of monitored procedures;<sup>195</sup> in another 15%, asylum seekers<sup>196</sup> signed interview invitations without being given a copy thereof; the signed invitation was attached to their personal file. 3 of these cases concerned unaccompanied children. Therefore, it can be concluded that in 2023 the majority of asylum seekers did not enjoy timely notification regarding the date of their personal interview. This practice was particularly concerning at SAR’s reception centre in Banya, where just 2 out of 20 cases (10%) were properly notified of their invitations.

The SAR uses the standard set of questions used during eligibility interviews and relied entirely on caseworkers’ decision regarding whether to ask open questions. However, such type of questions are rarely, if ever, asked during the interview. The standardized interview form is applied to all, including unaccompanied children, without any adaptation or account to children’s level of maturity. This has resulted in a poor quality of examination of asylum claims; i.e. little investigation of the individuals’ statements and refugee stories. At the beginning of 2023, the new SAR management introduced an interview form adapted for asylum seeking children, including unaccompanied ones.<sup>197</sup> However, it was applied in practice only with respect to minor children, not the adolescent<sup>198</sup> ones whose interviews were conducted using the interviewing template for adult applicants. The monitoring demonstrated<sup>199</sup> that in the vast majority of the cases the use of interviewing template was counterproductive as case-workers

<sup>189</sup> Article 63a (3) LAR.

<sup>190</sup> Article 63a (7) LAR in conjunction with Article 61a (5) LAR.

<sup>191</sup> Article 63a (5) LAR.

<sup>192</sup> Article 61a (2)-(4) and (6) LAR.

<sup>193</sup> Article 63(3) LAR.

<sup>194</sup> Bulgarian Helsinki Committee, 2023 Annual Refugee Status Determination Monitoring Report, 31 January 2024, available at: <https://bit.ly/3SX3ST7>.

<sup>195</sup> Ibid., 2022: 24% of monitored cases served timely invitation for an eligibility interview.

<sup>196</sup> Ibid., 2022: 27% of monitored cases.

<sup>197</sup> SAR, reg. №ПД05-40 from 16 January 2023.

<sup>198</sup> Articles 3 and 4 Law on Persons and Entities: 0-13 minors / 14-17 adolescents.

<sup>199</sup> Bulgarian Helsinki Committee, 2023 Annual Refugee Status Determination Monitoring Report, 31 January 2024, available at: <https://bit.ly/3SX3ST7>.

not only limited the investigation of the case to the pre-set list of questions, but also did not in general provide applicants an opportunity to present their accounts freely and without interruptions.

There are no guidelines or a code of conduct for asylum caseworkers to elaborate on the methodology for conducting interviews specifically. Similarly, there are currently no age or gender-sensitive mechanisms in place in relation to the conduct of interviews, except for the asylum seekers' right to ask for an interpreter of the same gender.<sup>200</sup> In 2023,<sup>201</sup> considering all the cases in which the case-worker and the asylum seeker were of different gender, only in 9% the asylum seeker was informed about the possibility to request that the interview be conducted by an interviewer of the same gender and only in 20% about the possibility to request an interpreter of the same gender.

### 1.1.1. Interpretation

The presence of an interpreter ensuring interpretation into a language that the asylum seeker understands is mandatory according to the LAR. The law provides for a gender-sensitive approach as interviews can be conducted by an interviewer and interpreter of the same sex as the asylum seeker interviewed upon request.<sup>202</sup> In practice, all asylum seekers are asked explicitly whether they would like to have an interviewer or interpreter of the same sex in the beginning of each interview, although cases when this obligation is omitted by the caseworker still occur in many cases (see above 1.3. Personal interview).

Both at first and second instance, interpretation continued to present shortcomings in 2023, and its quality was often poor and unsatisfactory. Interpretation in determination procedures has remained one of the most serious, persistent and unsolved problems for a number of years. Interpretation is secured only from English, French and Arabic languages, and mainly in the reception centres in the capital **Sofia**. Interpreters from other key languages such as Kurdish (Sorani or Pehlewani), Pashto, Urdu, Tamil, Ethiopian and Swahili are scarce and largely unavailable. In such cases, as well as in cases when an interpreter from the spoken language is available in another reception centre, the asylum administration organises videoconference interpretation. Communication interruptions and other technical problems are the most common obstacles during interpretation via videoconference. It often creates an environment which does not allow the applicant to present properly his accounts in a detailed and systematic way, thus preventing the case worker from clarifying the relevant facts and circumstances for the decision-making process. The scarce fees paid for interpretation by the asylum agency SAR remain one of main reasons for the lack of proper interpretation during the eligibility interviews at first instance. Following the beginning of EC-Bulgaria pilot project on accelerated procedure in mid-2023, the Commission deployed additional interpreters to be used by SAR through the duration of the project. According to the Bulgarian Helsinki Committee's evaluation however, it results that most of them were not properly instructed on national asylum procedures. In several anecdotal cases,<sup>203</sup> it appeared that Moroccan applicants whose application was processed in Pastrogor Transit Center were provided misleading information by the assigned interpreter, which resulted in failure to appeal within the deadline their negative first instance decisions.

With respect to those who speak languages without interpreters available in Bulgaria, the communication takes place in a language chosen by the interviewer, not the applicant. In the past, there were also cases where the determination was conducted with the assistance of another asylum seeker, but no similar issues were registered since 2021, therefore it can be concluded that this serious procedural gap was finally solved.<sup>204</sup> In previous years, concerns were raised regarding the behaviour and attitude of interpreters during asylum interviews (with similar issues registered in 0.7% monitored cases in 2022 and 11% of cases in 2022). No similar issues were reported regarding 2023.

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<sup>200</sup> Article 63a (6) LAR.

<sup>201</sup> Bulgarian Helsinki Committee, 2023 Annual Refugee Status Determination Monitoring Report, 31 January 2024, available at: <https://bit.ly/3SX3ST7>.

<sup>202</sup> Article 63a(6) LAR.

<sup>203</sup> Bulgarian Helsinki Committee, 2023 Annual Report on Human Rights, available in Bulgarian at: <https://bit.ly/3SX3ST7>.

<sup>204</sup> Bulgarian Helsinki Committee, 2023 Annual Refugee Status Determination Monitoring Report, 31 January 2024, available at: <https://bit.ly/3SX3ST7>.



100% of the monitored court hearings were assisted by interpreters in 2023.<sup>205</sup> The Administrative Court in **Haskovo** to some extent corrected its unlawful practice from 2022 to summon an interpreter for the first court hearing by telephone at the day of the hearing, if and when the appellant had already appeared in the court room. In 32% of monitored cases where the applicant attended the hearing the interpreter was properly summoned in advance.<sup>206</sup>

Despite the abovementioned improvements, the quality of interpretation continues to be substandard. Interpreters' Code of Conduct rules adopted in 2009 are not applied in practice. As a result, quite often the statements of asylum seekers are summarised or the interpreters provide comments on their authenticity or likelihood. This problem is exacerbated by the fact that interview protocols are not based on the audio recording of the interview but on the caseworker's notes. Therefore, the interpreters encounter difficulties to provide a full report of applicants' statements and answers.

The lack of adequate budget for interpretation also affects the translation of written evidence, in cases where written evidence is submitted by applicants. In view of making savings and accelerating the procedure, caseworkers are told to advise the applicants to pay for translation fees of their documents themselves so as to be taken into consideration during the status determination or to accelerate the decision-making process.

### 1.1.2. Recording and report

The law provides for mandatory audio or audio-video tape-recording of all eligibility interviews as the best safeguard against corruption and for unbiased claim assessment.<sup>207</sup> The positive practice in this regard persisted in 2021, 2022 and 2023, as 100% of all monitored interviews were tape-recorded. This being said, the benefits of such a procedure are hindered by the fact that, in practice, caseworkers take a decision based on their own notes rather than the actual audio recording.

Videoconference interpretation during registration and eligibility interviews is also used, usually in **Pastrogor, Harmanli** and **Banya**, the reception centres outside the capital **Sofia**, where interpreters are harder to find and employ, in which case interviews are conducted with the assistance of the interpreters who work in **Ovcha Kupel, Vrazhdebna** and **Voenna Rampa**, the reception centres and shelters in Sofia. This type of interpretation creates additional difficulties for the applicants, as video communication significantly delays the process of statements' collecting.

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

In 2023,<sup>208</sup> the registration forms or the records from the interviews were not read out to asylum seekers in 22% of the monitored procedures, which was a regress in comparison with 2022, as this omission was made in 18% of the monitored cases, but represented an improvement compared to 24% in 2021. Compliance with EU standards<sup>209</sup> in this respect is of paramount importance considering that, under such circumstances, the information recorded in the report of the interview could be prone to potential manipulation, and the applicant would require a phonetic expertise requested in eventual appeal

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<sup>205</sup> Ibid.

<sup>206</sup> Ibid.

<sup>207</sup> Article 63a(3) LAR.

<sup>208</sup> Bulgarian Helsinki Committee, 2023 Annual Report on Human Rights, available in Bulgarian at: <https://bit.ly/3SX3ST7>.

<sup>209</sup> See Court of Justice of the European Union (CJEU), Case C-348/16 Sacko, Judgment of 26 July 2017, para 35; Case C-249/13 Boudjlida, Judgment of 11 December 2014, para 37; Case C-166/13 Mukarubega, Judgment of 5 November 2014, para 47.

proceedings to validly contest the content of the report in case of inaccuracies. Court expertise expenses in asylum cases have instead to be met by the appellants.<sup>210</sup>

Notwithstanding the small number of asylum seekers who presented any evidence to support their claims, in a small percentage of cases, caseworkers did not respect their obligation to collect these pieces of evidence with a separate protocol, a copy of which should be served to the applicant. In 94% of monitored registrations,<sup>211</sup> asylum seekers were informed about their obligation to submit all the available evidence to support their statements, while in the remaining 6% this was not done. In 53% of monitored cases, asylum seekers submitted evidence in support of their asylum claim; in 62% of them the evidence was properly protocolled. Hence this important safeguard that the submitted evidence would be taken into consideration in the decision-making was not observed in 38% of the monitored cases. This marked a slight progress when compared to 2022, when this omission was made in 51%, but still worse than just 16% in 2021 and 12% in 2020.

## 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: Up to 3 months

A negative decision taken in the regular procedure on the merits of the asylum application can be appealed within 14 days from its notification. In general, this time limit has proven sufficient for rejected asylum seekers to get legal advice, prepare and submit the appeal within the deadline. The SAR is obligated to, and actually does, provide information to rejected asylum seekers as to where and how they can receive legal aid when serving a negative decision, in the form of a list (see [Regular Procedure: Legal Assistance](#)).

Two levels of appeal are accessible in the regular procedure,<sup>212</sup> in contrast to appeal procedures for contesting decisions taken in [Dublin: Appeal](#), [Accelerated Procedure: Appeal](#) and inadmissibility of [Subsequent Applications](#) procedures, where first instance decisions are reviewed in only one court appeal instance.<sup>213</sup>

Appeal procedures are only judicial; the law does not envisage an administrative review of asylum determination decisions. Since a 2014 reform, competence for appeals in the regular procedure is distributed among all Regional Administrative Courts, designated as per the residence of the asylum seeker who has submitted the appeal.<sup>214</sup> Up to the present moment, however, the reform failed in significantly redistributing the caseload among the national courts, as the majority of asylum seekers reside predominantly in reception centres or in private accommodation in **Sofia** and **Harmanli**. Therefore, the **Sofia** and **Haskovo** Regional Administrative Courts continue to be the busiest ones, dealing with the appeals against negative first-instance decisions.

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

<sup>210</sup> Article 92 LAR.

<sup>211</sup> Bulgarian Helsinki Committee, 2023 Annual Report on Human Rights, available in Bulgarian at: <https://bit.ly/3SX3ST7>.

<sup>212</sup> Article 85(4) LAR

<sup>213</sup> Article 85(3) LAR in conjunction with Article 84(1)-(2) LAR.

<sup>214</sup> Article 84(2)-(4) LAR in conjunction with Article 133 Administrative Procedure Code.

The first appeal instance conducts a full review of the case, both on the facts and the points of law. Asylum seekers are summoned and questioned in a public hearing as to the reasons they applied for asylum. Decisions are published,<sup>215</sup> but also served personally to the appellant.

If the first instance appeal decision is negative, asylum seekers can bring their case to the second (final) appeal court, the Supreme Administrative Court (SAC); in this case, the appeal can only regard, points of law, and does not entail an in-merit examination of the case. At the end of 2019, the Chairperson of the Supreme administrative court took the controversial decision to move the asylum cases from the 3<sup>rd</sup> to 4<sup>th</sup> department. While the 3<sup>rd</sup> department of the SAC had been dealing with asylum cases for more than twenty-two years since the establishment of the Supreme Administrative Court in 1997, the 4<sup>th</sup> department had never been assigned such cases prior to the decision. The arrangement led to a deterioration of the quality of the decisions issued on asylum cases at this highest court instance, whose jurisprudence sets the standards for all lower national administrative courts. In 2023, the SAC issued negative decisions in 87% of asylum cases examined,<sup>216</sup> which still represents the majority of the asylum cases brought before this highest court instance. Thus, in practice, asylum seekers did not enjoy a two-instances court revision, as the control exercised from the Supreme Administrative Court's 4<sup>th</sup> department in the vast majority of the cases continued to be purely formal and superficial.

First instance appeal courts must issue their decisions within one month. The Cassation Court is not bound by such deadline. However, even for the first instance court this deadline is indicative and therefore in the past it was not respected, with an average duration of an appeal procedure before the court at both judicial instances up to 12 months. In 2023, this practice drastically changed, with both regional and Supreme administrative courts issuing their decision in a period of less than a month. If the court reverts the first instance decision back, the SAR has 3 months to issue a new decision,<sup>217</sup> complying with the court's instructions on the application of the law. As in previous years, SAR did not fully observe these deadlines, although in 2023 it did not issue any repeated refusals going against the court's instructions.<sup>218</sup> In the past, repeated appeal procedures against the second SAR negative decisions issued in breach of the court instructions, caused some asylum procedures to extend for over 2-3 years. Therefore, the fact that, in 2023 as in 2022, SAR observed court instructions, significantly improved the effectiveness of the judicial control in particular, and in general the length of the asylum procedure.

## 1.5 Legal assistance

### Indicators: Regular Procedure: Legal Assistance

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

Since 2013, the Law on Legal Aid provides mandatory legal aid for asylum seekers at all stages of the status determination procedure, funded through the state budget.<sup>219</sup> In practice, due to insufficient funding, free legal aid is only provided to vulnerable persons<sup>220</sup> upon their explicit request. Amendments to the law

<sup>215</sup> The Court decisions are available at: <https://bit.ly/2OZU62r> (Sofia court), <https://bit.ly/39nuVjv> (Haskovo court), <https://bit.ly/2MOgihu> (Sliven court) and <https://bit.ly/2Xxki0P> (Supreme administrative court).

<sup>216</sup> SAR, reg. No. №ПД05-31 from 15 January 2024.

<sup>217</sup> Article 85(5) LAR.

<sup>218</sup> SAR, reg. No. №ПД05-31 from 15 January 2024.

<sup>219</sup> Article 22(8) Law on Legal Aid.

<sup>220</sup> §1(17) from Additional Clauses LAR, namely: children, unaccompanied children, disabled, elderly, pregnant, single parents taking care of underage children, victims of trafficking, persons with serious health issues, psychological disorders or persons who suffered torture, rape or other forms of psychological, physical or sexual violence.



in 2020 also entrusted to registered legal aid lawyers<sup>221</sup> the representation of unaccompanied asylum seeking and refugee children both during the procedure, but also after their recognition. Prior to 2022, the law did not explicitly provide that legal aid should be available for beneficiaries of international or temporary protection. The National Legal Aid Bureau in October 2022 put forward a draft proposal to amend the law and include these categories in the scope of the legal aid.<sup>222</sup> The amendment was adopted in December 2022 and entered into force on 26 December 2022.<sup>223</sup>

The general legal aid system was introduced in Bulgaria in 2005, extending it to court representation in all types of cases beyond its mandatory provision in criminal, child protection and tort disputes. In 2017 the scope of the legal aid was extended<sup>224</sup> to include oral consultations at the national help line<sup>225</sup> or in regional legal aid centres. The condition for the legal aid to be provided is the applicants for legal aid to lack means and resources to engage a lawyer privately against remuneration.

### 1.5.1 Legal assistance at first instance

Asylum seekers have the right to ask for the appointment of a legal aid lawyer from the moment of the registration of their asylum application. However, access to free legal aid in first-instance procedures was in practice not possible as of the end of 2023.

After the end of its 2017-mid-2021 AMIF funded project on provision of legal aid to asylum seekers during the administrative phase of the procedure,<sup>226</sup> the National Legal Aid Bureau agreed to continue representing vulnerable applicants under its general rules, which would require the asylum seekers to fill in and submit complicated legal aid applications. The NGO Bulgarian Helsinki Committee, funded by UNHCR, assisted the NLAB with the adaptation and translation of the legal aid forms in English, French, Russian, Arabic, Farsi, Dari, Pashto, Urdu, Kurdish and Turkish languages to facilitate the access to legal aid to vulnerable applicants. A problem persists, however, for those who are illiterate and where the assistance of case workers is the only way to get access to legal aid. Yet, some of them are reluctant to grant access to legal aid as it would mean that their role in and quality of the procedure would be assessed. In 2023, free legal aid was not provided to applicants, with the only exclusion of the statutory representation of unaccompanied asylum seeking and refugee children based on Article 25 LAR provision (see next paragraph). This represented a significant deterioration of relevant national practices, as 50 asylum seekers at first instance had been assisted with state provided legal aid in 2021, and 818 vulnerable applicants in 2020.<sup>227</sup>

Amendments to the law introduced at the end of 2020 foresee a major change in the legal representation of unaccompanied asylum seeking and refugee children.<sup>228</sup> The obligation to represent these children not only in the procedure, but also after the recognition and before all agencies and institutions with regard to their rights and entitlements, was shifted from the municipalities to the National Legal Aid Bureau.<sup>229</sup> The law also introduced conditions for the qualification of the appointed legal aid lawyers and requirements for a representation in the child's best interest. The selection and the following training of selected lawyers was carried out in May-June 2021. Since July 2021, 16 lawyers from the Sofia Bar, 8 lawyers from Haskovo Bar and 3 lawyers from Sliven Bar have been implementing the representation of unaccompanied asylum seeking and refugee children. In December 2023, NLAB conducted training of 18 additional lawyers vis-à-vis its planned expansion of Article 25 limited list of representatives. In September 2023, the non-governmental organisation Bulgarian Helsinki Committee communicated its first annual

<sup>221</sup> National Legal Aid Register, available in Bulgarian at: <https://bit.ly/42Syzxe>.

<sup>222</sup> National parliament, Draft amendment of the Law on Legal Aid, reg.No. 48-202-01-19 from 28 October 2022, available in Bulgarian at: <https://bit.ly/3ygoCei>.

<sup>223</sup> State Gazette No.102 from 23 December 2022.

<sup>224</sup> Articles 30d to 30o Law on Legal Aid, as amended St.G. №13 from 7 February 2017.

<sup>225</sup> National Legal Aid Bureau, tel. 0700 18 250.

<sup>226</sup> National Legal Aid Bureau, 'Обява за конкурс за адвокати за работа по проект', 29 January 2018, available in Bulgarian at: <http://bit.ly/2DP376C>.

<sup>227</sup> SAR, reg. №ПД05-40 from 16 January 2023.

<sup>228</sup> National Parliament, Amendments on the Law on Asylum and Refugees (LAR), State Gazette No.89 from 16 October 2020, available at: <https://bit.ly/2LoUMiG>.

<sup>229</sup> Article 25 LAR.

report assessing the quality of the representation provided by Article 25 legal aid lawyers. The report was based on a formal agreement,<sup>230</sup> endorsed by UNHCR and funded by UNICEF. It covered the period from 1 July 2022 until 31 August 2023 with feedback collected from 215 interviews with unaccompanied children at Sofia and Harmanli reception centres. The report provided both general findings about the overall quality of the legal representation as well as individual assessment of each 23 acting legal aid lawyers from the limited NLAB list. The general feedback from children remained predominantly positive with respect to legal aid lawyers acting in Sofia reception centres and predominantly reserved to negative with respect to legal aid lawyers acting in Harmanli reception centre.<sup>231</sup> On 14 March 2023 the NLAB Executive Committee will hold a review of the report to consider amendment of its internal rules to allow striking of underperforming representatives out of the limited Article 25 list.

Other asylum seekers who were not recognised as having specific vulnerabilities did not enjoy access to legal aid at the first instance of the asylum procedure even in previous or following years.

### 1.5.2 Legal assistance in appeals

The aforementioned AMIF-funded pilot project on legal aid, which was carried out up until 31 January 2021, also covered assistance in the preparation of appeals before the court. As mentioned above, it ended on 31 July 2021.

Otherwise, for regular applicants on appeal, national legal aid arrangements only provide for state-funded legal assistance and representation after a court case has been initiated, i.e. after the appeal has been drafted and lodged. As a result, asylum seekers rely entirely on NGOs for their access to the court, namely for drafting and lodging the appeal.

## 2. Dublin

### 2.1 General

#### Dublin statistics: 1 January – 31 December of 2023

Outgoing procedure			Incoming procedure		
	Requests	Transfers		Requests	Transfers
<b>Total</b>	<b>136</b>	<b>51</b>	<b>Total</b>	<b>17,899</b>	<b>590</b>
<b>Take charge</b>	<b>67</b>	<b>46</b>	<b>Take charge</b>	<b>255</b>	<b>20</b>
Austria	1	1	Austria	37	0
Belgium	4	3	Belgium	4	0
Switzerland	2	4	Switzerland	9	0
Germany	35	23	Germany	117	6
Denmark	1	1	Denmark	1	0
Finland	2	0	Finland	2	0
France	5	3	France	14	0
Italy	2	1	Cyprus	1	0
Malta	5	4	Malta	1	0
The Netherlands	4	1	The Netherlands	23	1
Norway	4	3	Norway	5	1

<sup>230</sup> Tri-Partite Note of Understanding on the Provision of Legal Assistance to Persons in Need of International Protection in Status Determination Procedures, signed on 3 May 2017 among the National Bureau for Legal Aid, UNHCR and Bulgarian Helsinki Committee.

<sup>231</sup> Bulgarian Helsinki Committee/UNICEF, Monthly Progress Report on child protection, 10 January 2024.

Romania	1	1	Romania	31	6
Sweden	1	1	Sweden	1	1
			Portugal	2	0
			Slovenia	3	0
			Croatia	3	4
			Czech Republic	1	1
<b>Take back</b>	<b>69</b>	<b>5</b>	<b>Take back</b>	<b>17,644</b>	<b>570</b>
Austria	7	0	Austria	6,507	113
Switzerland	5	0	Switzerland	465	37
Cyprus	1	0	Cyprus	1	0
Germany	22	2	Germany	6,692	257
Denmark	4	0	Denmark	13	3
Spain	9	0	Liechtenstein	1	0
Finland	2	0	Finland	8	1
France	1	1	France	1,684	75
Greece	2	0	Greece	2	0
Croatia	1	0	Croatia	53	0
Lithuania	1	0	Lithuania	1	0
Hungary	1	0	Slovakia	59	41
The Netherlands	2	0	The Netherlands	432	4
Norway	2	0	Norway	20	0
Poland	2	0	Poland	10	1
Romania	2	0	Romania	155	0
Sweden	4	1	Sweden	26	7
Slovenia	1	0	Slovenia	954	0
			Belgium	443	22
			Czech Republic	12	5
			Iceland	1	0
			Ireland	22	0
			Italy	69	0
			Luxembourg	4	2
			Malta	7	2
			Portugal	3	0

Source: SAR.

Outgoing Dublin requests by criterion: 2023		
Dublin III Regulation criterion	Requests sent	Requests accepted
<b>“Take charge”: Articles 8-15:</b>	<b>67</b>	<b>34</b>
Article 8 (minors)	50	28
Article 9 (family members granted protection)	4	2
Article 10 (family members pending determination)	1	0
Article 11 (family procedure)	0	0
Article 12 (visas and residence permits)	6	2

Article 13 (entry and/or remain)	0	0
Article 14 (visa free entry)	0	0
“Take charge”: Article 16	2	0
“Take charge” humanitarian clause: Article 17(2)	4	2
<b>“Take back”: Article 18</b>	<b>69</b>	<b>12</b>
Article 18 (1) (b)	69	12
Article 18 (1) (c)	0	0
Article 18 (1) (d)	0	0
Article 20(5)	0	0

Source: SAR.

Incoming Dublin requests by criterion: 2023		
Dublin III Regulation criterion	Requests received	Requests accepted
<b>“Take charge”: Articles 8-15</b>	<b>255</b>	<b>92</b>
Article 8 (minors)	13	6
Article 9 (family members granted protection)	29	1
Article 10 (family members pending determination)	7	0
Article 11 (family procedure)	20	2
Article 12 (visas and residence permits)	75	60
Article 13 (entry and/or remain)	99	18
Article 14 (visa free entry)	0	0
“Take charge”: Article 16	0	0
“Take charge” humanitarian clause: Article 17(2)	12	5
<b>“Take back”: Articles 18 and 20(5)</b>	<b>17,644</b>	<b>12,928</b>
Article 18 (1) (b)	17,636	12,924
Article 18 (1) (c)	0	0
Article 18 (1) (d)	8	4
Article 20(5)	0	0

Source: SAR.

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

### 2.1.1 Application of the Dublin criteria

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

The most common criteria that continue to be applied in incoming cases are previously issued documents and first Member State of entry, as well as “take back” cases. Bulgaria accepts responsibility for the

examination of asylum applications based on the humanitarian clause, and mostly vis-à-vis document and entry reasons. In 2023, Bulgaria received 17,899 incoming requests and made 136 outgoing requests, compared to 20,014 incoming and 175 outgoing requests in 2022; 7,811 incoming and 190 outgoing requests in 2021; 1,904 incoming requests and 116 outgoing requests in 2020; and 3,088 incoming and 80 outgoing requests in 2019.

Incoming / Outgoing Dublin requests ratio: 2019 - 2023		
Year	Incoming requests	Outgoing requests
2019	3,088	80
2020	1,904	116
2021	7,811	190
2022	20,014	175
2023	17,889	136

### 2.1.2 The dependent persons and discretionary clauses

In the past, the sovereignty clause under Article 17(1) of the Regulation was used in few cases, mainly for family or health condition reasons. The sovereignty clause has never been applied for reasons different from humanitarian ones. Since 2017 and including in 2021, Bulgaria did not apply the sovereignty clause. In 2022, Bulgaria applied the humanitarian clause of Article 17(2) in 1 case, but none in 2023.

## 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 Dublin Unit has sent a request?  
 3 and a half months<sup>232</sup>

The LAR establishes the Dublin procedure as a non-mandatory stage, which is applied only following a decision from the caseworker assigned to the specific case, only if there are indications regarding the possibility to establish that another Member State is responsible to examine the asylum application in question.<sup>233</sup> In June 2022 the government adopted amendments<sup>234</sup> to the ordinance<sup>235</sup> regulating the coordination between the asylum and police (border and immigration) administrations while implementing Dublin III Regulation. The amendments updated and clarified the division of responsibilities among these authorities, but did not bring any noticeable change as they only formalised the already existing practical arrangements.

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

In 2020, the law was amended to optimise the decision-making in Dublin procedures by obliging the asylum agency to issue formal decisions only if another Member State has taken charge of or taken back the responsibility to examine the case. If this is not the case, asylum applications are automatically referred for eligibility determination without any written referral decision required, which has been the rule

<sup>232</sup> SAR, reg. No. №РД05-31 from 15 January 2024.

<sup>233</sup> Article 67a(2) LAR.

<sup>234</sup> State Gazette No.46 from 21 June 2022.

<sup>235</sup> COM No.332/2007: Наредба за отговорността и координацията на държавните органи, осъществяващи действия по административно сътрудничество при прилагането на регламент Дъблин и регламент Евродак.

before the amendment. However, many problems are still created by the fact that the decision-making process remains centralised as far as the Dublin decisions are concerned, as such decisions can be issued only by the SAR's Dublin Unit, which is located in the headquarters of the SAR in **Sofia**.<sup>236</sup> This in some cases could create problems connected to respect of the 3-month deadline under the Dublin Regulation for issuing a request to another Member State, as sometimes the congested communication between the Dublin Unit and the local reception centre outside Sofia, where applicants are accommodated, can consume time before all relevant documentation is prepared in order to make a proper Dublin request.

### 2.2.1 Individualised guarantees

In practice, Bulgaria does not seek individualised guarantees to ensuring that asylum seekers will have adequate reception conditions upon transfer. The overwhelming part of outgoing transfers relating to vulnerable groups were carried out with respect to unaccompanied children since 2016 and up until the end of 2023.<sup>237</sup> Since all transfers were based on family reunification and consent from the children and family members, the Dublin Unit did not request guarantees from receiving countries.

It is also a general understanding within the national stakeholders that the reception conditions in the countries of transfer, e.g. such as Germany, France, Switzerland, The Netherlands, Austria, and Norway in 2023, are better in most aspects than those in Bulgaria.

### 2.2.2 Transfers

In cases where another Member State accepts the responsibility to examine the application of an asylum seeker who is in Bulgaria, the outgoing transfer was usually implemented within 5 months on average in practice. However, in 2023 SAR reported this period to have been up to 3 months.<sup>238</sup> If incoming transfer is being organised, however, the duration of actual implementation varies, reaching in the past up to 15 months. In 2022, some reorganizations undertaken by SAR in its Internal Regulations<sup>239</sup> decreased the implementation of incoming transfers up to 4 months on average, and to 3 and a half months in 2023<sup>240</sup>.

Asylum seekers are usually not detained upon notification of the transfer. However, in certain cases, transferred asylum seekers can be detained for up to 7 days before the transfer as a precautionary measure to ensure their timely boarding of the plane. In all cases the transfer is carried out without an escort. It should be noted that in the past asylum seekers sometimes agreed to be detained for a couple of days before the flight to the responsible Member State as this was the only way for them to avoid any procedural problems that can delay their exit. No cases of detention based on this reason were reported in 2023<sup>241</sup>.

Asylum seekers to be transferred under the Dublin Regulation to another Member State are given a written decision stating the grounds for applying the Dublin III and the right to appeal the transfer to the other Member State before the court. However, asylum seekers are not informed of the fact that requests have been made for “take back” or “take charge” requests to the Member State deemed responsible, nor of any progress made with regard to such requests, unless the applicants actively require information on the progress. In distinction with many other national authorities, SAR continue to provide such information to asylum seekers pending outgoing but also incoming transfers, including to their duly authorised representatives from Bulgaria or abroad.

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<sup>236</sup> SAR, Annual report on procedures for international protection in 2023, available in Bulgarian at: <https://bit.ly/3lgTCjm>.

<sup>237</sup> SAR, reg. No. №ПД05-31 from 15 January 2024.

<sup>238</sup> Ibid.

<sup>239</sup> SAR, Internal Regulations for Implementation of the Procedure for Granting International Protection, Article 55.

<sup>240</sup> SAR, reg. No. №ПД05-31 from 15 January 2024.

<sup>241</sup> SAR, reg. No. №ПД05-31 from 15 January 2024.

In 2023, 46 outgoing transfers were carried out compared to 67 requests, indicating a 68% outgoing transfer rate. In the same time period, out of 17,899 incoming requests just 590 transfers were carried out in practice, thus marking 3% incoming transfer rate. The majority were Dublin transfers of unaccompanied children to members of their family in receiving Member States.

## 2.3 Personal interview

### Indicators: Dublin: Personal Interview

Same as regular procedure

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

The law does not require to conduct a personal interview in the Dublin procedure. Instead, it gives the interviewer an opportunity to decide whether an interview is necessary in light of all other relevant circumstances and evidence.<sup>242</sup> If an interview is conducted, it is mostly follows the same rules and practices as eligibility interviews in the [Regular Procedure](#), except relating to the type of questions asked in order to verify and apply Dublin criteria. Similar to the regular procedure, an audio or audio-video recording is now mandatory and applied in the majority of cases.<sup>243</sup>

## 2.4 Appeal

### Indicators: Dublin: Appeal

Same as regular procedure

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

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

The time limit for lodging the appeal is 7 calendar days, which is equal to the time limit for appeal in the [Accelerated Procedure: Appeal](#). Appeal procedures are held in an open hearing, and legal aid can also be awarded.

In practice, the court accepts all kind of evidence in support of the appeal, including on the level of reception conditions and procedural guarantees to substantiate its decision. The court's practice however is quite poor as very few Dublin decisions on transfers to other Member States are challenged. For this reason, no clear conclusions can be made as to whether the Administrative Court of **Sofia** takes into account the reception conditions, procedural guarantees and recognition rates in the responsible Member State when reviewing the Dublin decision.

<sup>242</sup> Article 67b(2) LAR.

<sup>243</sup> Article 63a(3) LAR.



## 2.5 Legal assistance

### Indicators: Dublin: Legal Assistance

Same as regular procedure

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

The Law on Legal Aid provides for state-funded representation at first instance and appeal. As a result, legal aid financed by the state budget should have become available to asylum seekers during the Dublin procedure since 2013, in addition to the already available legal aid during an appeal procedure before the court. However, in practice in 2023, legal aid to initiate and undergo a Dublin procedure was only provided to unaccompanied asylum-seeking children in order to assist their reunion with parents, relatives or family members in other European countries. This special legal aid was provided under the adopted 2020 amendment to the law, when the obligation to represent unaccompanied children was shifted from the municipalities to the National Legal Aid Bureau (see section [Regular Procedure: Legal Assistance](#)).<sup>244</sup> The statutory legal aid lawyers who represented unaccompanied children were assisted with training, interpretation and support to make sure that they are able to provide adequate and child-friendly information, and to manage their Dublin cases in accordance with the *ad-hoc* arrangements established jointly by BHC and SAR's Dublin Unit since August 2019. These ad-hoc arrangements were funded by UNICEF, and ended on 31 December 2023.

## 2.6 Suspension of transfers

### Indicators: Dublin: Suspension of Transfers

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

Bulgaria had suspended all Dublin transfers to **Greece** in 2011, based on the European Commission Fourth Recommendation,<sup>245</sup> thereby assuming responsibility for examining the asylum applications of the asylum seekers concerned.

In 2023, Bulgaria resumed take back request to Greece with 2 requests sent. However, no transfers were implemented.

Suspensions of transfers are not automatic, as there might be cases of “take charge” requests where applicants have family members in other EU Member States or other circumstances that engage the responsibility of another state. Due to the level of material reception conditions in Bulgaria, there have just several appeals against Dublin transfer decisions to other EU Member States.

## 2.7 The situation of Dublin returnees

In 2023, Bulgaria received 17,899 incoming requests under the Dublin Regulation and 590 incoming transfers.<sup>246</sup> In 2023, the number of Dublin returns actually implemented to Bulgaria increased by 192%

<sup>244</sup> Article 25 LAR.

<sup>245</sup> Commission Recommendation on the resumption of transfers to Greece under Regulation (EU) No. 604/2013, C(2016) 8525, 8 December 2016.

<sup>246</sup> SAR, reg. No. №PД05-31 from 15 January 2024.

compared to 2022, by 158% compared to 2021 and by 1,342% compared to 2020 (see table below). Overall, the percentage of actual transfers remains moderate compared to the number of incoming requests:

Incoming Dublin requests and transfers: 2015-2023									
	2015	2016	2017	2018	2019	2020	2021	2022	2023
Requests	8,131	10,377	7,934	3,448	3,097	1,904	7,811	20,014	17,899
Transfers	262	624	446	86	73	14	78	202	590

Source: Eurostat, migr\_dubro and migr\_dubto; SAR.

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

- ❖ If the returnee has a pending asylum application in Bulgaria, or the procedure was terminated because of the returnee's absconding, he or she is transferred to a SAR reception centre. In the past the SAR usually suspended asylum procedures when asylum seekers had left Bulgaria before their procedures were completed. After the amendments of the law in 2020, the SAR obtained the right to directly terminate (discontinue) the asylum procedure in such cases without passing through a stage of suspension. In both cases, no decision on the merits is issued, therefore the procedure can be reopened.<sup>247</sup>
- ❖ If, however, the returnee's asylum application was rejected with a final decision on the merits before, or after, leaving Bulgaria, and the decision was served *in absentia* and therefore became final,<sup>248</sup> the returnee is transferred to one of the immigration pre-removal facilities, usually to the **Busmantsi** detention centre in Sofia, but also to the **Lyubimets** detention centre near the Turkish border. Such refusal and serving of the refusal's decision *in absentia* is legally possible,<sup>249</sup> if an interview has been conducted<sup>250</sup> with the returnee prior their absconding from Bulgaria and if based on the information gathered from the interview the case worker could form an opinion about the credibility of the asylum claim. In the case of families, when returned, parents whose application was finally rejected are usually detained together with their children. In exceptional cases children may be placed in child care social institutions while their parents are detained in immigration facilities, however it is applied only when an expulsion order on account of threat to national security is issued to any of the parents.

Since 2020, the LAR explicitly provides for the mandatory reopening<sup>251</sup> of an asylum procedure with respect to an applicant who is returned to Bulgaria under the Dublin Regulation, provided that s/he has **not** been issued a decision on merits while *in absentia*.<sup>252</sup> The SAR's practice following this particular amendment has been so far in line with the law, and returnees whose asylum procedures had been only terminated (discontinued) after their absconding do not face obstacles in principle to have their determination procedures reopened. However, it does not secure their access to state provided food and accommodation in reception centres as these are guaranteed only to vulnerable applicants.<sup>253</sup>

For any other Dublin returnees, who are not considered vulnerable, food and accommodation are contingent to the limited national reception capacity and availability. If there is no available place for

<sup>247</sup> Article 77(3) LAR.

<sup>248</sup> Articles 18(1)(d) and (2) Dublin III Regulation.

<sup>249</sup> Article 76(4) LAR.

<sup>250</sup> Article 63a(1), (5) and (7) LAR.

<sup>251</sup> Article 77(3) LAR.

<sup>252</sup> Article 18(2) Dublin III Regulation.

<sup>253</sup> Article 29(7) LAR.

accommodation in reception centres of the asylum agency SAR, Dublin returnees will have to secure accommodation and nutrition at their own expenses. In 2023, SAR continued to report<sup>254</sup> a severe lack of capacity to accommodate in its reception centres the Dublin returnees who were not identified as vulnerable, both due to the constantly increasing new arrivals (+10% in 2023, +55% in 2022; +205% in 2021),<sup>255</sup> and to the reduced reception capacity, as in practice only 3,592 out of 5,160 official accommodation places were assessed as fit for living,<sup>256</sup> against the backdrop of 22,518 new arrivals just in 2023 (see [Overview of the main changes since the previous report update](#), [Reception capacity](#)).

Although the access to the national health care system is automatically reinstated after the Dublin return,<sup>257</sup> the national health care package is generally scarce and does not provide for any tailored medical or psychological treatment or support, nor for the treatment of many chronic diseases or surgical interventions, prosthetics, implants or other necessary medications or supplies.<sup>258</sup> Therefore the patients need to pay for them at their own expense.

Access to the labour market is guaranteed to asylum seekers after a period of three months from their personal registration and for the duration of the procedure.<sup>259</sup> However, the national economic situation remains challenging. Any improvements which finally started to occur after the end of COVID-19 pandemic were reverted in the beginning of 2022 by the war in Ukraine. It further complicated asylum seekers and refugees' employment and self-sufficiency. In 2023, the State Refugee Agency issued 579 work permits to asylum seekers who were looking to support themselves while their asylum claims were being processed.<sup>260</sup> Out of them, only 2 asylum seekers alongside 17 persons granted international protection were employed through employment programs, while the rest found work independently and on their own initiative.<sup>261</sup>

If, however, the Dublin returnee is among those, whose asylum procedures ended prior their return to Bulgaria with a refusal *in absentia* on the merits (substance), they are treated as irregular migrants with no access to labour market, the health care system or any other services that require legal residence and an identity document. In the majority of cases, these returnees are arrested upon return and detained in **Busmantsi** or **Lyubimets** pre-removal immigration centres to further enable their removal. In the few cases when the returnees are not detained after their arrival, usually – due to administrative or institutional entanglements, they may face homelessness and destitution because of their irregular status in Bulgaria and the lack of valid residence and/or identity documents. This means that even, if the returnees do have financial means, their access to the labour market and most of the basic public services (health care, social support, bank services, etc.) is nearly impossible.

In principle, no “take back” requests have been made so far under the Dublin Regulation regarding individuals with special needs. In the few cases in the past where the return of families with minor children, the requesting Member states usually asked the assurances of SAR for accommodation, adequate reception conditions as well as the nature of the services that will be provided. Usually, these individual guarantees are not made via DublinNet, but by using the available diplomatic channels, in most cases by the respective Member State's embassy in Bulgaria.

In 2023, the courts in some Dublin States, as well as the European Court of Human Rights, continued to rule suspension of Dublin transfers to Bulgaria on different grounds, but especially with respect to certain categories of asylum seekers due to poor material conditions and lack of proper safeguards for the rights of the individuals concerned.

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<sup>254</sup> SAR, reg. No. PД-05-72 from 26 February 2023.

<sup>255</sup> MOI statistics, December 2023, available in Bulgarian at: <https://bit.ly/48C57wC>.

<sup>256</sup> 127th Coordination Meeting held on 28 December 2023.

<sup>257</sup> Article 29(8) LAR.

<sup>258</sup> National Health Insurance Office, statutory health care package, available in Bulgarian at: <https://bit.ly/3nDcrU1>.

<sup>259</sup> Article 29 (3) LAR.

<sup>260</sup> SAR, reg. No. №PД05-31 from 15 January 2024.

<sup>261</sup> Employment Agency, reg. No. PД08-2852 from 22 December 2023.

To provide an example, in Belgium, in decision 289 752, the Council of Alien Law Litigation noted that, whereas Dublin returnees do not in principle face obstacles in re-accessing the Bulgarian asylum system, their access to accommodation and food is not guaranteed. In addition, the Council considered that the determining authorities did not sufficiently take into consideration the applicant's well-documented submissions corroborating a risk of ill-treatment by police authorities in Bulgaria giving rise to risks of violations of Article 3 ECHR in case of return. Likewise, in decisions 290 112 and 290 220, the Council held that, by failing to consider the reported serious shortage of reception capacity for Dublin returnees, the determining authorities did not properly assess the risk of a breach of Article 3 ECHR.

In decision D-5019/2022, the Swiss Federal Administrative Court took into consideration the lack of access to appropriate healthcare, in particular for acute psychiatric treatment, and the risk of *refoulement* specifically faced by Turkish nationals in Bulgaria, to conclude that there was a risk that, upon return, the applicant would be subjected to inhuman and degrading treatment within the meaning of Article 3 ECHR and Article 4 of the EU Charter.

Sample of cases on suspensions of Dublin transfers to Bulgaria in 2023			
Country	Judicial authority	Case	Date of decision
Austria	Federal Administrative Court	W239 2269761-1	20 April 2023
		W239 2269760-1	20 April 2023
		W240 2266512-1	27 April 2023
		W185 2267079-1	05 May 2023
	Constitutional Court	E1044/2022 et al.	09 March 2023
Belgium	Council of Alien Law Litigation	289 189	23 May 2023
		289 270	25 May 2023
		289 271	25 May 2023
		289 278	25 May 2023
		289 282	25 May 2023
		289 726	01 June 2023
		289 723	01 June 2023
		289 752	05 June 2023
		290 114	12 June 2023
		290 112	12 June 2023
		290 452	16 June 2023
		291 091	27 June 2023
		291 090	27 June 2023
Germany	Administrative Court of Köln	Az. 5 L 65/23.A	31 January 2023
	Administrative Court of München	M 10 K 18.51221	21 February 2023
Denmark	Refugee Appeals Board	Dub-Bulg/2023/2	September 2023
Slovenia	Administrative Court	UP00069332	08 June 2023
		UP00069455	09 June 2023
		UP00069170	20 June 2023
Switzerland	Federal Administrative Court	D-5019/2022	24 August 2023

Courts throughout European countries have, however, also often upheld Dublin transfers to Bulgaria in 2023.<sup>262</sup>

<sup>262</sup> See e.g. (Austria) Federal Administrative Court, Decisions W240 2269956-1, W144 2273612-2, W161 2276527-1, W232 2277979-1 and W232 2278396-1; (Belgium) Council of Alien Law Litigation, decisions 293

Additional information on the access of Dublin returnees to reception and healthcare can be found under the sections on [Access and forms of reception conditions](#) and [Health care](#).

### 3. Admissibility procedure

#### 3.1 General (scope, criteria, time limits)

The admissibility assessment is no longer part of the [Accelerated Procedure](#), but a separate procedure that could be applied prior or during the status determination.<sup>263</sup>

The examination can result in finding the asylum application inadmissible, where the applicant:<sup>264</sup>

1. Following a proper invitation the applicant does not appear for an interview and, in 30 days thereof, does not present any objective reasons for his omission;
2. The applicant failed twice to be found at the permitted address of residence or at another address indicated by him/her;
3. The applicant changes the address of residence without notifying the State Agency for Refugees and within 30 days does not indicate any objective reasons for doing that
4. The applicant refuses on three or more occasions to cooperate the staff of the State Agency for Refugees to clarify the circumstances related to his application;
5. The applicant withdraw his application for international protection;
6. Has been granted international protection in another EU Member State;
7. Is granted asylum by the President of the Republic;
8. Is deceased;
9. Is issued a decision Article 67c, para. 1, item 1<sup>265</sup>, which allows his transfer to another EU Member State.

In the hypotheses from 1 to 5, the decision maker can opt to proceed and refuse the applicant under the [Accelerated Procedure](#) if sufficient evidence has been gathered to consider the application as manifestly unfounded.<sup>266</sup>

Out of all inadmissibility grounds set out in the LAR and mirroring the recast Asylum Procedures Directive, Bulgaria applies solely the ground relating to [Subsequent Applications](#). It provides the opportunity to consider them based on a preliminary examination whether new elements or findings have arisen or been presented by the applicants relating to their personal situation or country of origin.<sup>267</sup> The admissibility assessment of subsequent applications differs in many aspects from the rules, deadlines and guarantees applicable when an inadmissibility decision is taken on the basis of the other admissibility grounds. The provisions listed above which refer to grounds for terminating asylum procedure could be re-open once on the applicant's request within 9 months from the date of termination.<sup>268</sup> Whenever the admissibility procedure is applied with regard to a subsequent application, it can be deemed inadmissible unless new circumstances are presented,<sup>269</sup> and in such case the asylum authority refuses to open a new, subsequent procedure to review the case once again after the first final refusal on its merits.

In 2023, 94 applicants submitted subsequent asylum claim and were dealt with in an admissibility procedure. Of these, 64 (55%) were declared inadmissible and 30 (33%) were granted access to a new procedure for a subsequent determination.<sup>270</sup>

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616 and 296 780; (Netherlands) Council of State, decision 202206794/1/V3, Decision NL22.14416, 26 October 2022; (Switzerland) Federal Administrative Court, decisions F-3179/2023, F-5712/2023 and F-5523/2023.

<sup>263</sup> Article 15 LAR.

<sup>264</sup> Article 13(2)(1)-(5) LAR.

<sup>265</sup> Dublin transfers.

<sup>266</sup> Article 15(2) LAR.

<sup>267</sup> Articles 75a to 76c-76d LAR.

<sup>268</sup> Article 77(2) LAR.

<sup>269</sup> Article 13(2) LAR.

<sup>270</sup> SAR, reg. No. №РД05-31 from 15 January 2024.

## 3.2 Personal interview

The same rules and guarantees apply as in the [Regular Procedure: Personal Interview](#). In particular, if the interview is omitted, decisions cannot be considered in accordance with the law, unless it concerns a medically established case of insanity or other mental disorder.<sup>271</sup> In practice, all asylum seekers are interviewed at least once to determine their eligibility for refugee or subsidiary protection (“humanitarian status”). Further interviews are usually only conducted if there are contradictions in the statements or if some facts need to be clarified.<sup>272</sup>

## 3.3 Appeal

The same rules and guarantees apply as in the [Regular Procedure: Appeal](#). Applicants can access one instance appeal within 7 days since serving the termination of procedure<sup>273</sup> or the refusal to open a subsequent procedure based on a submitted subsequent application<sup>274</sup> before the the respective regional administrative court.

## 3.4 Legal assistance

The same rules and guarantees apply as in the [Regular Procedure: Legal Assistance](#), namely that legal aid for asylum seekers at all stages of the status determination procedure is provided under the national legislation, funded through the state budget.<sup>275</sup> In practice, due to insufficient funding, free legal aid at the administrative stage of the asylum procedure is only provided to vulnerable persons<sup>276</sup> upon their explicit request. Access to legal aid at the court stage is provided to all applicants who do not have sufficient means to cover their legal fees.

## 3.5 Suspension of returns for beneficiaries of protection

### 3.5.1 Suspended returns to another EU Member State

No returns to another EU member state were ever suspended, neither in 2023.<sup>277</sup>

### 3.5.2 Relevant national jurisprudence

There is no national jurisprudence suspending returns of beneficiaries of international protection following inadmissibility decisions or finding applications admissible due to the impossibility to return beneficiaries of international protection to another EU member state or any other country, which granted the protection.

## 4. Border procedure (border and transit zones)

There is no border procedure in Bulgaria and Article 43 of the recast Asylum Procedures Directive has not been implemented at national level.

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<sup>271</sup> Article 63a (7) LAR in conjunction with Article 61a (5) LAR.

<sup>272</sup> Article 63a (5) LAR.

<sup>273</sup> Article 15 LAR.

<sup>274</sup> Article 84(2) LAR.

<sup>275</sup> Article 22(8) Law on Legal Aid.

<sup>276</sup> §1(17) from Additional Clauses LAR, namely: children, unaccompanied children, disabled, elderly, pregnant, single parents taking care of underage children, victims of trafficking, persons with serious health issues, psychological disorders or persons who suffered torture, rape or other forms of psychological, physical or sexual violence.

<sup>277</sup> SAR, reg. №ПД05-31 from 15 January 2024.



## 5. Accelerated procedure

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

The accelerated procedure is designed to examine the credibility of the asylum application, but also the likelihood of the application being fraudulent or manifestly unfounded.<sup>278</sup> The asylum application can also be found manifestly unfounded if the applicant did not state any reasons for applying for asylum related to grounds of persecution at all, or, if his or her statements were unspecified, implausible or highly unlikely. In the upcoming amendment of the national asylum law<sup>279</sup> following recommendations by the Commission, provided during the negotiations and implementation<sup>280</sup> of the EC-Bulgaria pilot project on accelerated procedure, both admissibility and accelerated procedure's grounds were re-worded<sup>281</sup> and reorganized in the text of the relevant national law to fully correspond to the respective provisions of the APD.

In accordance with the transposition of Article 31(8) and 39 of the recast Asylum Procedures Directive, the asylum application can be found manifestly unfounded, if:

1. The applicant raised issues that are not relevant to the examination of whether he or she qualifies as a beneficiary of international protection;<sup>282</sup>
2. The applicant has made clearly inconsistent and contradictory, clearly false or obviously improbable representations which contradict country-of-origin information, thus making his or her claim clearly unconvincing;<sup>283</sup>
3. The applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents or destroying documents with respect to his or her identity and/or nationality;<sup>284</sup>
4. The applicant refuses to comply with an obligation to have his or her fingerprints taken;<sup>285</sup>
5. The applicant entered or resides the territory or stays lawfully and, without good reason, has not presented himself or herself within a reasonable time to the authorities to submit an application for international protection;<sup>286</sup>
6. The applicant entered the territory or stays unlawfully and, without good reason, has not presented himself or herself immediately to the authorities to submit an application for international protection as soon as possible;<sup>287</sup>
7. The applicant comes from a safe country of origin;<sup>288</sup>
8. The applicant arrives from a safe third country, provided that s/he will be accepted back to its territory<sup>289</sup>; which cannot be used as a sole ground for considering the application manifestly unfounded unless:
  - a. there is a connection between the applicant and the third country concerned on the basis of which it would be reasonable for that person to go to that country and, a case-by-case consideration is implemented of the safety of the country for a particular applicant; and,
  - b. the applicant is provided with a document informing the authorities of the third country, in the language of that country, that the application has not been examined in substance, or

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<sup>278</sup> Article 13(1) LAR.

<sup>279</sup> Law on Asylum and Refugees draft amendments, published for public consultations on 5 January 2024, available in Bulgarian at: <https://bit.ly/3TbGP8m>.

<sup>280</sup> SAR, Annual report on procedures for international protection in 2023, available in Bulgarian at: <https://bit.ly/3lgTCjm>.

<sup>281</sup> Articles 13 and 4 LAR.

<sup>282</sup> Article 13(1)(1)-(2) LAR.

<sup>283</sup> Article 13(1)(3)-(4) LAR.

<sup>284</sup> Article 13(1)(6)-(9) LAR.

<sup>285</sup> Article 13(1)(10) LAR.

<sup>286</sup> Article 13(1)(11) LAR.

<sup>287</sup> Article 13(1)(12) LAR.

<sup>288</sup> Article 13(1)(13) LAR.

<sup>289</sup> Article 13(1)(14) LAR.



9. The applicant is making an application merely in order to delay or frustrate the enforcement of an earlier or imminent decision which would result in his or her removal.<sup>290</sup>

The authority responsible for taking decisions at first instance on asylum applications in the accelerated procedure is the SAR, through caseworkers specially appointed for taking decisions in this procedure. The accelerated procedure is a non-mandatory phase of the status determination, applied only by a decision of the respective caseworker, if and when information or indications are available to consider the asylum application as manifestly unfounded.<sup>291</sup>

This decision should be taken within 14 working days from applicants' formal registration by the SAR. If the decision is not taken within this deadline the application has to be examined fully following the rules and criteria of the [Regular Procedure](#), with all respective safeguards and deadlines applied.

The law provides that, upon receiving the asylum application, caseworkers are obliged to request a written opinion from the State Agency for National Security (SANS) which, however, is to be taken into consideration if and when a decision on the substance of the claim is taken within the regular ("general") procedure.<sup>292</sup> The law explicitly provides that such an opinion should not be requested in the accelerated procedure.

All grounds are applied in practice. In 2022, 246 asylum applicants have been rejected under the accelerated procedure. Of those, 74 came from Morocco, 74 from Pakistan, 28 from the Russian Federation, 17 from Algeria, 14 from Afghanistan, 7 from Tunisia, 6 from Türkiye, 5 were stateless and 21 individuals held other nationalities. Nationalities from certain countries such as Algeria, Morocco Tunisia and Pakistan thus continue to be systematically treated as manifestly unfounded applicants. However, in 2022 none of these nationalities registered zero recognition rates (i.e. a 100% rejection rate) In 2023, 2 Moroccan and 5 Pakistani asylum seekers were granted international protection, however Algerian and Tunisian ones again faced 100% rejection.

In the past, Turkish and Afghan nationals were subjected to unfair and discriminatory treatment<sup>293</sup> with very low recognition rates with their applications overwhelmingly determined in accelerated procedure. In 2022 their situation, especially concerning Afghan applicants, improved. Out of all 69 Afghan cases decided on their substance just 20% were dealt in accelerated procedure as manifestly unfounded, while in 2022 these were 20% of the decided cases; 86% in 2021, and 95% in 2020. However, in 2023, out of all 194 Afghan cases decided on their substance nearly 66% were again dealt in accelerated procedure as manifestly unfounded. The improvement in the treatment of Turkish applicants also was neither steady nor significant, as 37% of cases were dealt as manifestly unfounded in accelerated procedure, while in 2022 these were 33% of the decided cases; against the backdrop of 83% in 2021, and 58% in 2020.

Since the beginning of 2023 a pilot project, initially funded by Austria and subsequently by the European Commission,<sup>294</sup> is implemented at SAR Pastrogor Transit center near Bulgarian-Turkish border. Applicants from countries such as Morocco, Tunisia and Algeria, among others, were accommodated in this transit centre as their applications for international protection were deemed manifestly unfounded by presumption and the accelerated procedure was applied in 100% of their cases under the pilot project. Less than 1% are admitted to the regular procedure and the data is to be used for justifying the potential introduction of a border procedure in Bulgaria. For more information, see [Overview of the main changes since the previous report update, The pilot project on accelerated procedure](#)).

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<sup>290</sup> Article 13(1)(15) LAR.

<sup>291</sup> Article 70(1) LAR.

<sup>292</sup> Article 58(10) LAR.

<sup>293</sup> See, AIDA Updates on Bulgaria from 2019, 2020 and 2021.

<sup>294</sup> European Commission, Press corner, The European Commission launches a pilot project with Bulgaria, 20 March 2023, available at: <https://bit.ly/3x3sPER>.

## 5.2 Personal interview

### Indicators: Accelerated Procedure: Personal Interview

Same as regular procedure

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

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

## 5.3 Appeal

### Indicators: Accelerated Procedure: Appeal

Same as regular procedure

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

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

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

In general, asylum seekers do not face significant obstacles to lodging an appeal in the accelerated asylum procedure within the 7-day deadline. The obstacles referred to under the regular procedure appeal apply, e.g. lack of legal aid and interpretation issues.

## 5.4 Legal assistance

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

## D. Guarantees for vulnerable groups

### 1. Identification

#### Indicators: Identification

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers?  Yes  For certain categories  No
2. Does the law provide for an identification mechanism for unaccompanied children?  Yes  No

Applicants who are children, unaccompanied children, disabled, elderly, pregnant, single parents taking care of underage children, victims of trafficking, persons with serious health issues, psychological disorders or persons who suffered torture, rape, or other forms of psychological, physical or sexual violence are considered as individuals belonging to a vulnerable group.<sup>295</sup>

#### 1.1 Screening of vulnerability

Several initiatives on vulnerability were undertaken in previous years. In 2008, the SAR and UNHCR agreed on standard operating procedures (SOPs) to be followed with respect to treatment of victims of Sexual and Gender-based Violence (SGBV).<sup>296</sup> The SOPs were never applied in practice. A process for the revision of the SOPs has been pending since the end of 2013, which also aims to include new categories or vulnerable groups.<sup>297</sup> The revision of SGBV SOPs ended in December 2021 with their formal adoption by the SAR.<sup>298</sup> However, they were neither communicated to SAR staff working on the field, nor implemented in practice.<sup>299</sup>

In April 2017, the national expert working group, headed by the State Agency for Child Protection developed a set of SOPs addressing the protection needs of all categories of unaccompanied children in Bulgaria, both migrant and asylum seekers. In May 2017, UNICEF communicated a concept for the establishment of interim care facility for unaccompanied children. Although these two documents were approved in July 2017 by the National Child Protection Council, nothing has been done by the government to forward the process. As of 31 December 2023, none among these SOPs were implemented in practice.

Against this backdrop, BHC, UNICEF and UNHCR worked together with the Ministry of Interior on amendments of the primary and secondary migration legislation. These amendments' objective was the creation of a legally binding referral mechanism,<sup>300</sup> as well as a new procedure allowing for the regularisation of rejected and migrant unaccompanied children until they reach adulthood,<sup>301</sup> with a possibility for an indefinite extension after it on humanitarian grounds. However, these amendments do not address the lack of identification mechanism of vulnerability at an earlier stage of the procedure and do not apply to all other categories of persons with special needs.

EUAA, formerly – EASO, also cooperated with Bulgaria in order to improve the capacity to identify and refer vulnerable applicants and to improve exchange between relevant institutions. EASO's Special Support Plan to Bulgaria was originally in place from December 2014 until June 2016, but was extended

<sup>295</sup> §1(17) Additional Provisions, LAR.

<sup>296</sup> Standard Operating Procedures on sexual and gender-based violence, Exh. No 630, 27 February 2008.

<sup>297</sup> UNHCR, SGBV Task Force, established on 15 February 2014.

<sup>298</sup> Exh. No. CД-172/n/23.12.2021 approved with resolution by SAR Chairperson.

<sup>299</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring Report, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

<sup>300</sup> Article 28a Regulations for Implementation of the Law on Aliens in the Republic of Bulgaria (LARB Regulations), State Gazette (St.G.) №34/2019, enforced on 24 October 2019.

<sup>301</sup> Article 63k and 63l LARB Regulations, St.G. №23/2019, enforced on 26 November 2019.

until 31 October 2018.<sup>302</sup> The identification and referral mechanism was set to build on the Quality tool for the Identification of Persons with Special Needs (IPSN).

In 2020, amendments to the law introduced a mandatory vulnerability assessment implemented by the SAR social experts with their vulnerability reports and recommendations referred to the case workers in order these circumstances to be taken into account in the decision-taking process. The SAR internal rules foresee that these two documents have to be added to the personal file to enable case worker to take them into account when examining the application. These activities have to be implemented also in the cases when the vulnerability or the special needs are established at a later stage of the asylum procedure. Additionally, an early identification questionnaire was created for applicants who experienced traumatising experiences in order to determine their special needs and to facilitate the referral to adequate psychological or medical care.<sup>303</sup>

In 2023 the overall lack of vulnerability assessment and identification remained the most significant omission during the asylum procedure.<sup>304</sup> The SAR's social experts attended 50% of the registrations of asylum seekers. Out of them 24% related to cases of unaccompanied children. Only in 6% of all these cases the files of vulnerable asylum seekers contained vulnerability identification and needs assessment, with an attached individual support plan. In none of these cases (0%) the established vulnerability was taken into account in the first instance decision. In the remaining 50% of the cases the registration of asylum seekers was carried out without the presence of a SAR social expert and without any guarantees for early identification of their vulnerabilities, if such existed. Thus, in practice the vulnerability assessment is still missing in 50% of the monitored cases. Additionally, needs assessment as well as planning and provision of support measures with respect to applicants with identified vulnerabilities are carried out yet sporadically than systematically. The SAR noted<sup>305</sup> that vulnerability assessments are conducted by SAR social workers as soon as possible, usually during the registration of asylum seekers, or at a later stage with the assessment attached in the applicants' files only if they are found to have specific needs. In 2023, SAR social workers conducted altogether 1,405 vulnerability assessments.

However, unaccompanied children's files continue in many cases to lack the mandatory<sup>306</sup> best interest assessment and individual social report by the respective statutory child protection service from the Agency for Social Assistance (ASA). It has been confirmed that these reports are prepared in practice, but in the majority of the cases they are not only formal, but also not shared with SAR case workers. The social reports, if properly prepared and communicated, could play a vital role not only in the asylum procedure, but also after it to outline the measures which need to be taken with respect to the child depending on the outcome of the procedure – rejection or recognition. Such mandatory social reports with needs assessment were present in 86% of the monitored children's files in 2023.<sup>307</sup> However, in 83% of these cases these reports were purely formal and with no indication that a proper best interest assessment and determination or risk mitigation measure was realised. The failure of the statutory social services to implement this basic safeguard vis-à-vis unaccompanied asylum seeking and refugee children have continued for over a decade.<sup>308</sup>

Although moderate, the efforts made for the vulnerability identification resulted in a notable increase in the absolute number of asylum seekers formally recognised to have special needs or vulnerabilities. While this concerned 797 asylum seekers in 2019; 1,259 in 2020, 3,928 asylum seekers in 2021 and 5,482

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<sup>302</sup> EASO, Special support plan to Bulgaria – Amendment No.3, 27 October 2017, available at: <https://bit.ly/2U58pCF>; 'EASO successfully completes its special support in Bulgaria', 27 November 2018, available at: <https://bit.ly/2S9FwJQ>.

<sup>303</sup> Early Identification and Needs Assessment form (ФИОН), Individual Support and Referral Plan form (ФИПП) and Social Consultation form (ФСК).

<sup>304</sup> Bulgarian Helsinki Committee, 2023 Annual Refugee Status Determination Monitoring Report, 31 January 2024, available at: <https://bit.ly/3SX3ST7>.

<sup>305</sup> SAR, Response to the right of reply on information presented in the AIDA Country Report, 8 April 2024.

<sup>306</sup> Articles 16-18 Law on Social Support's Regulations.

<sup>307</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring Report, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

<sup>308</sup> Bulgarian Helsinki Committee, 2012 Annual Refugee Status Determination Monitoring Report, 31 January 2013, available at: <https://bit.ly/49TvJdp>.

considered as vulnerable in 2022, the number rose to 6,155 considered as vulnerable in 2023 (27% of all new applicants).<sup>309</sup> However it has to be noted that 3,843 of them were unaccompanied children, i.e. cases where the vulnerability identification is straightforward and almost automatic as it derives from the child's statement about his or her age, or from the identity documents, if available.

The SAR collects statistics on the number of asylum seekers identified as vulnerable at the end of any given month rather than cumulative data on the number of vulnerable persons applying for asylum in a given year. At the end of December 2023, the following groups were identified among asylum seekers:

Asylum seekers identified as vulnerable in Bulgaria: 2018-2023						
Category of vulnerable group	2018	2019	2020	2021	2022	2023
Unaccompanied children	52	524	799	3,172	3,483	3,843
Accompanied children	n.a.	207	326	561	1,793	1,877
Single parents	16	20	28	57	69	130
Pregnant women	0	8	18	34	24	34
Elderly persons	3	4	0	15	108	30
Disabled persons	3	10	20	21	42	54
Persons with chronic or serious illnesses	19	13	42	52	72	147
Persons with serious psychiatric issues	0	8	24	12	15	31
Victims of physical, psychological or sexual violence	6	3	2	3	5	3
Other (LGTBI)	n.a.	n.a.	n.a.	1	2	6
<b>Total</b>	<b>99</b>	<b>797</b>	<b>1,259</b>	<b>3,928</b>	<b>5,482</b>	<b>6,155</b>

Source: SAR.

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

## 1.2 Age assessment of unaccompanied children

The caseworker is not obligated to request an age assessment unless there are doubts as to whether the person is a child.<sup>310</sup> In practice, age assessment is used only to disprove asylum seekers declaring being underage.

The law does not state the method of the age assessment which should be applied. As a rule, the wrist X-rays method is applied systematically in all cases, based on the assumption that this method is more accurate than a psycho-social inquiry. The Supreme Administrative Court, however, considers this test as non-binding and applies the benefit of the doubt principle,<sup>311</sup> which is also explicitly laid down in the LAR.<sup>312</sup>

<sup>309</sup> SAR, reg. No. №ПД05-31 from 15 January 2024.

<sup>310</sup> Article 61(2) LAR.

<sup>311</sup> Supreme Administrative Court, Decision No 13298, 9 November 2009.

<sup>312</sup> Article 75(3) LAR.

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

In 2023, the SAR conducted age assessments in 31 cases, in 12 of them (39%) concluding applicants to be adults, 15% in 2022 while in 2021 these were 80% of conducted age assessments. The monitoring of the status determination procedures demonstrated that the SAR continues to conduct age assessment by means of X-ray expertise of the wrist bone structure and without any evidence of prior consent by the children's representatives.<sup>313</sup> Reports from medical organisations consider the X-ray as invasive but, more importantly, inaccurate with an approximate margin of error of 2 years.<sup>314</sup>

In 2023, SAR revived the efforts to create a formal national age assessment procedure based on a multidisciplinary approach. In July SAR convened an inter-institutional working group which revised the previous age assessment draft, developed in 2019<sup>315</sup>. A bi-lateral Age Assessment Instruction,<sup>316</sup> was formally adopted by SAR and State Agency for Child Protection (SACP) and published in December 2023, which enforcement will take effect on 1 March 2024. The instruction introduces a structured multi-disciplinary age assessment rules and procedures and is the first ever formally adopted one in the European context. The Age Assessment Instruction is widely endorsed by all national stakeholders, including UNHCR and UNICEF.<sup>317</sup>

## 2. Special procedural guarantees

### Indicators: Special Procedural Guarantees

1. Are there special procedural arrangements/guarantees for vulnerable people?

Yes  For certain categories  No

❖ If for certain categories, specify which: Unaccompanied children

Although in 2023 a needs assessment was carried out in 50% of the cases, the assessment of applicants established as vulnerable or having specific needs was included only in 6% in their personal files. However, even in these cases the assessment was not taken into consideration by caseworkers in their decision-making process in 100% of the monitored cases.<sup>318</sup>

The law excludes the application of the **Accelerated Procedure** to unaccompanied asylum-seeking children, but not to torture victims.<sup>319</sup>

Despite the 2015 reform of the law which stripped the statutory social workers of the child protection services from the responsibility to represent unaccompanied children in asylum procedures (see **Legal Representation of Unaccompanied Children**), their obligation to provide a social report with an opinion on the best interests of the child concerned in every individual case remains nonetheless under the provisions of general child care legislation.<sup>320</sup> In all of the cases monitored in 2023, these reports were produced but

<sup>313</sup> Bulgarian Helsinki Committee, 2021 Annual RSD Monitoring Report, 31 January 2022.

<sup>314</sup> Doctors of the World, Age assessment for unaccompanied minors, 28 August 2015. See also UNHCR, UNICEF and International Rescue Committee, The way forward to strengthened policies and practices for unaccompanied and separated children in Europe, July 2017, available at: <http://bit.ly/2BHGxLo>.

<sup>315</sup> AIDA Update on Bulgaria for 2019, published in February 2020.

<sup>316</sup> State Agency for Refugees, Instruction on the Rules and Conditions on Age Assessment, published on 1 December 2023, available in Bulgarian at: <https://bit.ly/3UZnUPg>.

<sup>317</sup> State Agency for Refugees, ДАБ при МС и ДАЗД въвеждат първата инструкция за определяне възрастта на непридружените деца-бежанци в България, published on 22 December 2023, available in Bulgarian at: <https://bit.ly/3OZmqAF>.

<sup>318</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring Report, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

<sup>319</sup> Article 71(1) LAR.

<sup>320</sup> Article 15(4) and (6) Law on Child Protection.



in their vast majority not included to the files nor shared with the SAR's caseworkers for further consideration.<sup>321</sup>

At the end of 2017, the National Legal Aid Bureau, which is the national body assigned to provide state sponsored legal aid, received funding under the AMIF national programme to commence for the first time ever in Bulgaria the provision of legal aid to asylum seekers during the administrative phase of the asylum procedure.<sup>322</sup> Legal aid under this 80,000 € pilot project was implemented until 31 January 2021 and was limited to the vulnerable applicants for international protection.<sup>323</sup> The project was extended until 31 July 2021 (see [Regular Procedure: Legal Assistance](#)). After the end of the project, the National Legal Aid Bureau agreed to continue representing vulnerable applicants under its general rules, which would require the asylum seekers to fill in and submit complicated legal aid applications. The non-governmental organisation Bulgarian Helsinki Committee funded by UNHCR assisted the NLAB with the adaptation and translation of the legal aid forms in English, French, Russian, Arabic, Farsi, Dari, Pashto, Urdu, Kurdish and Turkish languages in order to enable the access to legal aid of vulnerable applicants. A problem persists, however, for those who are illiterate and where the assistance of case workers is the only way to get access to legal aid. Yet, some of them are reluctant to grant access to legal aid as it would mean that their role in and quality of the procedure would be assessed. Similar to 2022, in 2023, beyond unaccompanied children, legal aid was not provided to any other vulnerable asylum seekers at first instance, which represents a further deterioration in this respect in comparison to 2021, when 50 asylum seekers were provided legal aid, and 818 asylum seekers in 2020.<sup>324</sup> Other asylum seekers, i.e. who are not considered as vulnerable, did not enjoy access to legal aid at the first instance of the asylum procedure.

In 2022, the Minister of Labour and Social Policy approved<sup>325</sup> a coordination mechanism for interaction between the authorities and organisations working on cases of unaccompanied migrant children separated from their families in Bulgaria, including children seeking and/or receiving international or temporary protection.<sup>326</sup> However, this coordination mechanism was neither endorsed, nor signed by any other ministry or government agency, including SAR, therefore it is not formally binding or applied in practice, except by SAR, which indicated<sup>327</sup> to be applying in practice some of the Coordination mechanism's provisions when registering unaccompanied children.

### 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  No  In some cases
2. Are medical reports taken into account when assessing the credibility of the applicant's statements?  Yes  No

The LAR includes a provision, according to which the caseworker, with the consent of the asylum seeker, can order a medical examination to establish evidentiary statements of past persecution or serious harm.<sup>328</sup> If such consent is refused by the asylum seeker, this should not be an impediment to issuing the first instance decision. The law also envisages that the medical examination can be initiated by the asylum seeker, but in this case he or she should bear the medical expert's cost.

<sup>321</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring Report, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

<sup>322</sup> National Legal Aid Bureau, 'Обява за конкурс за адвокати за работа по проект', 29 January 2018, available in Bulgarian at: <http://bit.ly/2DP376C>.

<sup>323</sup> Ibid.

<sup>324</sup> SAR, reg. №ПД05-40 from 16 January 2023.

<sup>325</sup> Ministry of Labor and Social Policy (MLSP), Order №ПД-06-6 from 18 April 2022.

<sup>326</sup> MLSP, Order No. RD-06-6 of 18 April 2022.

<sup>327</sup> SAR 123rd Coordination meeting, held on 1 June 2023.

<sup>328</sup> Article 61a(7) LAR.



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

The law only requires the caseworker to order a medical examination in one particular case, which is when there are indications that the asylum seeker might be mentally ill.<sup>329</sup> In this case, if the result of the medical examination report shows that the asylum seeker suffers from a disease or mental illness, the caseworker approaches the SAR's Chairperson, who refers the case to the court for appointment of a legal guardian to the asylum seeker which is required to be able to continue with the examination of the asylum application.

#### 4. Legal representation of unaccompanied children

##### Indicators: Unaccompanied Children

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

Since 2015, local municipalities are mandated to act as legal representatives of unaccompanied children.<sup>330</sup> Highly criticised when adopted, this approach proved to be more inadequate than previous arrangements. The municipalities lacked not only qualified staff, but also basic experience and expertise in child protection.<sup>331</sup> In addition to that, the number of legal representatives appointed – one or two per reception facility – was insufficient to meet the need of the population of unaccompanied children who, remained considerable in number.

At the end of 2020, amendments to the law introduced a major change in the legal representation of unaccompanied asylum seeking and refugee children.<sup>332</sup> The obligation to represent these children not only in the procedure, but also after the recognition and before all agencies and institutions regarding their rights and entitlements, was shifted from the municipalities to the National Legal Aid Bureau. It includes requirements related to the qualification of the appointed legal aid lawyers and representation implemented in the child's best interest.<sup>333</sup> It aimed at addressing the absence of guardians, and ensure proper legal representation and care for the best interests of unaccompanied children in asylum procedures to mitigate high rates of absconding and related protection and safety risks.

The selection of the lawyers was carried out in June 2021. A report, published in 2022 by the non-governmental organisation, Foundation Access to Rights, indicated that the main challenges in this respect were the low number of representatives in practice and the legal framework allowing one representative to be responsible for more than 50 children.<sup>334</sup> In December 2023, NLAB conducted training of 18 additional lawyers vis-à-vis its planned expansion of Article 25 limited list of representatives. In September 2023, the non-governmental organisation Bulgarian Helsinki Committee communicated its first annual report assessing the quality of the representation provided by Article 25 legal aid lawyers. The report was based on a formal agreement,<sup>335</sup> endorsed by UNHCR and funded by UNICEF. It covered the period from 1 July 2022 until 31 August 2023 with feedback collected from 215 interviews with unaccompanied children at Sofia and Harmanli reception centres. The report provided both general

<sup>329</sup> Article 61a(5) LAR.

<sup>330</sup> Former Article 25(1) LAR.

<sup>331</sup> Bulgarian Helsinki Committee, 2012, 2013, 2015 and 2016 Annual Refugee Status Determination Monitoring Reports, available at: <https://bit.ly/49TvJdp>.

<sup>332</sup> National Parliament, Amendments on the Law on Asylum and Refugees (LAR), State Gazette No.89 from 16 October 2020, available at: <https://bit.ly/2LoUMiG>.

<sup>333</sup> Article 25 LAR.

<sup>334</sup> Foundation Access to Rights, Полята на представителя в процедурите по предоставяне на закрила на непридружените деца, published on 15 June 2022, available in Bulgarian at: <https://bit.ly/3TPH5u5>.

<sup>335</sup> Tri-Partite Note of Understanding on the Provision of Legal Assistance to Persons in Need of International Protection in Status Determination Procedures, signed on 3 May 2017 among the National Bureau for Legal Aid, UNHCR and Bulgarian Helsinki Committee.

findings about the overall quality of the legal representation as well as individual assessment of each 23 acting legal aid lawyers from the limited NLAB list. The general feedback from children remained predominantly positive with respect to legal aid lawyers acting in Sofia reception centres and predominantly reserved to negative with respect to legal aid lawyers acting in Harmanli reception centre.<sup>336</sup> On 14 March 2023 the NLAB Executive Committee will hold a review of the report to consider amendment of its internal rules to allow striking of underperforming representatives out of the limited Article 25 list.

In the past, the SAR used to significantly delay the notification to the National Legal Aid Bureau of the necessity to appoint a representative, reaching a period longer than 1 month in certain cases.<sup>337</sup> As a result, unaccompanied children left without a representative had no access to credible information on the asylum procedure and their rights, especially the right to be legally transferred under the Dublin III Regulation to other EU countries to reunite with their family members. In 2022 however, the practice in this respect improved significantly. NLAB agreed<sup>338</sup> with SAR to provide the latter with access to its automated individual database, which could be used not only to send an immediate notification by SAR to NLAB about requested new representative's appointments, but also allowing the SAR to obtain immediately and directly information about the appointed representative. However, in 2023 the timely appointment of a representative to unaccompanied children was again delayed, this time due to delays by SAR in sending of the appointment requests to NLAB. Monitoring established<sup>339</sup> that in 46% of the cases SAR requested the appointment within a week from the registration date, however in 22% of the cases this request was made within two weeks from the registration and in the rest 32% - after more than two weeks. It represented a significant retreat from practice in 2022<sup>340</sup>, when in 100% of the monitored cases SAR made this request within two weeks. In total, 3,081 out of all 3,843 unaccompanied children who applied in 2023 plus 413 unaccompanied children, registered in December 2022 (72%)<sup>341</sup> were appointed legal aid and representation, although due to the high rates of absconding in practice just 388 unaccompanied children were represented in practice during asylum procedure or after recognition.

The immediate and written provision of information to unaccompanied children regarding the appointment of the respective representative and their contact details is a legal obligation of the SAR.<sup>342</sup> Fully omitted until the very end of 2021, when such information began to be partially provided in Ovcha Kupel and Voenna Rampa safe-zones, in 2023 81% of monitored children were duly and timely informed about the appointment of their representative.<sup>343</sup> This represented a retreat from the practice in 2022 when 96% of unaccompanied children were duly provided this information.<sup>344</sup>

Since mid-2022 the SAR began to actively search for opportunities to accommodate unaccompanied children in licensed family-type children's centres (LHCT). During the procedure such efforts were undertaken with regard mainly to minor asylum-seeking children, children with special needs or such identified as being at increased risk of trafficking or harm. After the recognition, these efforts targeted all unaccompanied children, excluding those in family reunification procedures, whom were allowed to wait the reunification with their parents or other family members in SAR reception centres.<sup>345</sup> As a result of this positive practice, in 2023 a total of 43 unaccompanied children were accommodated during the course of

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<sup>336</sup> Bulgarian Helsinki Committee/UNICEF, Monthly Progress Report on child protection, 10 January 2024.

<sup>337</sup> Bulgarian Helsinki Committee, 2021 Annual RSD Monitoring Report, available at: <https://bit.ly/3Ad4wti>.

<sup>338</sup> Teleconference with NLAB Chair Natalia Ilieva on 22 December 2022.

<sup>339</sup> Bulgarian Helsinki Committee, 2023 Annual Refugee Status Determination Monitoring Report, 31 January 2024, available at: <https://bit.ly/3SX3ST7>.

<sup>340</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring Report, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

<sup>341</sup> Teleconference with NLAB Chair Natalia Ilieva on 22 December 2022: 3,348 children in 2022 and 34 children pending from 2021, of whom to 3,103 children the appointed legal aid was abolished due to absconding. Article 25(5) LAR.

<sup>342</sup> Bulgarian Helsinki Committee, 2012, 2013, 2015 and 2016 Annual Refugee Status Determination Monitoring Reports, available at: <https://bit.ly/49TvJdp>.

<sup>344</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring Report, published on 1 March 2023, available at: <https://bit.ly/3Jkd3t0>.

<sup>345</sup> SAR, Rules and procedures on the accommodation of unaccompanied children granted international protection in foster families, social or integrated socio-medical care facilities for children of a residential type, adopted in October 2022.

the year in specialized childcare centres, of whom 2 were asylum seeking children and 41 children granted international protection<sup>346</sup>. Altogether eleven licensed childcare centers have engaged in this practice in localities across the country, namely in Sofia, Burgas, Vidin, Ruse, Kardzhali, Novo Selo and Zvanichevo. At the same time the lack of specialized training of the childcare centre's staff to work with unaccompanied children seeking or granted protection should be acknowledged and taken into account as well as the lack of secured interpretation at least for the initial period of accommodation and adjustment.

The number of unaccompanied child applicants rose to 3,843 unaccompanied children in 2023, compared to 3,483 in 2022; 3,127 in 2021; 799 in 2020; 524 in 2019; 481 in 2018; 440 in 2017 and 2,772 in 2016:

<b>Unaccompanied asylum-seeking children: 2023</b>	
<b>Country of origin</b>	<b>Number</b>
Syria	1,995
Afghanistan	1,607
Egypt	86
Morocco	71
Iraq	50
Stateless	13
Pakistan	8
Iran	4
Sudan	2
Tunisia	2
Algeria	1
Haiti	1
Saudi Arabia	1
Senegal	1

Source: SAR.

Out of all unaccompanied children whose asylum claims were assessed in 2023, 3 children were recognised as refugees, 297 were granted subsidiary protection, 297 were rejected international protection and 3,868 children absconded prior their decision, therefore their procedures were terminated.

Despite unaccompanied children being better informed about their rights and the asylum procedure, the vast majority (91%) still abandoned the asylum procedure and moved irregularly to the countries of their final destination.<sup>347</sup>

<sup>346</sup> SAR reg.№ЦУ-РД05-123/27.02.2024.

<sup>347</sup> SAR statistics: out of 4,256 unaccompanied children dealt in 2023 (3,843 children in 2023, plus 413 children, with cases pending from 2022) a total of 3,868 unaccompanied children absconded with their procedures terminated.

## E. Subsequent applications

### Indicators: Subsequent Applications

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

The law provides, in line with the opportunity provided by the recast Asylum Procedures Directive, to consider subsequent applications as inadmissible based on a preliminary examination of whether new elements or findings have arisen or been presented by the applicant relating to their personal situation or country of origin.<sup>348</sup> The inadmissibility assessment can be conducted on the sole basis of written submissions without a personal interview. The national arrangements, however, do not envisage the related exceptions of this rule as established in the recast Asylum Procedures Directive.<sup>349</sup>

Within the hypotheses adopted in national legislation, subsequent applications are not examined and the applicants are stripped from the right to remain when it is considered that the first subsequent application was submitted merely in order to delay or frustrate the enforcement of a removal decision; or where it concerns another subsequent application, following a final inadmissibility / unfounded decision considering a first subsequent application.

If the subsequent application is declared inadmissible within the preclusive 14 days deadline, this decision can be appealed within a deadline of 7 days. The appeal has no suspensive effect; however, the court is obligated *ex lege* to consider whether the appellant should remain in the country until the judgement is delivered.<sup>350</sup> The competent court is the territorially competent regional administrative court,<sup>351</sup> which hears the appeal case in one instance. If the court rules the admission of the subsequent application, the SAR has to register the applicant within 3 working days from the date the admission has taken place (entered into force).

In 2023, 94 asylum seekers in total submitted subsequent applications. Out of them, 64 (68%) were declared inadmissible and 30 (32%) were granted access to further determination. A breakdown per country of origin is as follows:

Subsequent applications: 2023	
Country of origin	Number
Syria	28
Iran	12
Afghanistan	10
Morocco	6
Iraq	7
Stateless	5
Algeria	3
Russian federation	5
Uzbekistan	2

<sup>348</sup> Articles 75a to 76c LAR; Article 76d in conjunction with Article 13 (2) LAR.

<sup>349</sup> Article 42(2)(b) recast Asylum Procedures Directive.

<sup>350</sup> Article 84(6) LAR.

<sup>351</sup> Article 84(2) LAR.

Venezuela	2
Lebanon	1
Zimbabwe	1
Cote D'ivoire	1
Armenia	1
Yemen	1
Cameroon	1
Somalia	1
Kazakhstan	1
Türkiye	1
Nigeria	1
Bangladesh	3
Myanmar - Burma	1

Source: SAR.

Subsequent applications supported by individualised evidence have been admitted to determination at the first instance. Albeit encouraging, this approach of the SAR can still not be considered as a common practice.

## F. The safe country concepts

**Indicators: Safe Country Concepts**

1. Does national legislation allow for the use of “safe country of origin” concept?  Yes  No  
❖ Is there a national list of safe countries of origin?  Yes  No  
❖ Is the safe country of origin concept used in practice?  Yes  No

2. Does national legislation allow for the use of “safe third country” concept?  Yes  No  
❖ Is the safe third country concept used in practice?  Yes  No

3. Does national legislation allow for the use of “first country of asylum” concept?  Yes  No

In its report<sup>352</sup> on the Pilot project on accelerated asylum and return procedures, the EC pointed that Bulgaria has designated a list of safe countries of origin and safe third countries; however, as of the date of the publication of this report these lists had not been officially adopted.

### 1. Safe country of origin

The LAR defines “safe country of origin” as a “state where the established rule of law and compliance therewith within the framework of a democratic system of public order do not allow any persecution or acts of persecution, and there is no danger of violence in a situation of domestic or international armed conflict.”<sup>353</sup> This concept is a ground for rejecting an application as manifestly unfounded in the [Accelerated Procedure](#).<sup>354</sup>

National legislation allows for the use of a safe country of origin and safe third country concept in the asylum procedure.<sup>355</sup>

<sup>352</sup> European Commission, Reporting on progress made on the Pilot Project for fast asylum and return procedures with Bulgaria, available at: <https://bit.ly/3TK51xN>.

<sup>353</sup> Additional Provision §1(8) LAR.

<sup>354</sup> Article 13(1)(13) LAR.

<sup>355</sup> Article 13(1)(13)(14) LAR.

Prior to EU accession, national lists of safe countries of origin and third safe countries were adopted annually by the SAR and applied extensively to substantiate negative first instance decisions. The national courts adopted a practice that the concepts can only be applied as a rebuttable presumption that could be contested by the asylum seeker in every individual case.<sup>356</sup> In 2007, the national law was amended to regulate the adoption of national lists on the basis of EU common lists under Article 29 of the 2005 Asylum Procedures Directive. As a result, ever since the adoption of this amendment, the safe country of origin concept became inapplicable in practice, given that a common EU list has never been adopted.

The law allows the SAR to propose to the government national lists of safe countries of origin and third safe countries, which are considered to establish a rebuttable presumption.<sup>357</sup> When approving the lists, the government has to consider information sources from other Member States, the EUAA, UNHCR, the Council of Europe and other international organisations in order to take into account the degree of protection against persecution and ill-treatment ensured by the relevant state by means of:

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

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

## 2. Safe third country

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

- (a) There are no grounds for the alien to fear for his/her life or freedom due to race, religion, nationality, belonging to a particular social group or political opinions or belief;
- (b) The alien is protected against the *refoulement* to the territory of a country where there are prerequisites for persecution and risk to his/her rights;
- (c) The alien is not at risk persecution or serious harm, such as torture, inhuman or degrading treatment or punishment;
- (d) The alien has the opportunity to request refugee status and, when such status is granted, to benefit from protection as a refugee;
- (e) There are sufficient reasons to believe that aliens will be allowed access to the territory of such state.”<sup>358</sup>

Firstly adopted as a ground for inadmissibility in 2020 the “safe third country” concept was re-arranged as a ground to refuse the application as manifestly unfounded in [Accelerated Procedure](#).<sup>359</sup> The law presently requires more detailed investigation in order a country to be considered as a “safe third country” including findings that the applicants will be accepted back to its territory.<sup>360</sup> The “safe third country” concept cannot be used as a sole ground for considering the application manifestly unfounded unless there is a connection between the applicant and the third country concerned on the basis of which it would be reasonable for that person to go to that country and, a case-by-case consideration is implemented of the safety of the country for a particular applicant.

In 2020, the law transposed the requirement in Article 38(3)(b) of the recast Asylum Procedures Directive for an applicant to be granted a document in the language of the safe third country, stating that his or her claim was not examined on the merits.

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<sup>356</sup> See e.g. Supreme Administrative Court, Decision No 4854, 21 May 2002.

<sup>357</sup> Articles 98-99 LAR.

<sup>358</sup> Additional Provision §1(9) LAR.

<sup>359</sup> Article 13(1)(14) LAR.

<sup>360</sup> Article 13(1)(14) LAR.



As detailed in the section on [Safe Country of Origin](#), Article 98 LAR provides for the possibility of safe third country lists as well as safe country of origin lists.

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

### 3. First country of asylum

In 2020, an amendment to the law re-arranged the approach towards the first country of asylum concept.<sup>361</sup> Presently, an application can be dismissed as inadmissible where the asylum seeker has been granted and can still enjoy refugee status or other effective protection in another EU Member State.

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

In 2023, a working group<sup>362</sup> including SAR, the Ministry of the Interior and the Ministry of Foreign Affairs prepared draft lists of safe countries of origin and third safe countries, which will be proposed to the government for adoption during the first half of 2024.

## G. Information for asylum seekers and access to NGOs and UNHCR

### 1. Provision of information on the procedure

#### Indicators: Information on the Procedure

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

The law explicitly mentions the obligation of the SAR to provide information to asylum seekers within 15 days from the submission of the application.<sup>363</sup> The SAR must provide the information orally, if necessary, in cases where the applicant is illiterate.

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

In practice, the information is always provided to asylum seekers in writing, in the form of a leaflet translated in the languages spoken by the main nationalities seeking asylum in Bulgaria, such as Arabic, Farsi, Dari, Urdu, Pashto, Kurdish, English and French. Information by leaflets or, where needed, in other ways (UNHCR or NGO info boards) is usually provided from the initial application (e.g. at the border) until the registration process is finished.<sup>364</sup> Since the end of 2017, information boards are placed in all reception centres, indicating the respective movement zones applicable for the asylum seekers there

<sup>361</sup> Article 15(1)(6) LAR.

<sup>362</sup> SAR, Response to the right of reply on the AIDA Country Report on Bulgaria, 8 April 2024.

<sup>363</sup> Article 58(8) LAR.

<sup>364</sup> EASO, Stock taking report on the asylum situation in Bulgaria, March 2014, 3.2. Asylum Determination Procedure.



accommodated, to reflect the needs following the 2015 reform of the LAR (see [Freedom of Movement](#)).<sup>365</sup> SAR centres also display information boards which indicate the place and time where applicants can obtain information from the agency's staff about the development of their status determination procedures.

In 2016, it was reported by NGOs working on legal aid<sup>366</sup> that the written information, however, is complicated and not easy to understand. No further reports have been published since then, as the matter is not considered a priority given the high rate of absconding for applicants registered in the country. The common leaflet and the specific leaflet for unaccompanied children drafted by the Commission as part of the Dublin Implementing Regulation are not being used in Bulgaria or being provided to asylum seekers.<sup>367</sup> The same applies to the information provided on the SAR's website, which is also available only in Bulgarian.

Since 2018, several animated videos provided by UNHCR are made available in the reception centres. This includes a video targeting children which provides information on their daily routine and the importance of school attendance. The video is 1 hour and 40 minutes long and is available in Urdu, Pashto and Dari. Another video of 7 minutes, available in English, Arabic, Dari, Pashto and Kurdish Kurmanji, provides introductory information relating to the asylum procedure as well as rights and obligations during the procedure. Four other videos are dedicated to information on human trafficking and sexual exploitation. They are available in English with Pashto subtitles and address targeted messages to unaccompanied children. However, practice indicates that these videos are not screened on a regular basis. This considered, the obligation to deliver written information is fulfilled in 94% of monitored cases.<sup>368</sup>

The applicants who are placed in closed centres should further receive information about the internal rules applicable to the respective centre as well as about their rights and obligations. Under national law, information should be provided in a language they understand.<sup>369</sup> This obligation was not met in 2020 and 2021. In 2022, UNICEF developed for SAR special videos in Arabic and Farsi/Dari/Pashto languages targeting as audience the unaccompanied asylum seeking and refugee children. The videos aim to promote the specialized childcare facilities (ЛHCT) where the children should be accommodated after the recognition, but also can be accommodated during the asylum procedure. Since mid-2022, the SAR began to actively search for opportunities to accommodate unaccompanied children in licensed family-type children's centres (ЛHCT). During the procedure such efforts were undertaken mainly with regard to children below age of 14, children with specific needs or such identified as being at increased risk of trafficking or harm. Following the recognition and status granting these efforts targeted all unaccompanied children, excluding those in family reunification procedures, allowed to wait the reunification with their parents or other family members in SAR reception centres.<sup>370</sup> However, the majority of the children hesitate to leave the familiar conditions of the reception centres. Therefore, the videos show-case other children who have been already accommodated in specialized childcare facilities who share their positive experience thus assisting to mitigate the existing prejudice among the children in reception centres and their anxiety of the unknown.

NGOs, in particular UNHCR's implementing partners, develop and distribute other leaflets and information boards that are simpler and easier to read and some do operate reception desks where this kind of information is also provided orally to the asylum seekers by BHC or the Red Cross. In 2018, the information on [asylum.bg](#) – the online accessible tool, whose development was funded in 2014 by UNHCR

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<sup>365</sup> Article 29(1)(2) LAR.

<sup>366</sup> Information provided by the Protection Working Group, 29 November 2016.

<sup>367</sup> Commission Implementing Regulation (EU) No 118/2014 of 30 January 2014 amending Regulation (EC) No 1560/2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.

<sup>368</sup> Bulgarian Helsinki Committee, 2023 Annual Refugee Status Determination Monitoring Report, 31 January 2024, available at: <https://bit.ly/49TvJdp>.

<sup>369</sup> Art. 45d (3) LAR.

<sup>370</sup> SAR, Rules and procedures on the accommodation of unaccompanied children granted international protection in foster families, social or integrated socio-medical care facilities for children of a residential type, adopted in October 2022.

- was revised and made available in audio version for illiterate users. In 2022, an additional [section on temporary protection](#) in Ukrainian was added. In 2023, asylum.bg registered 20,873 individual viewers.

## 2. Access to NGOs and UNHCR

### Indicators: Access to NGOs and UNHCR

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

NGOs, lawyers and UNHCR staff have unhindered access to all border and inland detention centres and try to provide as much information as possible related to detention grounds and conditions.<sup>371</sup> Despite that, the subject remains difficult to explain, and an extremely high percentage of asylum seekers claim not to understand the reasons for being detained.

The LAR provides that, where there are indications that the individuals in detention facilities or at border crossing points may wish to make an asylum application, the government shall provide them with information on the possibility to do so.<sup>372</sup> The information should at least include how to apply for asylum and the procedures to follow, including in immigration detention centres, and interpreted in the respective language to assist asylum seekers' access to procedure. This obligation is not fulfilled in practice, as no one among SAR staff is visiting or consulting potential asylum seekers who are apprehended at the border or in immigration detention centres, where the provision of information depends entirely on legal aid NGOs' efforts and activity.

In those detention facilities and crossing points, Bulgaria is also legally bound to make arrangements for interpretation to the extent necessary to facilitate individual access to the asylum procedure. In practice, however, interpretation services are not secured by the authorities, and the only services in this respect are provided by the Bulgarian Helsinki Committee under UNHCR funding. Although Article 8(2) of the recast Asylum Procedures Directive, allowing organisations and persons providing advice and counselling to asylum applicants to have effective access to applicants present at border crossing points, including transit zones at external borders, is transposed in the national law,<sup>373</sup> in practice there are no other NGOs besides the Bulgarian Helsinki Committee which provide regular legal assistance in these areas. Other NGOs such as Centre for Legal Aid – Voice in Bulgaria, Bulgarian Lawyers for Human Rights and Foundation for Access to Rights provide project-based and targeted legal assistance in the **Busmantsi** pre-removal detention centre. At the end of 2016 the International Organisation for Migration (IOM) Bulgaria received the first of many AMIF funding cycles to also provide legal counselling on status determination procedure to asylum seekers in reception centres and to irregular migrants in detention centres regarding assisted voluntary return. This assistance however is not conditioned by requirements about the qualifications of assistance providers and is ensured by shifting mobile teams on a weekly schedule. During the period 2020-2021 IOM restricted its visits to detention centres in Busmantsi and Lyubimets, while during 2022 and 2023 its reception rooms remained locked with no services provided.

Concerning urban asylum seekers and refugees living in the **Sofia** region, UNHCR has funded an Information Centre, run by the Red Cross along with an Information Bureau for Third Country Nationals, co-funded by Sofia Municipality, both located in Sofia. In 2023, 1,681 asylum seekers and beneficiaries

<sup>371</sup> For more information, see General Directorate Border Police, UNHCR and BHC, 2021 Annual Border Monitoring Report: Access to territory and international protection, May 2022, available at: <http://bit.ly/2jsyglh>, para 1.1.3.

<sup>372</sup> Article 58(6) LAR; Article 8(1) recast Asylum Procedures Directive.

<sup>373</sup> Article 23(3) LAR.

of international protection (561 individuals at the Information Centre; 1,120 at the Information Bureau) were provided 4,520 consultations and different types of information.<sup>374</sup>

From mid-April to the end of May 2022, UNHCR and UNICEF gradually opened “Blue Dot” services at two main border entry points in Ruse and Durankulak as well as in the rest of the major hot-spots in Sofia, Varna, Dobrich and Burgas, which after the beginning of the war in Ukraine received and hosted large number of refugees.<sup>375</sup> These services were managed by the regional branches of the Red Cross, and assisted by the Helsinki Committee, the Council of Refugee Women and representatives from the refugee community. In 2023, the Blue Dots provided a total of 55,295 consultations to the temporary protection holders in Bulgaria, including interventions related to access to healthcare, education, labour market, language learning, etc. The Blue Dots were closed on 1 January 2024 with the expectation to transition into BIP community centres, managed by the Red Cross and co-funded by UNHCR no later than by the spring of 2024.

## 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:
2. Are applications from specific nationalities considered manifestly unfounded?<sup>376</sup>  Yes  No  
❖ If yes, specify which: Algeria, Bangladesh, Morocco, Pakistan and Tunisia

Except for Syrian nationals, the recognition rates for all other nationalities of applicants in Bulgaria were below 8% on average over an extended period of time. Nationals from countries of origin such as Afghanistan and Türkiye were treated discriminatorily, with their cases being overwhelmingly considered as manifestly unfounded and being examined in accelerated procedures.<sup>377</sup> In 2022 the situation of Afghan applicants improved. In 2023 however, their treatment again raised concerns relating to generalized bias and discrimination.

In 2022, the overall recognition rate increased to 91% of all decisions on the merits. Although the refugee recognition decreased to 2%,<sup>378</sup> the subsidiary protection rate (humanitarian status) increased significantly reaching 89%.<sup>379</sup> The rejection rate decreased to 9% of all decisions issued on the substance of asylum claims.<sup>380</sup> These ratios appear clearly connected to the main countries of origin of asylum seekers entering Bulgaria, 77% of whom were from Syria (42%) and Afghanistan (35%).

### 1. Afghanistan

Between 2016 and 2021, Afghanistan has been the top country of origin of asylum applicants in Bulgaria. This changed in 2022, when the top country of origin became Syria. Yet, during this period of time, or arguably because of it, applications from Afghan nationals were arbitrarily considered as manifestly unfounded. They were predominantly channelled in the [Accelerated Procedure](#) and successively rejected, to the point that Bulgaria registered the lowest recognition rates for Afghans in Europe – 2.5% in 2016, 1.5% in 2017, 4% in 2019, and 1.8% in 2020. In the majority of cases, protection was granted following

<sup>374</sup> Teleconference with the Red Cross, Refugee service director Alexandra Vassileva on 18 January 2024.

<sup>375</sup> UNHCR Bulgaria, UNHCR and UNICEF open Blue Dot support hubs for Ukrainian refugees in Bulgaria, 9 May 2022, available at: <https://bit.ly/3eCAxgq>.

<sup>376</sup> Whether under the “safe country of origin” concept or otherwise.

<sup>377</sup> AIDA Country Report on Bulgaria - 2021 update, 23 February 2022, Differential treatment of specific nationalities in the procedure.

<sup>378</sup> Previous refugee recognition rates: 4% in 2021; 13% in 2020; 13% in 2019; 15% in 2018; 14% in 2017; 25% in 2016; 76% in 2015; 69% in 2014.

<sup>379</sup> Previous subsidiary protection rates: 57% in 2021; 47% in 2020; 15% in 2019; 20% in 2018; 18% in 2017; 19% in 2016; 14% in 2015; 25% in 2014.

<sup>380</sup> Previous rejection rates: 39% in 2021; 39% in 2020; 71% in 2019; 65% in 2018; 68% in 2017; 56% in 2016; 10% in 2015; 6% in 2014.

court decisions overturning the refusals of the asylum administration. The “striking discrepancy between the Bulgarian and the EU average recognition rate for Afghans” has been mentioned by the European Commission,<sup>381</sup> as well as jurisdictions in other Member States, as a matter of concern.<sup>382</sup>

During the second half of 2021, decisions on Afghan cases began to gradually change, also possibly due to the presence of some high-profile cases and increased claims regarding personal risk of persecution. As a result, the annual recognition rate of Afghan applicants reached a national record of 10%, although still far below the average EU recognition rate.

In 2022 for the first time in a decade the Afghan applicants were treated in a non-discriminatory way, with 49% overall recognition rate (14% refugee recognition rate and 35% subsidiary protection rate) and 51% rejection rate. However, in 2023 the rate dropped back to 14% overall recognition rate (5% refugee recognition rate and 9% subsidiary protection rate) and 86% rejection rate. Out of all 167 Afghan cases decided on their substance just 76% were dealt in accelerated procedure as manifestly unfounded, while in 2022 these were 20% of the decided cases; 86% in 2021, and 95% in 2020. Therefore, the more than half of them (68%)<sup>383</sup> continued to abscond before receiving a first instance decision, which was issued on the merits in just 3%<sup>384</sup> of the caseload.

## 2. Türkiye

Similar to the situation of Afghan asylum seekers, the applications for protection lodged by Turkish nationals were treated as manifestly unfounded and considered as originating from a “safe country of origin” for many years (from 2014 to 2021), notwithstanding the fact that the Bulgarian asylum system presently does not officially apply any of the safe country concepts.<sup>385</sup> Bulgaria has not adopted a list of “safe countries or origin” since 2001.<sup>386</sup> In the draft lists prepared as a result of the EC-Bulgaria 2023 Pilot project on fast asylum and return procedures<sup>387</sup> Türkiye was included both as a safe country of origin, and as a safe third country for Syrian nationals; however, these lists have not been officially adopted.

Moreover, despite settled case-law whereby the lodging of an application for international protection entitles the asylum seeker to apply for an immediate release from detention, many Turkish asylum seekers were kept in immigration detention centres for the duration of their entire asylum procedure, in violation of national law. They were subsequently subject to negative decisions and deported back to Türkiye. In such cases, the immigration police made every effort to prevent Turkish detainees from accessing lawyers and legal advice. This practice has been publicly recognised and acknowledged by the former Prime Minister,<sup>388</sup> and seemed to be the result of an informal political agreement between the Bulgarian and Turkish governments.<sup>389</sup> It was a long-standing practice of the Bulgarian authorities to prevent the Turkish nationals from access to procedure and international protection, as well as to expedite their return to the country of origin including, in several cases, in violation of the *non-refoulement* principle. In return, the Turkish authorities divert to a large extent the migratory pressure from the Bulgarian border to the Greek

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<sup>381</sup> European Commission, Measures for improvement of the Bulgarian asylum system, 6 July 2017, available at: <http://bit.ly/2EudWMH>, 7.

<sup>382</sup> See e.g. (Switzerland) Federal Administrative Court, Decision E-3356/2018, 27 June 2018; (Belgium) Council of Alien Law Litigation, Decision No 185 279, 11 April 2017.

<sup>383</sup> Source, SAR: 6,205 terminated procedures out of all 9,156 Afghan applicants pending in 2023, of whom 5,906 applied in 2023 and 3,250 were pending from 2022.

<sup>384</sup> 167 decisions on the merits out of all 6,372 decisions taken with respect to Afghan applicants in 2023.

<sup>385</sup> Bulgaria has not adopted a list of “safe countries or origin” since 2001; the last national annual lists were adopted with Decision №205/19.04.2000 of the Council of Ministers, in which Turkey was not enlisted as a safe country of origin nor as a third safe country.

<sup>386</sup> The last national annual lists were adopted with Decision №205/19.04.2000 of the Council of Ministers, in which Türkiye was not enlisted as a safe country of origin nor as a third safe country.

<sup>387</sup> European Commission, Reporting on progress made on the Pilot Project for fast asylum and return procedures with Bulgaria, available at: <https://bit.ly/3TK51xN>.

<sup>388</sup> Businessinsider, ‘Strasbourg Court Quizzes Bulgaria over Gullenists Extradition’, 25 April 2018, available at: <https://bit.ly/2S0ZPGU>.

<sup>389</sup> Businessinsider, ‘Turkey’s plan to flood Europe with millions of refugees is a real and dangerous threat, officials warn’, 11 October 2019, available at: <https://bit.ly/31szogj>.

one.<sup>390</sup> It was presumed that similar arrangements were reached mid-2023 as far as after the summer peak of 5,025 individuals who entered Bulgaria during August alone,<sup>391</sup> the number of the new arrivals gradually decreased to 546 individuals (-88%) in December 2023.<sup>392</sup>

Therefore, the rejection rate of Turkish asylum seekers over the years was increasing to reach 100% both in 2018 and 2019. In 2020, just one Turkish national was granted protection in Bulgaria. In 2021, there were little changes for Turkish applicants despite the altered political situation. If not immediately readmitted, Turkish asylum seekers still faced a 92% rejection rate.

In July 2021, the European Court of Human Rights (ECtHR) ruled that Bulgarian authorities violated European human rights law by summarily returning a man to Türkiye, thus condemning the longstanding practice of denying Turkish refugees protection from persecution and handing them straight back to Türkiye.<sup>393</sup> On 8 July 2021 the MOI's General Border Police Directorate, UNHCR and the Bulgarian Helsinki Committee signed an annex to 2010 Tripartite Memorandum of Understanding including the readmission procedures in the scope of the national monitoring. The aim was to assist the third country nationals who wish to apply for asylum in Bulgaria to be safeguarded from refoulement perpetrated by the means of readmission, among whom the Turkish nationals were designated as a special target group.

In 2022, a gradual improvement in Turkish applicants' treatment was registered. Just 33% of cases were dealt as manifestly unfounded in accelerated procedure, while in 2021 these were 83% of the decided cases. Even so, the overall recognition rate they enjoyed was quite modest, representing 16% of the total decisions (5% refugee status and 11% subsidiary protection), while the rejection rate remained significantly high (84% of the total). However, in 2023 their treatment once more deteriorated - 100% rejection rate with 58% refused in accelerated procedures as manifestly unfounded claims<sup>394</sup>. It might have a relation to the renewed assistance by the Turkish authorities to prevent the migratory pressure on the Bulgarian border in the second half of the year (see above in this paragraph).

### 3. Iraq

For many years Iraqi applicants enjoyed relatively fair assessments and an overall recognition rate ranging between 40% to 55% with respective refusal rate variations.<sup>395</sup> In 2017, however, their recognition dropped drastically. After some fluctuations in the following years, for 2021 it could be said that the situation further deteriorated, as their overall recognition rate dropped to 13% (8% refugee status, 5% subsidiary protection), corresponding to 87% rejection rate. In general, the arguments in the negative decisions of both the SAR and the Courts refer to the defeat of ISIS and to improvements in the safety and security across the country's conflict areas and war zones. Claims by applicants from Central and Southern Iraq are considered manifestly unfounded in general. In 2022, the situation changed and Iraqi applicants enjoyed 45% overall recognition (13% refugee recognition and 32% subsidiary protection rates) with a 54% rejection rate. However, in 2023 the recognition rates dropped as low as 10% overall recognition (2% refugee recognition and 8% subsidiary protection rates) with a 90% rejection rate. Moreover, it was publicly recognised that Bulgaria has been exploring possible diplomatic avenues to increase the possibility of both forced and voluntary returns and is in a process of consultation for concluding a Memorandum of Understanding with Iraq.<sup>396</sup>

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<sup>390</sup> Offnews, The Turkish Ambassador promised to sustain the migrant pressure towards Bulgaria at a zero level, 3 May 2020, available in Bulgarian at: <https://bit.ly/397W2Ph>.

<sup>391</sup> MOI statistics, December 2023, available in Bulgarian at: <https://bit.ly/48C57wC>.

<sup>392</sup> Ibid.

<sup>393</sup> ECtHR, D v. Bulgaria (application №29447/17), Judgement of 20 July 2021. See also: ecchr.eu, 'European Court of Human Rights: Bulgaria's pushback practice violates human rights', 20 July 2021, available at: <https://bit.ly/3niDVyf>.

<sup>394</sup> SAR, reg. No. №PД05-31 from 15 January 2024.

<sup>395</sup> For example, in 2015: 22% refugee status, 20% subsidiary protection; 2016: 33% refugee status, 10% subsidiary protection.

<sup>396</sup> European Commission, Reporting on progress made on the Pilot Project for fast asylum and return procedures with Bulgaria, available at: <https://bit.ly/4bTun4k>.



## 4. Syria

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

Nevertheless, in 2023, Syrians continued to be the nationality with the highest recognition rate, reaching 97% overall - out of which 1% concerned the granting of refugee status and 96% the granting of the subsidiary protection, with just 3% rate of rejection. In 2023, out of 12,416 Syrian applicants, who submitted asylum claims in Bulgaria, nearly 46% (5,759 individuals) had their decisions issued within the duration of the year. 31%<sup>397</sup> absconded prior their first instance decision to be issued.

## 5. Other nationalities

Applications of nationals from certain countries such as **Algeria, Egypt, Bangladesh, Myanmar-Burma,** and **Tunisia** are treated as manifestly unfounded with zero recognition rates, and 99.9% in the case of applicants from **Morocco**. In the majority of the cases for these nationalities, the status determination is conducted under an [Accelerated Procedure](#).

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<sup>397</sup> Out of 23,601 Syrian applicants dealt in 2023 (12,416 applied in 2023; 11,185 pending from 2022) the procedure was terminated with respect to 7,408 applicants due to absconding.

## Reception Conditions

### Short overview of the reception system

- **Access to reception:** The national asylum agency SAR is the authority responsible for the reception of asylum seekers.<sup>398</sup> Their access to reception is guaranteed under the law, though not from the application's submission, but from the moment of their registration as asylum applicants by the SAR.<sup>399</sup> The right to accommodation applies to asylum seekers subject to Dublin, accelerated and general procedures.<sup>400</sup> Asylum seekers who submitted a subsequent application, and which were admitted to the determination procedure, are excluded from access to reception centres, food, accommodation and social support unless they are considered to be vulnerable.<sup>401</sup>
- ❖ **Reception centres:** SAR operates two types of collective reception facilities - transit centres and reception-and-registration centres.<sup>402</sup> Both types can be used for registration, accommodation, medical examination and implementation of asylum procedure. They can also both operate as open or closed type centres. Originally, the transit centres were designed to operate in border areas and to accommodate only the asylum seekers subject to the accelerated procedure, while the reception-and-registration centres had to accommodate those who have been admitted to a general procedure.<sup>403</sup> This difference was gradually erased with series of amendments from 2002 to 2015. Moreover, safe zones for unaccompanied children were recently opened, the first one in mid-2019, and then the second one in early-2020.<sup>404</sup> Both are located in the reception-and-registration centre (RRC) in Sofia at the Voenna Rampa and Ovcha Kupel shelters, where children were provided round-the-clock care and support tailored to their specific and individual needs. The safe-zones, with total capacity of 288 places, are operated by the International Organisation for Migration (IOM) - Bulgaria and funded by the EC's financial instruments. However, none of the other reception centres, including the biggest one in Harmanli, provides a safe zone for unaccompanied children and capacity is thus insufficient. This becomes particularly problematic in situations of significant increase of the number of newly arriving unaccompanied children.<sup>405</sup> In such cases, children are accommodated in mixed dormitories without proper care, safety and security measures. Accommodation outside the reception centres in individual dwellings is permitted, but accessible only to asylum seekers who can financially afford to meet their rent/utilities costs and under the condition to have alleviated their right to receive any other material or social support during the procedure.<sup>406</sup> In July 2022 a report by the national Ombudsperson recommended to SAR to establish a new safe-zone in Harmanli reception center as well<sup>407</sup>. At the end of 2022, the new SAR management and UNICEF agreed on funding, provided by Swiss Federal Council<sup>408</sup> for a third safe-zone for unaccompanied children to be open in Harmanli reception centre,<sup>409</sup> which is expected to become operational in April 2024 after the completion of the necessary refurbishment and logistics.

In 2018 the UN Human Right Committee raised concerns relating the identified need to further improve conditions for persons seeking international protection by ensuring that reception centres provide basic services, protecting asylum seekers and migrants from attacks and abuse, and by ensuring adequate

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<sup>398</sup> Article 47(2) in conjunction with Article 48(1)(11) LAR.

<sup>399</sup> Article 68(1)(1) LAR.

<sup>400</sup> Article 29(2) LAR.

<sup>401</sup> Article 29(7) LAR.

<sup>402</sup> Article 47(2) LAR.

<sup>403</sup> Law on Asylum and Refugee, as adopted St.G. №54 from 31 May 2002.

<sup>404</sup> IOM, 'Official opening of the first Safety Zone for unaccompanied asylum-seeking children in Bulgaria', 29 May 2019, available at: <https://bit.ly/2RnAG7N>.

<sup>405</sup> See, 1.1. Screening of vulnerability

<sup>406</sup> Article 29(9) LAR.

<sup>407</sup> Ombudsperson of the Republic of Bulgaria, Доклад на Националния превантивен механизъм за извършени проверки в структури на Дирекция „Миграция“ към Министерство на вътрешните работи и Държавна агенция за бежанците към Министерски съвет, available at: <https://bit.ly/3leBgzJ>.

<sup>408</sup> Swiss Federal Council, State Secretariat for Migration SEM, Second contribution – Migration Framework credit, published on 12 January 2023, available at: <https://bit.ly/3lcPsJw>.

<sup>409</sup> The SAR leadership was replaced in March-April 2022.



access to social, psychological, rehabilitation and health-care services and benefits in practice.<sup>410</sup> These concerns have not been entirely addressed as of the end of 2023.

## A. Access and forms of reception conditions

### 1. Criteria and restrictions to access reception conditions

#### Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law allow access to material reception conditions for asylum seekers in the following stages of the asylum procedure?
- |                          |   |  |  |
|--------------------------|---|--|--|
| ❖ Regular procedure      | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No            |
| ❖ Dublin procedure       | <input type="checkbox"/> Yes            | <input type="checkbox"/> Reduced material conditions | <input checked="" type="checkbox"/> No |
| ❖ Accelerated procedure  | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No            |
| ❖ First appeal           | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No            |
| ❖ Onward appeal          | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No            |
| ❖ Subsequent application | <input type="checkbox"/> Yes            | <input type="checkbox"/> Reduced material conditions | <input checked="" type="checkbox"/> No |
2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions?  Yes  No

Asylum seekers are entitled to material reception conditions according to national legislation during all types of asylum procedures, except in those implemented to admit or assess subsequent applications.<sup>411</sup> Although there is no explicit provision in the law, asylum seekers without resources are accommodated with priority in the reception centres in case of restricted capacity to accommodate all new arrivals. Circumstances such as specific needs and risk of destitution are assessed in each case. The criteria to assess whether a risk of destitution exists<sup>412</sup> are set to take into account the individual situation of the asylum seeker of concern, such as resources and means of self-support, profession and employment opportunities if work is formally permitted, and the number and vulnerabilities of dependent family members. Nevertheless, asylum seekers have the right to withdraw from these benefits if their application is pending in the regular procedure and they declare that they are in possession of means and resources to support themselves and chose to live outside reception centres. In practice, SAR provides for accommodation and access to the benefits provided therein, to all asylum seekers without a formal assessment procedure and applies such assessment only in the cases of Dublin returnees vis-à-vis their access to accommodation and nutrition at SAR reception centres (see 2.7. The situation of Dublin returnees).

The law provides that every applicant shall be entitled to receive a registration card in the course of the procedure.<sup>413</sup> In addition, the law implies a legal fiction, according to which the registration card does not certify the foreigner's identity due to its temporary nature and the specific characteristics of establishing the facts and circumstances during the refugee status determination (RSD) procedures which are based, for the most part, on circumstantial evidence.<sup>414</sup> Hence, the registration card serves the sole purpose of certifying the identity declared by the asylum seeker and the right to remain in the territory of the country during the procedure.<sup>415</sup>

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

<sup>410</sup> Human Right Committee, Concluding observations on the fourth periodic report of Bulgaria, CCPR/C/BGR/CO/4, 15 November 2018, available at: <https://bit.ly/39rxz7T>.

<sup>411</sup> Article 29(1) and (7) LAR.

<sup>412</sup> Article 29(4) LAR, assessed according the specific guidelines, issued by the SAR Chairperson.

<sup>413</sup> Article 29(1)(7) LAR.

<sup>414</sup> Article 40(3) LAR.

<sup>415</sup> National Commission for Consumers Protection, Payment Disputes Committee, Ref. №Л-03-5033 from 1 September 2020.

2015, during the procedure asylum seekers enjoy only shelter, food and basic health care, as none of the other entitlements is secured or provided by the government in practice.

In 2017, the Committee against Torture raised concerns around substandard material conditions in reception centres, the absence of an adequate identification mechanism for persons in vulnerable situations, the removal of their monthly financial allowance, and insufficient procedural safeguards regarding the assessment of claims and the granting of international protection.<sup>416</sup> Despite the period of time which has passed since the CAT report, there have been only moderate improvements to limit the continued deterioration of reception centres' infrastructure,<sup>417</sup> due to lack of budget to implement any refurbishment for the period 2019 to 2023. Therefore, all the findings remain valid to a great extent as of the end of 2023. (see [Conditions in reception facilities](#))

**Dublin procedure:** Certain asylum seekers channelled in an outgoing Dublin procedure are not automatically entitled to material reception conditions, as they only enjoy limited rights, namely the right to remain in the country's territory, the right to interpretation and the right to be issued a registration card. The LAR distinguishes between persons applying for asylum in Bulgaria, who have access to full reception conditions,<sup>418</sup> and persons found irregularly on the territory in Bulgaria and who have not claimed asylum, but to whom the Dublin procedure might be applied following a formal request submitted by the arresting police department or security services.<sup>419</sup>

Regarding Dublin returnees, the treatment depends on how their individual case has developed in Bulgaria while they were not present in the country:

- In cases where the asylum claim under the Dublin procedure has been rejected *in absentia*, the applicant is treated as an irregular migrant upon return to Bulgaria. This means that access to accommodation and medical assistance is unavailable, but also that the Dublin returnee faces a risk of being detained to secure their return. Only in few cases, applicants manage to restore their appeal deadlines and to bring the negative decisions before the court, but in such cases the chances of success remain extremely limited given the low recognition rates in Bulgaria (except for Syrian nationals).
- In cases where the Dublin returnee's procedure in Bulgaria has only been discontinued during their stay abroad, the asylum procedure is re-open and continues after they are transferred back to the country. In 2023, the number of new arrivals in Bulgaria increased by 10%. Although not high in itself, this percentage is adding to a previous 55% increase in 2022 and 212% in 2021. It increased their occupancy rate from 77% in 2022 to 94% on average in 2023.<sup>420</sup> Dublin returnees for whom the procedure can be reopened and continued are usually accommodated in an asylum reception centre upon request, although this depends on the occupancy in reception centres. The sole reason to avoid overcrowded reception centres in 2023 was the high absconding rate of Afghan applicants, which was 68%<sup>421</sup>, while they represented the second largest country of origin after Syria. The main reason for Afghan absconding laid in almost ten-year period of low recognition rates varied from 0.1% to 14%, which demotivated them to remain in Bulgaria (see [Differential treatment of specific nationalities in the procedure](#)).

For more information on Dublin returnees' accommodation - see [2.7. The situation of Dublin returnees](#).

**Subsequent applications:** Subsequent applicants pending an admissibility assessment are excluded not only from all material conditions, but also from the right to receive a registration card. They only have

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<sup>416</sup> Committee against Torture, Concluding observations on the sixth periodic report of Bulgaria, CAT/C/BGR/CO/6, 15 December 2017, available at: <http://bit.ly/2rV4mzR>.

<sup>417</sup> See, Overview of the main changes since the previous report update, Reception conditions.

<sup>418</sup> Article 67a(2)(1) LAR.

<sup>419</sup> Article 67a(2)(2) LAR.

<sup>420</sup> 127th Coordination meeting held on 28 December 2023.

<sup>421</sup> 6,205 terminated procedures out of all 9,156 Afghan applicants pending in 2023, of whom 5,906 applied in 2023 and 3,250 were pending from 2022.

a right to interpretation during the fast-track processing of the admissibility assessment prior to their registration, documentation and determination on the substance.<sup>422</sup> In cases where the first subsequent application is considered to be submitted merely in order to delay or complicate the enforcement of a removal decision, or where it concerns another subsequent application following a final inadmissibility / unfounded decision considering a first subsequent application, the applicants are also stripped from the right to remain on the territory. In 2023, this affected a total of 64 subsequent applicants who received an inadmissibility decision. The law has set a 14-day time limit for the admissibility determination. If the subsequent application is considered inadmissible, the determining authority should not open a determination procedure and the applicant is not registered and documented (see section on [Subsequent Applications](#)).

## 2. Forms and levels of material reception conditions

### Indicators: Forms and Levels of Material Reception Conditions

- |   |      |
|---|------|
| 1. Amount of the monthly financial allowance/vouchers granted to asylum seekers as of 31 December 2023 (in original currency and in €): | None |
|---|------|

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

From February 2015, the SAR ceased the provision of the monthly financial allowance to asylum seekers accommodated in reception centres, under the pretext that food was to be provided in reception centres three times a day.<sup>423</sup> In 2023, three meals per day were thus distributed to all asylum seekers accommodated in reception centres. The food distribution to adults is provided once a day, while for unaccompanied children the food is distributed three times a day in order to prevent the excess meals to be taken from them by the adults. Since 2017, the food has been delivered by catering services and the quality, but also quantity of the food became one of the most common complaints from asylum seekers, accommodated in reception centres, along with poor hygiene and dismal living conditions. (see [Conditions in reception facilities](#))

The cessation of the monthly financial allowance is in contradiction with the law, as the LAR does not condition its provision depending on whether food is provided or not. These two material rights are regulated separately under the law. The cessation of the monthly financial allowance was appealed by several NGOs before the court.<sup>424</sup> However, the Supreme administrative court rejected the appeal on the basis of a lack of legitimate interest in the case and suggested that appeals on an individual basis could be admissible. Notwithstanding, the appeals against the cessation of the financial allowance cannot be validly submitted, since the 14-day time limit for appealing the decision by any asylum seeker would be long expired, as it is counted from its issue date of the SAR's order.

<sup>422</sup> Article 76b LAR.

<sup>423</sup> SAR, Order No 31-310, 31 March 2015, issued by the Chairperson Nikola Kazakov.

<sup>424</sup> Bulgarian Helsinki Committee, Bulgarian Council on Refugees and Migrants, and Council of Refugee Women.

### 3. Reduction or withdrawal of reception conditions

#### Indicators: Reduction or Withdrawal of Reception Conditions

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

The reduction of material reception conditions is not possible under the law. Withdrawal is admissible under the law in cases of disappearance of the asylum seeker when the procedure is discontinued.<sup>425</sup>

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

Under the law, the directors of transit / reception centres are competent to decide on whether an asylum applicant should be provided accommodation.<sup>426</sup> These decisions should be issued in writing as all other acts of administration,<sup>427</sup> but in practice asylum seekers are informed orally. Nonetheless, the refusal to provide accommodation can be appealed before the relevant Regional Administrative Court within 7 days from the notification. Legal aid is available for representation before the court once the appeal is submitted. In this case, however, asylum seekers face difficulties proving before the court when they have been informed about the accommodation refusal, which may result in cessation of the court proceedings.

Destitution is defined based on the monetary indicator of the national poverty threshold. From 1 June 2023 to 1 January 2024<sup>428</sup>, this threshold is at BGN 504, equivalent to 257.86€ monthly.<sup>429</sup> The law defines as “basic needs” sufficient food, clothing and housing provided according to the national socio-economic development.<sup>430</sup> The risk of destitution is not formally assessed but the SAR takes it into account in the majority of cases.

Bulgaria does not apply sanctions for serious breaches of the rules of accommodation centres and violent behaviour, except for destruction of a reception centre’s property, which is sanctioned with a fine between 50 to 200 BGN (25.50-102 €) plus the value of the destroyed property.<sup>431</sup> The grounds laid down in Article 20(2) and (3) of the Recast Reception Conditions Directive are not transposed into national legislation.

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

### 4. Freedom of movement

#### Indicators: Freedom of Movement

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

Asylum seekers’ freedom of movement can be restricted to a particular area or administrative zone within Bulgaria, if such limitations are deemed necessary by the asylum authority, without any other conditions or legal prerequisites.<sup>432</sup> The asylum seeker can apply for a permission to leave the allocated zone and if

<sup>425</sup> Article 29(8) LAR.

<sup>426</sup> Article 51(2) LAR.

<sup>427</sup> Article 59(2) Administrative Procedure Code.

<sup>428</sup> Council of Ministers, Decision No 212 of 2 November 2023 adopting BGN 526 as the 2024 national poverty threshold.

<sup>429</sup> Council of Ministers, Decision No 286 of 21 September 2022 adopting the 2023 national poverty threshold.

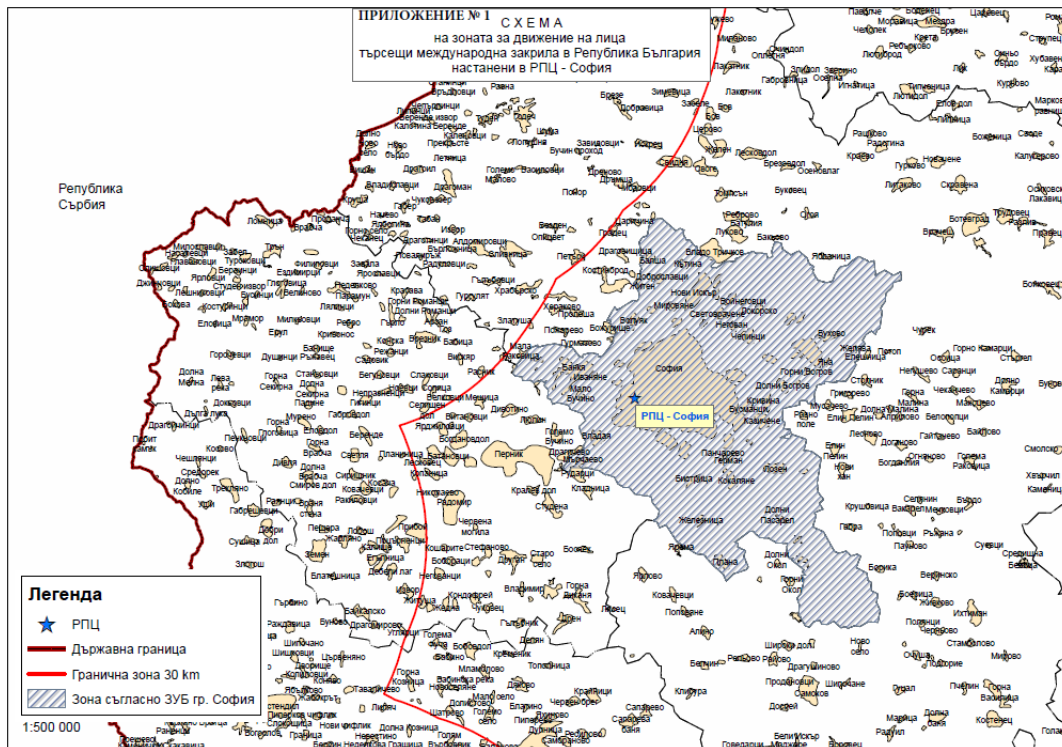
<sup>430</sup> Article 1(1) Law on Social Assistance.

<sup>431</sup> Article 93 LAR.

<sup>432</sup> Article 30(2) and (3) LAR.

the request is refused, it must be motivated. Such a permission is not required when the asylum seeker has to leave the allocated zone in order to appear before a court, a public body or administration or if he is in need of emergency medical assistance. The permitted zones of free movement should be indicated in each individual asylum identification card.<sup>433</sup>

Consecutive failure to observe the zone limitation can result in placement in a closed centre until the asylum procedure ends with a final decision.<sup>434</sup> From September 2017, the government formally designated the “movement zones”.<sup>435</sup> These consist of zones covering designated geographical areas around the respective reception centres. The following map illustrates the zone around **Sofia**:



At the end of 2017, information boards were placed in all reception centres indicating the respective movement zones applicable for the asylum seekers accommodated therein. However, since then, the SAR has not applied this as a ground for detention in a closed centre. In 2023, the SAR did not apply asylum detention based solely on the person’s attempts to leave Bulgaria (0 cases registered throughout the year).

433 Article 44(1)(11) LAR.  
 434 Article 95a LAR.  
 435 Council of Ministers, Decision No 550 of 27 September 2017.



## B. Housing

### 1. Types of accommodation

#### Indicators: Types of Accommodation

1. Number of reception centres: <sup>436</sup> 4
2. Total number of places in the reception centres: 3,592<sup>437</sup>
3. Total number of places in private accommodation: 1,005<sup>438</sup>
4. Type of accommodation most frequently used in a regular procedure:
  - Reception centre  Hotel or hostel  Emergency shelter  Private housing  Other
5. Type of accommodation most frequently used in an accelerated procedure:
  - Reception centre  Hotel or hostel  Emergency shelter  Private housing  Other

Reception centres are managed by the SAR. As of the end of 2023, there were 4 reception centres in Bulgaria. The total capacity as of 31 December 2023 was as follows:

Reception centre	Location	Capacity	Occupancy end 2021	Occupancy end 2022	Occupancy end 2023
Sofia	Sofia	1,526	742	1,047	1,154
<i>Ovcha Kupel shelter</i>		560	220	615	568
<i>Vrazhdebna shelter</i>		300	168	184	307
<i>Voenna Rampa shelter</i>		650	343	236	270
<i>Closed reception ward in Busmantsi</i>		16	11	12	9
Banya	Central Bulgaria	70	93	53	64
Pastrogor	South-Eastern Bulgaria	320	261	134	108
Harmanli	South-Eastern Bulgaria	1,676	1,381	1,178	1,410
<b>Total</b>		<b>3,592</b>	<b>2,447</b>	<b>2,412</b>	<b>2,736</b>

Source: SAR. Note that the occupancy rate includes asylum seekers accommodated in the closed reception ward within the premises of Busmantsi immigration detention centre - a closed type asylum facility under SAR jurisdiction.

For many years, SAR has been claiming that the maximum capacity of its reception centres was of 5,160 individuals.<sup>439</sup> However, in December 2022 the appointed earlier during that year new SAR management shared<sup>440</sup> that the actual reception capacity was up to 3,932 individuals maximum, since the remaining 1,228 places were located in premises unfit for living. In 2023, the national reception capacity continued

<sup>436</sup> Both permanent and for first arrivals. Note that the Refugee Reception Centre Sofia has 3 reception shelters, namely Ovcha Kupel, Vrazhdebna and Voenna Rampa.

<sup>437</sup> 127th Coordination Meeting held on 28 December 2023.

<sup>438</sup> SAR, reg. No. №ПД05-31 from 15 January 2024. The government does not provide accommodation for asylum seekers in private lodgings. This figure refers to the number of asylum seekers who opted to live outside reception centers in private lodgings paying rent at their own expenses. In 2023, MOI discontinued the provision of this figure in its publicly available statistics, at: <https://bit.ly/48C57wC>.

<sup>439</sup> 110th Coordination meeting held on 10 January 2022.

<sup>440</sup> 118th Coordination meeting held on 22 December 2022.

to decrease to 3,592 places in all SAR reception centres<sup>441</sup> against the background of 22,518 asylum applicants in 2023 alone. This situation is mostly due to the fact that the SAR did not receive any of the funding requested for repairs or refurbishment<sup>442</sup> in its 2020, 2021, 2023 or 2024 annual budgets. Just BGN 120,000 including VAT were provided in 2022, and no additional funding was provided in 2023, while SAR estimated at the end of 2023 to be in need of at least BGN 10,953,746 in order to be able to conduct the most necessary refurbishment.<sup>443</sup> Temporary protection holders were not accommodated in SAR reception centres as due to the large number of arrivals their housing in the spring of 2022 was secured outside them under a Humanitarian Aid Program<sup>444</sup> adopted in March by the regular government (see [Temporary Protection](#)). Notwithstanding the increase by 10% compared to 2022, 85% compared to 2021, and 212% compared to 2020 of asylum seekers originating from other countries, mainly Syria and Afghanistan, further worsened the situation regarding reception capacity. Other contributing factors were that SAR's 2023 budget for accommodation, food, medical and other key assistance remained the same as in 2022, the latter calculated based on a forecast of up to 10,000 individuals,<sup>445</sup> while the real number of newly arrived asylum seekers was twice the estimated figure.<sup>446</sup> The sole factor that prevented overcrowding in reception centres in 2023 again was the high absconding rate of Afghan applicants, which reached 68%,<sup>447</sup> while they represented the second largest country of origin after Syria. The main reason for the extremely high absconding rate is likely attributable to the ten-year period of low recognition rates (varying between 0.1% and 14%), which discouraged them from remaining in Bulgaria. This discriminatory approach however began to turn in 2022 (see Differential treatment of specific nationalities in the procedure), which motivated more Afghan applicants<sup>448</sup> to remain until their first instance decisions are issued. This, however, further aggravated the situation in terms of national reception capacity.

2,736 asylum seekers resided in reception centres as of the end of 2023, thereby marking an occupancy rate of 77%.

Wherever possible, there is a genuine effort to accommodate nuclear families together and in separate rooms. Single asylum seekers are accommodated together with others, although conditions vary considerably from one centre to another. Some of the shelters are used for accommodation predominantly of a certain nationality or nationalities. For example, **Vrazhdebna** shelter in Sofia accommodated predominantly Syrians and Iraqis, **Voenna Rampa** shelter in Sofia accommodates almost exclusively Afghan and Pakistani asylum seekers, while the other reception centres accommodate mixed nationalities, such as in **Harmanli** reception centre, **Banya** reception centre and **Ovcha Kupel** shelter in Sofia. In the end of 2023, following a fire in Vrazhdebna shelter and overpopulated Ovcha Kupel shelter, and vis-à-vis a still significant number of Afghan applicants absconding, SAR began<sup>449</sup> to accommodate applicants from Syria and other Arab countries in Voenna Rampa shelter, which as of the end of 2023 hosted asylum seekers from mixed ethnicities, thus creating higher risks of conflicts.

Alternative accommodation outside the reception centres is allowed under the law, but only if it is paid by asylum seekers themselves and if they have consented to waive their right to social and material support.<sup>450</sup> They must submit a formal waiver from their right to accommodation and social assistance, as warranted by law, and declare to cover rent and other related costs at their own expenses.<sup>451</sup> Except for the few asylum seekers who are able to finance private accommodation on their own, another group of individuals living at external addresses is that of Dublin returnees, to whom the SAR applies the exclusion

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<sup>441</sup> 127th Coordination Meeting held on 28 December 2023.

<sup>442</sup> SAR reg. №ЦУ-РД05-123/27.02.2024.

<sup>443</sup> SAR reg. №ЦУ-РД05-123/27.02.2024.

<sup>444</sup> COM No. 145 from 10 March 2022.

<sup>445</sup> SAR, reg. No. РД05-72 from 26 February 2023.

<sup>446</sup> 2021: 10,999 asylum seekers; 2022: 20,407 asylum seekers; 2023: 22,518 asylum seekers.

<sup>447</sup> 6,205 terminated procedures out of all 9,156 Afghan applicants pending in 2023, of whom 5,906 applied in 2023 and 3,250 were pending from 2022.

<sup>448</sup> 94% absconding rate in 2022; 68% absconding rate in 2023.

<sup>449</sup> 127th Coordination Meeting, 28 December 2023.

<sup>450</sup> Article 29(9) LAR.

<sup>451</sup> Ibid.



from social benefits, including accommodation, as a measure of sanction in accordance with the law (see [Withdrawal of Reception Conditions](#)).<sup>452</sup>

## 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? 1 to 18 months
3. Are unaccompanied children ever accommodated with adults in practice?  Yes  No
4. Are single women and men accommodated separately?  Yes  No

### State of the facilities

Since 2015 conditions in national reception centres in general have been deteriorating and as a whole, substandard, with support limited to accommodation, nutrition and rudimentary medical help without provision of psychological care or assistance.<sup>453</sup> Apart from the **Vrazhdebna** shelter in Sofia and the safe-zone for unaccompanied children in **Voenna Rampa** and **Ovcha Kupel** shelters, living conditions in national reception centres remain poor, i.e. either below or at the level of the foreseen minimum standards and despite some partial renovations periodically conducted by the SAR. Except Vrazhdebna shelter and the two safe zones for unaccompanied children in Sofia reception centre, all the other SAR shelters and centres during this eight-year period were maintained solely in a survival mode and have been experiencing recurring problems with the infrastructure and the material conditions, at some instances failing to provide even the most basic services including adequate amenities for personal and community spaces hygiene. Regular water, hot water, repair of utilities and equipment in bathrooms, rooms and common areas remain problematic. Vermin infestation, such as bedbugs, lice, cockroaches and rats also remain among the most persisting problems in reception centres for many years. Occupants from all reception centres, except in **Vrazhdebna**, have complained about the poor sanitary conditions, especially regarding soiled mattresses infested with bedbugs which regularly cause health issues, i.e. constant skin inflammations and allergic reactions. This problem arose after 2013 and has been continuously neglected until 2023. Owing to the monthly disinfection, pest control and desacarization which began in May 2022,<sup>454</sup> and continued in 2023<sup>455</sup> on the basis of contracted services which was regularly carried out in all reception centres, the situation with regard to bedbugs noticeably improved, not without the similar measures undertaken in both MOI detention centres in Busmantsi and Lyubimets. It was not before September 2023 when SAR was able to receive the first instalment of the next AMIF funding from MOI and re-appoint cleaning staff. Until then SAR had to organize the cleaning of all reception centres with the assistance of the hosted population. However, crumbling buildings and poor sewage and bathroom conditions prevented any significant improvements in this respect and kept sanitation levels to, or in the case of Ovcha Kupel shelter below, the necessary minimum. The sub-standard reception conditions in SAR as were explicitly noted in a report of the national Ombudsperson<sup>456</sup> in 2022 with recommendations for immediate redress.

The running costs for medicines and medical supplies, Bulgarian language courses as well as urgent

<sup>452</sup> Article 29(4) LAR.

<sup>453</sup> See, AIDA Country Updates on Bulgaria: Forth Update from October 2015, 2016 Update from February 2017, 2017 Update from February 2018, 2018 Update from January 2019, 2019 Update from February 2020, 2020 Update from February 2021 and 2021 Update from February 2022.

<sup>454</sup> SAR, reg. No. PД05-72 from 26 February 2023.

<sup>455</sup> SAR reg. №ЦУ-РД05-123/27.02.2024.

<sup>456</sup> Ombudsperson of the Republic of Bulgaria, Доклад на Националния превантивен механизъм за извършени проверки в структури на Дирекция „Миграция“ към Министерство на вътрешните работи и Държавна агенция за бежанците към Министерски съвет, published in September 2022, available at: <https://bit.ly/3wVwNPS>.

maintenance and refurbishment were met only to the extent of the remaining funds of a SAR AMIF project, which, however, ended on 31 December 2022. Supply of clothes, shoes, product for personal hygiene and other basic items was held regularly by the SAR although within a restricted annual budget in 2023<sup>457</sup>. patrol car is granted only in the largest Harmanli reception centre, which, however, is just one and located at the central entrance, therefore insufficient to ensure the safety and security of the nearly 4,000 individuals it accommodated. The rest of the reception centres continue to be guarded by private security companies, which for the purposes of cost effectiveness usually employ as guards predominantly men of retirement age or above and therefore, therefore security services are rather formal than real<sup>458</sup>.

Some level of standardisation has taken place in the intake and registration procedure in reception centres. There is a basic database of residents in place, which is updated daily. However, there is an ongoing competition among asylum seekers to be accommodated in premises/rooms found to be in a better condition than others, thus corruption among SAR staff, who deals with accommodation issues, is widespread. For example, throughout 2023 the BHC office in Harmanli and Sofia reception centres received accounts from asylum seekers that SAR employees continued to collect money from asylum seekers for different 'services', e.g. changing the room with one in better condition, accelerating the decision-making, etc.

The law does not limit the length of asylum seekers' stay in a reception centre. Asylum seekers can remain in reception centres pending the appeal procedure against a negative decision.<sup>459</sup> In December 2023, the SAR reported to have its reception occupancy at 77%, i.e. 2,736 occupants out of 3,592 available places,<sup>460</sup> compared to 2,412 occupants at the end of 2022; 2,447 occupants at the end of 2021; 1,032 occupants at the end of 2020, and 461 occupants at the end of 2019.

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

Currently, the LAR allows for access to the labour market for asylum seekers, if the determination procedure takes longer than 3 months from the lodging of the asylum application.<sup>461</sup> The permit is issued by the SAR itself in a simple procedure that verifies only the duration of the status determination procedure and whether it is still pending.

In January 2018, the Ministry of Labour and Social Policy attempted to amend the law and condition the asylum seekers' access to the labour market on numerous additional and unfeasible requirements,<sup>462</sup> but

<sup>457</sup> SAR reg. №ЦУ-РД05-123/27.02.2024.

<sup>458</sup> Bulgarian Helsinki Committee, reg.No.Б-88 from 18 September 2023.

<sup>459</sup> Article 29(4)-(9) LAR.

<sup>460</sup> 127th Coordination meeting held on 28 December 2023.

<sup>461</sup> Article 29(3) LAR.

<sup>462</sup> National Parliament, Law on Amendment of the Law on Labour Migration and Labour Policy, 802-01-1, 2 January 2018, available in Bulgarian at: <https://bit.ly/2FGQ0sK>.

the joint lobbying of the SAR, UNHCR and non-governmental organisations prevented the amendment from being voted, and preserved the status quo.

Once issued, the permit allows access to all types of employment and social benefits, including assistance when unemployed. Under the law, asylum seekers also have access to vocational training.<sup>463</sup>

In 2023, the SAR issued 579 work permits to asylum seekers who were looking to support themselves while their asylum claims were being processed.<sup>464</sup> Out of them, only 2 asylum seekers alongside 17 persons granted international protection sought for jobs through government employment programs, while the rest sought work independently and on their own initiative.<sup>465</sup> At the same time a total of 1,484 persons with temporary protection were employed through government employment programs<sup>466</sup>.

In practice, it is still difficult for asylum seekers to find a job, due to the general difficulties resulting from language barriers, the recession and high national rates of unemployment. Comprehensive statistics on the number of asylum seekers in employment is not collected, except for those officially registered as seeking employment. In 2023, only 17 status holders, 2 asylum seekers and 1,484 temporary protection holders were registered as job seekers.<sup>467</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 |

Access to education for asylum-seeking children is provided explicitly in national legislation without an age limit.<sup>468</sup> The provision not only guarantees full access to free of charge education in regular schools, but also to vocational training under the rules and conditions applicable to Bulgarian children.

In practice, there are some obstacles related to the methodology used to identify the school grade the child should be directed to, but this problem should be solved by the appointment of special commissions by the Educational Inspectorate with the Ministry of Education and Science. The increasing number of applicant children prompted more focus on their education. Overall, 92 asylum-seeking children started the school year in Bulgaria.<sup>469</sup> SAR organised the daily commute to and from the school with civil society organisations stepped in to support children with preparatory and catch-up classes.<sup>470</sup>

In 2021 all children accommodated in reception centres were provided access to laptops, purchased by the Red Cross with AMIF co-funding, to secure children's online access to primary and secondary education. However, the new management of the SAR was not able to locate any of these laptops in 2022 and 2023.<sup>471</sup>

Asylum-seeking children with special needs do not enjoy alternative arrangements other than those provided for Bulgarian children.<sup>472</sup>

<sup>463</sup> Article 39(1)(2) LAR.

<sup>464</sup> SAR, reg. No. №PД05-31 from 15 January 2024.

<sup>465</sup> Employment Agency, reg. No. PД08-2852 from 22 December 2023.

<sup>466</sup> Ibid.

<sup>467</sup> Employment Agency, reg. No. PД08-13 from 6 January 2023.

<sup>468</sup> Article 26(1) LAR.

<sup>469</sup> SAR, 127th Coordination meeting held on 28 December 2023.

<sup>470</sup> EUAA, Annual Asylum Report (2022), available at: <https://bit.ly/3JbdHYK>.

<sup>471</sup> SAR, reg. No. PД05-72 from 26 February 2023 / SAR, reg. No. №PД05-31 from 15 January 2024.

<sup>472</sup> National Integration Plan for Children with Special Needs and/or Chronic Illness, adopted with Council of Ministers Ordinance No 6, 19 August 2002.

Moreover, asylum-seeking children may be detained in closed reception centres or facilities following the detention of their parents.<sup>473</sup> This could deprive children of their right to education as accommodation in closed centres would effectively prevent them from accessing education, unless arrangements are put in place to secure their transportation to the public schools. No practice is yet applied in this respect.

Adult refugees and asylum seekers have the right to access vocational training. Practical obstacles may be encountered by asylum seekers in relation to access to universities as they have difficulties to provide proof regarding diplomas already acquired in their respective countries of origin. This is due to a lack of relevant information on diplomas. The academic autonomy of Bulgarian universities largely prevented the adoption of common government rules that would allow facilitated access for beneficiaries of international protection, taking into account their special circumstances and limited possibility to obtain official documents from their countries of origin.

## D. Health care

### Indicators: Health Care

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

Asylum seekers are entitled to the same level of health care as nationals.<sup>474</sup> Under the law, the SAR has the obligation to cover from its budget the health insurance fees of asylum seekers.

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

Until 31 December 2018, Dublin returnees faced significant obstacles in accessing medical care upon return, mainly resulting from the delay for the asylum and health care administration to restore their insurance coverage in the national health care database. These delays could vary from a couple of days to several weeks or even months in certain cases. Since 1 January 2019 the health care database has been re-organised to automatically restore the Dublin returnees' health care status and register them as individuals with uninterrupted medical insurance as soon as their asylum procedures is being reopened at the SAR. However, this applies only to those who left Bulgaria in 2019 and were subsequently returned back. Access to healthcare for asylum applicants who left Bulgaria prior to 1 January 2019, and who are now being returned under Dublin III, is still not ensured. In order for them to access medical care, the SAR must issue a written notification to the national IRS. Only then can the access to the medical care be restored, which takes couple of days in the majority of the cases, although there have been cases in which it took longer periods of time. To solve the issue, in 2020 the law was amended to explicitly provide uninterrupted health care rights for asylum seekers whose procedures were re-opened after being previously discontinued - a situation that typically applies to Dublin cases.<sup>475</sup> However, the arrangement is not applicable for the Dublin returnees whose applications have been decided on the substance *in absentia* before their return to Bulgaria. In practice, Dublin returnees whose procedures were reopen experience delays of a couple of months before being able to re-access the health care system.

<sup>473</sup> Article 45e LAR.

<sup>474</sup> Article 29(1)(5) LAR.

<sup>475</sup> Article 29(8) LAR.

Presently, all reception centres are equipped with consulting rooms and provide basic medical services, but their scope varies depending on the availability of medical service providers in the particular location. Bulgaria's fundamental shortage of general practitioners is the main reason the medical care of asylum seekers is mainly carried out in the surgeries organised in Sofia and Harmanli reception centres.

Basic medical care in reception centres is provided either through own medical staff or by referral to emergency care units in local hospitals. Also, in the framework of an AMIF project supported by Caritas in partnership with UNICEF, a new mobile ambulance unit operated in Sofia with a nurse providing health counselling and basic medical care, and an ambulance available to transport patients to health facilities.<sup>476</sup>

A total of 18,167 outpatient examinations were implemented in the reception centres' surgeries until the end of 2023.<sup>477</sup> However the access of asylum seekers to following and specialized medical treatment remained impeded.

## E. Special reception needs of vulnerable persons

### Indicators: Special Reception Needs

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

The law provides a definition of vulnerability. According to the provision “applicant in need of special procedural guarantees” means an applicant from a vulnerable group who needs special guarantees to be able to benefit from the rights and comply with the obligations provided for in the law.<sup>478</sup> Applicants who are children, unaccompanied children, disabled, elderly, pregnant, single parents taking care of underage children, victims of trafficking, persons with serious health issues, psychological disorders or persons who suffered torture, rape or other forms of psychological, physical or sexual violence are considered as individuals belonging to a vulnerable group.<sup>479</sup>

There are no specific measures either in law or in practice to address the needs of these vulnerable categories, except for some additional practical arrangements in place to ensure the provision of medication or nutrition necessary for certain serious chronic illnesses, e.g. diabetes, epilepsy, etc. The law only requires that vulnerability has to be taken into account when deciding on accommodation, but this is applied discretionally, and no guidelines on the application of such a criterion are provided by the SAR. In 2018, the SAR adopted new internal rules of procedure whereby social experts provide assistance to its staff during the initial medical examination so as to enable the early identification of vulnerable applicants and their special needs.<sup>480</sup> If an applicant is identified as vulnerable, the new rules foresee that the vulnerability will be added to the registration form, including a detailed explanation and a follow-up assessment to be described in an appendix. Additionally, an early identification questionnaire was established for applicants who experienced traumatising experiences in order to determine their special needs and to facilitate the referral to adequate psychological or medical care.<sup>481</sup>

In 2022, the overall lack of due vulnerability assessment and identification remained the most significant omission during the asylum procedure.<sup>482</sup> Monitoring in 2023 established that the overall lack of vulnerability assessment and identification remained the most significant omission during the asylum

<sup>476</sup> EUAA, Annual Asylum Report (2022), available at: <https://bit.ly/3JbdHYK>.

<sup>477</sup> SAR reg.№ЦУ-РД05-123/27.02.2024.

<sup>478</sup> Additional Provision 1(16) LAR.

<sup>479</sup> Additional Provision 1(17) LAR.

<sup>480</sup> Article 29 SAR Internal Rules of Procedure; SAR, Internal Rules of Procedure for assessing and granting international protection, adopted on 17 December 2018.

<sup>481</sup> Early Identification and Needs Assessment form (ФИОН), Individual Support and Referral Plan form (ФИПП) and Social Consultation form (ФСК).

<sup>482</sup> Ibid.



procedure.<sup>483</sup> The SAR's social experts attended 50% of the registrations of asylum seekers. Out of these, 24% related to cases of unaccompanied children. Only in 6% of all these cases the files of vulnerable asylum seekers contained a vulnerability identification and needs assessment, with an attached individualised support plan. In none of these cases (0%) the established vulnerability was taken into account in the first instance decision on the asylum claim of the individual involved. In the remaining 50% of the cases the registration of asylum seekers was carried out without the presence of a SAR social expert and without any guarantees for early identification of their vulnerabilities. Thus, in practice the vulnerability assessment is still missing in 50% of the monitored cases. Additionally, needs assessment as well as planning and provision of support measures with respect to applicants with identified vulnerabilities are carried out yet sporadically than systematically.

An applicant's belonging to a vulnerable group has to be taken into account by the authorities when deciding on accommodation.<sup>484</sup> In practice, except the two safe-zones for unaccompanied children other separate facilities for vulnerable applicants, families, single women or traumatised asylum seekers do not exist in the reception centres.

Families, single women and traumatised asylum seekers are not accommodated in separated facilities, but in separate floors in the reception centres' facilities, mainly due to the overall lack of SAR reception capacity.<sup>485</sup> There is no formal policy to prevent mixed-sex accommodation, however in practice the single women and the families are accommodated in separate floors in Sofia centres and separate buildings in Harmanli reception centre. These floors are equipped with separate toilets and bathrooms. No specific measures are put in place in reception centres to prevent gender-based violence, except separate accommodation of single women, families and safe-zone for the unaccompanied children. All SAR social workers are female, however the interviewers and the interpreters often are not from the same sex as the asylum seeker, neither the information about the right to have one from the same sex is provided in all cases, but just in 9% of the cases about the possibility to request the same sex interviewer and only in 20% about the possibility to request an interpreter of the same sex or gender.

## 1. Reception of unaccompanied children

In July 2017, the State Agency for Child Protection and national stakeholders developed SOPs to safeguard unaccompanied migrant and refugee children identified to be present in Bulgaria. Although the SOPs for unaccompanied children were endorsed by the National Child Protection Council,<sup>486</sup> the final formal endorsement by the government has not been formally given up to the moment, which makes the developed SOPs for unaccompanied children inapplicable in practice. As of 31 December 2023, no progress was achieved in this regard. (see section on [Identification](#)).

A safe zone for unaccompanied children in the refugee reception centre (RRC) of Sofia at the **Voenna Rampa** shelter with capacity to accommodate 150 children is available since mid-2019,<sup>487</sup> where children are provided round-the-clock care and support tailored to their needs. However, only unaccompanied children originating from Afghanistan, Iran and Pakistan are accommodated in this centre. This being said, some Afghan children were also accommodated in other reception centres such as the RRC of **Harmanli** in 2021. A second safe-zone at the RRC Sofia, in the **Ovcha Kupel** shelter, opened on 20 January 2020 with capacity to accommodate 138 children hosts primarily children originating from Arab speaking countries. Both safe-zones are operated by the International Organisation for Migration (IOM) Bulgaria and funded by AMIF, and their operativity was extended until the end of 2023. Unaccompanied asylum-seeking children in RRC Harmanli continue to be accommodated in mixed dormitories and in

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<sup>483</sup> Bulgarian Helsinki Committee, 2023 Annual Refugee Status Determination Monitoring Report, 31 January 2024, available at: <https://bit.ly/3SX3ST7>.

<sup>484</sup> Article 29(4) LAR.

<sup>485</sup> See Overview of the main changes since the previous report update.

<sup>486</sup> State Agency for Child Protection, 'Тридесет и шестото редовно заседание на Националния съвет за закрила на детето се проведе в зала „Гранитна“ на Министерски съвет', 11 July 2017, available in Bulgarian at: <http://bit.ly/2FzwLxk>.

<sup>487</sup> IOM, 'Official opening of the first Safety Zone for unaccompanied asylum-seeking children in Bulgaria', 29 May 2019, available at: <https://bit.ly/2RnAG7N>.



many cases in rooms with unrelated adults. These children often complain to be deprived of sleep due to noise, gambling or alcohol consumption during the night by the adults accommodated in their rooms, or by being forced to run errands for them such as shopping, laundering or cleaning. Many also complain that their food or possessions are often taken by the adults with whom they live together. At the end of 2022, the SAR management<sup>488</sup> and UNICEF agreed to cooperate for the opening of a third safe-zone for unaccompanied children in Harmanli reception centre through funding provided by Swiss Federal Service. The zone is expected to become operational in March 2024, after the completion of the necessary refurbishment and logistics.

The LAR provides that unaccompanied children are accommodated in families of relatives, foster families, child shelters of residential type, specialised orphanages or other facilities with special conditions for unaccompanied children.<sup>489</sup> In practice, none of these opportunities was used or applied until 2022, when the SAR began to actively search for opportunities to accommodate unaccompanied children in licensed family-type children's centres (ЛНСТ). During the procedure such efforts were undertaken with regard mainly to minor asylum-seeking children, children with special needs or such identified as being at increased risk of trafficking or harm. After the recognition these efforts targeted all unaccompanied children, excluding those in family reunification procedures, who were allowed to wait the reunification with their parents or other family members in SAR reception centres.<sup>490</sup> As a result of this positive practice, a total of 43 unaccompanied children were accommodated during the course of the year in specialized childcare centres, of whom 2 were asylum seeking children and 41 children granted international protection. Altogether eleven licensed childcare centres have engaged in this practice in localities across the country, namely in Sofia, Burgas, Vidin, Ruse, Kardzhali, Novo Selo and Zvanichevo. At the same time, the lack of specialized training of the childcare centre's staff to work with unaccompanied children seeking or granted protection should be acknowledged and taken into account as well as the lack of secured interpretation at least for the initial period of accommodation and adjustment. Altogether ten licensed childcare centres have engaged in this practice in localities across the country, namely in Sofia, Burgas, Vidin, Ruse, Kardzhali, Novo Selo and Zvanichevo. At the same time the lack of specialized training of the childcare centre's staff to work with unaccompanied children seeking or granted protection should be acknowledged and taken into account.

At the end of 2017, the EEA Grants secured considerable funding for the State Agency for Child Protection as well as for the Bulgarian Red Cross to jointly establish and run an Interim Care Centre for unaccompanied children, proposed and endorsed by UNICEF and UNHCR. As far as until 31 December 2021 this centre was not established the donor withdrew the funding.

In 2021, following the incidents and fire at the Greek Moria Camp, Bulgaria pledged to relocate unaccompanied children. Out of 32 children who initially consented to be relocated to Bulgaria, only 17 arrived by the end of 2021 and were accommodated in a specially prepared unit in Harmanli reception centre.

## 2. Reception of victims of violence

Back in 2008, the SAR and UNHCR adopted standard operating procedures (SOPs) with respect to treatment of victims of Sexual and Gender-based Violence (SGBV).<sup>491</sup> In 2014, both agencies agreed that the SOPs need to be updated,<sup>492</sup> as they have never been applied in practice, but also to include other categories applicants with special needs. At the end of 2021, SAR endorsed the revisions, but the NGOs monitoring could not confirm any implementation of the SGBV SOPs in practice until the end of 2023.<sup>493</sup>

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<sup>488</sup> The SAR leadership was replaced in March-April 2022.

<sup>489</sup> Article 29(10) LAR.

<sup>490</sup> SAR, Rules and procedures on the accommodation of unaccompanied children granted international protection in foster families, social or integrated socio-medical care facilities for children of a residential type, adopted in October 2022.

<sup>491</sup> Standard Operating Procedures on sexual and gender-based violence, Exh. No 630, 27 February 2008.

<sup>492</sup> UNHCR, SGBV Task Force, established on 15 February 2014.

<sup>493</sup> Bulgarian Helsinki Committee, 2023 Annual Refugee Status Determination Monitoring Report, 31 January 2024, available at: <https://bit.ly/3SX3ST7>.

## F. Information for asylum seekers and access to reception centres

### 1. Provision of information on reception

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

The SAR has an obligation to provide information in a language comprehensible to the asylum seekers within 15 days from filing their application, which has to include information on the terms and procedures and rights and obligations of asylum seekers during procedures, as well as the organisations providing legal and social assistance.<sup>494</sup> However, in reality this was not provided within the 15-day time period laid down in Article 5 of the recast Reception Conditions Directive. In practice, prior to the increased number of asylum seekers, this information was given upon the registration of the asylum seeker in SAR territorial units by way of a brochure. Monitoring from the Bulgarian Helsinki Committee in 2023 established that oral guidance on determination procedures is provided by caseworkers in the majority of the cases (94%) with written instruction also served in 82% of the cases. However, in 41% of the monitored cases, when the written instructions were provided during the registration, it was not in a language that asylum seekers knew or could understand. In the remaining 18% the written information was not provided to asylum seekers.<sup>495</sup>

Since 2018, some animated video information is available at the reception centres of the SAR to provide introductory information relating the rights and obligations during determination procedures. The animated videos are available in Arabic, Pashto, Dari and Kurdish Kurmanji. The law also envisages that additional information relating to the internal regulations applied in the closed centres have to be provided to asylum seekers detained therein, but this has not been delivered in practice (see [Conditions in Detention Facilities](#)).<sup>496</sup> The web platform [asylum.bg](https://asylum.bg), which provides legal and practical information on national determination procedures is available also in audio format to ensure the access to credible information to illiterate asylum seekers.

In 2022, UNICEF developed for SAR special videos in Arabic and Farsi/Dari/Pashto languages targeting as audience the unaccompanied asylum seeking and refugee children. The videos aim to promote the specialized childcare facilities (ЛHCT) where the children should be accommodated after the recognition, but also can be accommodated during the asylum procedure. Since mid-2022, the SAR began to actively search for opportunities to accommodate unaccompanied children in licensed family-type children's centres (ЛHCT). However, the majority of the children do hesitate to leave the familiar conditions of the reception centres. That is why the videos show-case other children who have been already accommodated in specialized childcare facilities who share their positive experience thus assisting to mitigate the existing prejudice among the children in reception centres and their anxiety in view of facing an unknown situation.

### 2. Access to reception centres by third parties

#### Indicators: Access to Reception Centres

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

Yes

With limitations

No

The law does not expressly provide for access to reception centres for family members, legal advisers, UNHCR and NGOs. The law provides, however, that asylum seekers have the right to seek assistance

<sup>494</sup> Article 58(8) LAR.

<sup>495</sup> Bulgarian Helsinki Committee, 2023 Annual Refugee Status Determination Monitoring Report, 31 January 2024, available at: <https://bit.ly/3SX3ST7>.

<sup>496</sup> Article 45e(1)(5) LAR.

from UNHCR and other government or non-governmental organisations.<sup>497</sup> Until the beginning of 2015, no limitations were applied in practice.

Presently, NGOs and social mediators from refugee community organisations who have signed cooperation agreements with the SAR are allowed to operate within the premises of all reception centres. Access to reception centres for other organisations and individuals requires a formal authorisation and is formally prohibited during the night. However, asylum seekers regularly report that traffickers and smugglers as well as drug dealers and sex workers have almost unlimited access to reception centres, except for the **Vrazhdebna** shelter in **Sofia** (see [Conditions in Reception Facilities](#)).

## G. Differential treatment of specific nationalities in reception

Up to the moment, no cases of discrimination based on nationality was reported concerning the reception system. However, some of the reception centres are used for accommodation predominantly of a certain nationality or nationalities. For example, prior to its closure, **Vrazhdebna** shelter in Sofia accommodated predominantly Syrians and Iraqis, **Voenna Rampa** shelter in Sofia accommodates almost exclusively Afghan and Pakistani asylum seekers, while the other reception centres accommodate mixed nationalities, such as in **Harmanli** reception centre, **Banya** reception centre and **Ovcha Kupel** shelter in Sofia. The government had also assigned **Vrazhdebna** shelter in Sofia to host applicants coming through the relocation scheme in 2015-2017 as well as for those resettled from Türkiye. At the end of 2023, following a fire in Vrazhdebna shelter and overpopulated Ovcha Kupel shelter, and vis-à-vis still significant Afghan applicants absconding, SAR began<sup>498</sup> to accommodate applicants from Syria and other Arab countries in Voenna Rampa shelter, which by the end of 2023 hosted asylum seekers from mixed ethnicities, thus creating higher risks of conflicts.

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<sup>497</sup> Article 23(1) LAR.

<sup>498</sup> 127th Coordination Meeting, 28 December 2023.

## Detention of Asylum Seekers

### A. General

#### Indicators: General Information on Detention

1. Total number of asylum seekers detained in 2023: <sup>499</sup>	16,075
2. Number of asylum seekers in detention at the end of 2023:	7
3. Number of detention centres:	3
❖ Pre-removal detention centres	2
❖ Asylum detention centres	1
4. Total capacity of detention centres:	760

There are two pre-removal detention centres in operation: **Busmantsi** and **Lyubimets**. An additional container-type detention centre with capacity for 1,750 individuals was built in **Elhovo** Regional Border Police Directorate premises with the objective to serve as a buffer in a situation of mass arrivals from the global South. In 2022 it was the regular government which first tried to use it as a transit centre for Ukrainian refugees.<sup>500</sup> This attempt was abandoned following widespread protests from the public and non-governmental organisations. On 16 November 2022, the caretaker government<sup>501</sup> officially designated Elhovo detention centre to serve as a transit centre for re-distribution of newly arrived Ukrainian refugees despite its utterly unsuitable conditions, including due to its remote location, and the repeated protests that such decision sparked.<sup>502</sup>

Asylum seekers can also be placed in closed reception centres i.e. detained under the jurisdiction of the SAR for the purposes of the asylum procedure. In 2023, 32 asylum seekers have been detained in the asylum closed facility, situated in the premises of the **closed reception ward (ПЗТ)** in the **Busmantsi** pre-removal centre, the only closed centre for that purpose. 4 asylum seekers were held there at the end of the year 2023.<sup>503</sup>

Not all persons who apply for international protection when apprehended at the border or inland are directly detained. For example, an exception is applied to unaccompanied children from July 2018, when a referral mechanism was included in the law,<sup>504</sup> although in practice the police apply it only with respect to unaccompanied children who are visibly minor and below 14 years of age.<sup>505</sup> In 2023, the Border police referred 35 children to childcare services.<sup>506</sup> The UN CAT Committee in its 2021 report<sup>507</sup> pointed an amendment in Internal Instruction 81213-78 which provided that the child protection services with the Agency for Social Assistance (ASA) should be notified when an unaccompanied child has been identified by the immigration police in the detention centre. Instead, in practice this was not implemented in 2023<sup>508</sup> as the detention staff still opted for the quicker solution to assist unaccompanied children to apply for asylum in order to transport and hand them over to SAR reception centres.<sup>509</sup> The discriminatory approach

<sup>499</sup> This figure includes both applicants detained in the course of the asylum procedure and persons lodging an application from detention; source: Bulgarian Helsinki Committee's monthly situation reports January-December 2023.

<sup>500</sup> dnes.bg, Временният център в Елхово е готов за бежанците, ето как изглежда, available in Bulgarian at: <https://bit.ly/3l0ck73>.

<sup>501</sup> COM No. 980 from 16 November 2022.

<sup>502</sup> Bulgarian Helsinki Committee, Кой настанява украинските бежанци в лагера за задържане на мигранти в Елхово?, published on 4 November 2022, available in Bulgarian at: <https://bit.ly/3YACdYW>.

<sup>503</sup> Bulgarian Helsinki Committee, Monthly Situation report on December 2023, prepared on 3 January 2024.

<sup>504</sup> LARB Regulations, amended with State Gazette No.57 from 10 July 2028, Articles 63k-63l.

<sup>505</sup> Bulgarian Helsinki Committee, 2023 Annual Progress report to UNICEF, 10 January 2024.

<sup>506</sup> Ministry of Interior, Migration statistics, December 2023, available in Bulgarian at: <https://bit.ly/49xELgr/>.

<sup>507</sup> UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Comments of Bulgaria on the recommendations and observations addressed to it in connection with the Subcommittee visit undertaken from 24 to 30 October 2021, published on 25 October 2022, available at: <https://bit.ly/3uMsZ2T>.

<sup>508</sup> Bulgarian Helsinki Committee, 2023 December 2023 UNICEF Progress report, 10 January 2024.

<sup>509</sup> UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Comments of Bulgaria on the recommendations and observations addressed to it in connection with the

of national ASA child protection services to assist and take care of unaccompanied migrant, asylum seeking or refugee children has been reported repeatedly by the refugee assisting non-governmental organisations<sup>510</sup>.

Other exceptions from detention are arbitrarily applied by police authorities in cases where the border applicants have family members who are already in Bulgaria, when applicants provide valid documents, as well as when applicants have specific needs such as disabilities or infants.

Out of a total of 22,518 applicants registered in 2023, in total 16,075 individuals applied for asylum at border and immigration detention; just 4% had a direct access to asylum procedure without detention.<sup>511</sup>

There are several reasons for detention to be applied in most cases with respect to the third country nationals apprehended at the borders or inside the country’s territory. Instructions are given by the State Agency for National Security (Държавна агенция “Национална сигурност”, ДАНС/SANS) to all police authorities not to transfer anyone to open reception centres before screening and realisation of all security checks. Another reason is the situation at the border with Türkiye. Along this main entry border, those who are apprehended are either pushed back, or they are allowed to continue with their smugglers, board on different vehicles, transit the country and exit without being stopped.<sup>512</sup> The direct access to asylum procedure is additionally hindered by the congested coordination between the police and the SAR to enable registration and accommodation of asylum seekers after 17:00 or during the weekends. From September 2015, the SAR began to operate shift schemes and on-call duty during the weekends in order to assist with the reception of asylum seekers referred by the police. This on-call scheme however was fully cancelled by the SAR from 2019 to mid-2022, when it was re-established and put into operation once again.

Detention of first-time applicants from the making of their application until their personal registration is systematically applied in Bulgaria and most asylum seekers apply from pre-removal detention centres for irregular migrants.<sup>513</sup>

Immigration detention in Bulgaria: 2016-2023								
Year	2016	2017	2018	2019	2020	2021	2022	2023
Total detention orders	11,314	2,989	2,456	2,184	3,487	10,799	16,767	18,554

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<sup>510</sup> Subcommittee visit undertaken from 24 to 30 October 2021, published on 25 October 2022, available at: <https://bit.ly/3uMsZ2T>.

<sup>511</sup> Bulgarian Helsinki Committee, 2023 Annual Refugee Status Determination Monitoring Report, 31 January 2024, available at: <https://bit.ly/3SX3ST7>.

<sup>512</sup> Bulgarian Helsinki Committee, Monthly Situation Report for December 2023, 2 January 2024: 61 applicants out of all 1,385 applicants at entry borders.

<sup>513</sup> See, Access to the territory and push-backs. CERD, Concluding observations on the combined twentieth to twenty-second periodic reports to Bulgaria, CERD/C/BGR/CO/20-22, 31 May 2017, available at: <http://bit.ly/2wSzlpq>, para 21(e).

## B. Legal framework for 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 checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
2. Are asylum seekers detained in practice during the Dublin procedure?	<input type="checkbox"/> Frequently	<input checked="" type="checkbox"/> Rarely	<input type="checkbox"/> Never
3. Are asylum seekers detained during a regular procedure in practice?	<input type="checkbox"/> Frequently	<input checked="" type="checkbox"/> Rarely	<input type="checkbox"/> Never

#### 1.1 Pre-removal detention upon arrival

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

- a. Their identity is uncertain;
- b. They are preventing the execution of the removal order; or
- c. There is a possibility of absconding.

The different grounds are often used in combination to substantiate detention orders in practice. In practice, detention of third-country nationals is ordered by the Border or Immigration Police on account of their unauthorised entry, irregular residence or lack of valid identity documents.

#### 1.2 Short-term detention

At the end of 2016, the LARB introduced “short-term detention” to be used for security checks, profiling and identification.<sup>514</sup> The law entered into force on 6 June 2018.<sup>515</sup> After the amendments, police authorities can initially order a detention of 30 calendar days within which period the Immigration Police should decide on following detention grounds and period or on referral of the individual to an open reception centre, if he or she has applied for asylum.

Short-term detention orders were frequently issued by the police until the summer of 2022 when, in attempt to give proof to EU institutions of the readiness of Bulgaria to join the Schengen zone, the caretaker cabinet’s MOI management instructed on direct application of long-term detention orders - with initial period of 6 months – without any prior consideration of personal circumstances or submitted asylum claim.

In general, the immigration police implement very few removals of detained third country nationals on an annual basis. In 2023, out of 18,554 third country nationals issued a detention orders the MOI carried out 565 removals, which represented just 3% implementation rate.<sup>516</sup> The rest of the detainees had to be released either on account of submitted first asylum applications, or because the ordered initial 6 months detention duration has expired. The inability of MOI to implement the removals is attributed to the fact that the overwhelming majority of the third country nationals originate from Syria or Afghanistan,<sup>517</sup> to which removal or return are legally and/or practically impossible. These circumstances made the majority of the detention orders not only issued without a legitimate purpose, but also pointless from a practical point of view.

<sup>514</sup> Article 44(13) LARB.

<sup>515</sup> Law amending the Law on Aliens in the republic of Bulgaria, No 97/2016, 2 December 2016, available in Bulgarian at: <http://bit.ly/2kJoYpi>.

<sup>516</sup> MOI statistics, December 2023, available in Bulgarian at: <https://bit.ly/48C57wC>.

<sup>517</sup> Ibid.



In May 2022, the European Court on Human Rights issued a judgment which found the Bulgarian authorities in violation of Article 5(1) of the ECHR relating the length of the detention as it did not appear that the authorities took any active steps to check the realistic prospects of the removal; and that the reasons which initially justified the detention were no longer valid throughout the period of the applicant's deprivation of liberty in light of the authorities' failure to exercise sufficient diligence in carrying out that measure, therefore giving rise to a violation of Article 5(1).<sup>518</sup>

### 1.3 Registration and determination of asylum seekers in immigration detention

The law does not allow the SAR to conduct any determination procedures in the pre-removal detention centres.<sup>519</sup>

However, as of 2018 the SAR began to register, fingerprint, and determine asylum seekers in pre-removal detention centres and to keep them there after issuing them asylum registration cards. The applicants release and access to asylum procedure was usually secured only by an appeal against detention and a court order for their release. In principle, this practice affected individuals who were deemed deportable for having valid passports or other original national identity documents. With the exception of subsequent applicants who are excluded by law from the right to remain in Bulgaria pending the admissibility assessment of their subsequent claims,<sup>520</sup> the asylum seekers processed in pre-removal detention centres were being determined by the SAR in an **Accelerated Procedure**, which stripped them of the right to an onward appeal and thereby prevents them from challenging the practice further before the Supreme Administrative Court. This malpractice was mostly supported by the courts, which found asylum procedures in pre-removal centres in violation of procedural standards, though this violation was considered insignificant one as the rights of asylum seekers were not severely affected.<sup>521</sup> In some limited cases, courts have ruled that the conduct of the personal interview in an immigration detention centre amounts to a serious breach of procedural rules.<sup>522</sup>

The detention of asylum seekers and failure to observe procedural safeguards form part of the concerns expressed by the European Commission in the letter of formal notice sent to Bulgaria on 8 November 2018 relating to non-compliance with the EU asylum *acquis*.<sup>523</sup>

In 2022, SAR management reversed and almost completely abandoned this malpractice,<sup>524</sup> with only 1 registration and only 1 determination conducted in Busmantsi detention centre. The approach was maintained in 2023, with just 1 procedure conducted in Lyubimets detention centre.<sup>525</sup>

### 1.4 Asylum detention

Asylum seekers can also be placed in closed reception facilities i.e. detention centres under the jurisdiction of the SAR during the determination of their claim. The national grounds transpose Article

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<sup>518</sup> European Court on Human Rights and Fundamental Freedoms, application No.35422/16 Ali Reza v. Bulgaria, Judgement from 17 May 2022, available at: <https://bit.ly/3kYRu8a>.

<sup>519</sup> Additional Provision 5 LAR; Article 45b LAR.

<sup>520</sup> Article 76c(2) LAR.

<sup>521</sup> Administrative Court of Sofia, Decision No 5378, 17 September 2017; Decision No 4740, 14 July 2017; Decision No 5105, 2 August 2017, Decision No 193, 14 March 2017; Administrative Court of Haskovo, Decision No 187, 16 March 2017; Administrative Court of Haskovo, Decision No 93, Case No 1322/2017, 29 January 2018; Administrative Court of Sofia, 21st Division, Decision No 806, Case No 4161/2017, 12 February 2018; Administrative Court of Haskovo, Decision No 996, Case No 14229/2017, 19 February 2018; Administrative Court of Sofia, 57th Division, Decision No 7499, Case No 11273/2018, 11 December 2018.

<sup>522</sup> Administrative Court of Sofia, Decision No 977, 16 February 2018.

<sup>523</sup> European Commission, 'November infringements package: key decisions', MEMO/18/6247, 8 November 2018, available at: <https://bit.ly/2RETZfR>.

<sup>524</sup> Bulgarian Helsinki Committee, 2022 Annual RSD Monitoring report, 1.1.2. Procedure at the police detention centers, page 6, available at: <https://bit.ly/3Y3WzJJ>.

<sup>525</sup> Bulgarian Helsinki Committee, 2023 Annual Refugee Status Determination Monitoring Report, 31 January 2024, available at: <https://bit.ly/48C57wC>.

8(3)(a), (b), (d) and (f) of the recast Reception Conditions Directive, according to which an applicant may be detained:<sup>526</sup>

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

In 2023, 32 asylum seekers were detained in the asylum closed facility, situated at the premises of the **closed reception ward (ПЗТ)** in the **Busmantsi** pre-removal detention centre, the only closed reception facility for that purpose. 4 asylum seekers were held there at the end of the year 2023. The grounds applied were verification of identity or nationality, and protection of national security or public order.

## 2. Alternatives to detention

### Indicators: Alternatives to Detention

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

Alternatives to pre-removal detention in the general *immigration law* (LAR) do not specifically target asylum seekers, rather all third-country nationals. The LAR was amended in 2017 to introduce new alternatives, namely:

- ❖ Surrendering documents;<sup>527</sup>
- ❖ Financial guarantee;<sup>528</sup>
- ❖ Weekly reporting, already existing prior to the reform.<sup>529</sup>

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

In practice, in the overwhelming majority of cases, alternatives to detention are not considered by the Migration Directorate (MOI) prior to imposing detention.<sup>530</sup> The situation did not change in 2023. The necessity to develop in practice alternatives to immigration detention, which are already included in national law, was raised in the report<sup>531</sup> of the CoE Special Representative of the Secretary General on Migration and Refugees, following a fact-finding mission held in September 2023.

The *asylum law* (LAR), for its part, envisages bi-weekly reporting to the SAR as a measure to ensure “the timely examination of the application” or to ensure “the participation” of the asylum seeker.<sup>532</sup> The LAR also envisages a limitation of freedom of movement in certain areas in the territory of the state by a decision of the SAR’s Chairperson, where asylum seekers can be obligated not to leave and reside in other administrative regions (district or municipality) than the prescribed one (see [Freedom of Movement](#)).

<sup>526</sup> Article 45b(1) LAR.

<sup>527</sup> Article 44(5)(3) LARB.

<sup>528</sup> Article 44(5)(2) LARB.

<sup>529</sup> Article 44(5)(1) LARB.

<sup>530</sup> Bulgarian Helsinki Committee, Detention Mapping report Bulgaria, October 2016, available at: <http://bit.ly/2jluOxS>, 21.

<sup>531</sup> Council of Europe, Report of the fact-finding mission to Bulgaria by Ms. Leyla Kayacik, Special Representative of the Secretary General on Migration and Refugees (11-14 September 2023), published on 30 January 2024, available at: <https://bit.ly/3TIA2TD>.

<sup>532</sup> Article 45a LAR.

### 3. Detention of vulnerable applicants

#### Indicators: Detention of Vulnerable Applicants

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

The general immigration law, LARB, prohibits the detention of unaccompanied children in general and imposes a maximum period of 3 months for the detention of accompanied children who are detained with their parents.<sup>533</sup>

The asylum law, LAR, provides for the possibility to detain accompanied children for asylum purposes as a last resort, in view of ensuring family unity or ensuring their protection and safety, for the shortest period of time.<sup>534</sup> The position of UNHCR is that the respective provisions do not expressly refer to the primacy of the best interests of the child when ordering detention. They also do not incorporate sufficient guarantees to ensure speedy judicial review of the initial decision to detain and a regular review thereafter. Although presently expanded with additional alternative arrangements,<sup>535</sup> the law still does not envisage specific alternatives to detention appropriate for children such as alternative reception / care arrangements for unaccompanied children and families with children.

In practice, both asylum-seeking and other migrant unaccompanied children continue to be detained in pre-removal detention centres, managed by the Ministry of Interior. Unaccompanied children arrested by the Border or Immigration Police are assigned (“attached”) to any of the adults present in the group with which the children travelled, which has been a steady practice ongoing for last couple of years. Thus, the arrested unaccompanied children are not issued a separate detention order, but instead listed as an “accompanying child” in the detention order of the adult to whom they have been assigned. The same treatment is applied by the regular police services to those unaccompanied children who are captured inside the Bulgarian territory and considered to be irregular due to the lack of identity documents. All of them without exception are transferred to the pre-removal detention centres in **Busmantsi** or **Lyubimets**. To do this, identical to the approach of the Border Police, the regular police authorities assigned (“attached”) the children to adults without collecting any evidence or statements for a family link or relation between them. In 2023, the Border Police referred 35 children to respective child protection services with the Agency for Social Assistance, while in the same period 823 children were identified as unaccompanied in both national detention centre.<sup>536</sup>

The so-called “attachment” is implemented on the basis of a legal definition on extended relatives’ circle, who could be considered as “accompanying adults”; this definition is presently applicable only in immigration procedures.<sup>537</sup> National jurisprudence has however proved inconsistent in this regard.<sup>538</sup> Accordingly, at the end of 2017 the Ombudsperson assisted by the Bulgarian Helsinki Committee requested the Supreme Administrative Court to deliver mandatory interpretation of the law on this matter.<sup>539</sup> The Court started the examination of the case in 2019, and a decision was issued on 29 March 2021. In its decision, the Supreme Administrative Court noted that children detained as a result of the detention of their accompanying adult have their own right to appeal against the detention decision. The court also clarified that the information provided by the police on the relationship between children and

<sup>533</sup> Article 44(9) LARB.

<sup>534</sup> Article 45f(1) LAR.

<sup>535</sup> Article 44(5) LARB.

<sup>536</sup> Bulgarian Helsinki Committee, 2023 December 2023 UNICEF Progress report, 10 January 2024.

<sup>537</sup> Additional clauses § 2 LARB Regulations.

<sup>538</sup> See e.g. Supreme Administrative Court, 7th Department, Decision No 12271, 14 November 2016; Decision No 2842, 8 March 2017; Decision No 10789, 4 September 2017; Decision No 12116, 11 October 2017.

<sup>539</sup> Ombudsperson, Request No 11-78, 8 December 2017, available in Bulgarian at: <http://bit.ly/2DSf1va>.

accompanying adults is not binding, and that the authorities ordering the detention can further assess the relationship.<sup>540</sup>

In 2021, the UN CAT Subcommittee expressed concerns about the detention of children highlighting the need to ensure humane conditions for detained migrants, especially children, and that detention should only be used when strictly necessary.<sup>541</sup>

An amendment to the LARB Regulations entered into force on 10 July 2018 to introduce rules and procedures for immediate and direct referral of unaccompanied migrant children from the police to the child protection services in order to avoid their detention.<sup>542</sup> The reform resulted in almost immediate change in the national police practices on detention of unaccompanied minor children below 14 years of age. In 2023, 35 unaccompanied children<sup>543</sup> were referred to child protection services without detention, all by the Border Police and 0 by the Immigration Police. Children are assisted by the police and child care services to apply for asylum, thus ensuring their free and direct access to asylum procedure. This was also acknowledged by the UN CAT Subcommittee's report in 2021.<sup>544</sup>

In the cases of undocumented children from 14 to 18 years, whose age cannot be evidently established just through their appearance, the police continue to employ detention through "attachment" to unrelated adults or registration as adults. The child protection services have refused to credit their statements about their age and commenced implementation of age assessment based solely on X-ray wrist expertise prior to any referral to child care services. Therefore, in 2019, amendments of the primary and secondary immigration legislation were adopted creating additional safeguards for a legally binding referral mechanism<sup>545</sup> New procedures allowing regularisation of rejected and migrant unaccompanied children were also introduced with the possibility to extend their 'leave to remain' (i.e. their residence permit) on humanitarian grounds beyond adulthood.<sup>546</sup> The amendments are thus expected to put an end to detention of unaccompanied children, but it remains to be seen how and whether these new provision will be applied in practice. At the end of 2019 an expert group representing both governmental and non-governmental organisations was established to create a national age assessment procedure based on a multidisciplinary approach. Some of these legal safeguards were thus included by the SAR to its LAR amendments.<sup>547</sup> The draft methodology on age assessments was finalised and referred for adoption to the government. However, due to the political instability and repeated general elections during 2021 to 2023 the national legislative agenda was significantly congested, which prevented the endorsement of the draft. In 2023, the age assessment methodology was finally adopted in as a formal Age Assessment Instruction.<sup>548</sup> However, it will be applicable only to children in asylum procedures as the MOI opted out and was not included in the age assessment procedure or arrangements.

In 2023, 1,538 children were detained in pre-removal detention centres. Among them, the Bulgarian Helsinki Committee identified 823 unaccompanied children, including children detained as "attached" to an adult or wrongly registered as adults. However, another 2,305 unaccompanied children were safeguarded from detention due to the gradual improvement in the implementation of the referral mechanism, regulated in the law. Thus, 78% of all unaccompanied children, who arrived in the country,

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<sup>540</sup> Supreme Administrative Court, General Assembly, Case No.1/2019, 29 March 2021, available in Bulgarian at: <https://bit.ly/3FMWPUm>.

<sup>541</sup> OHCHR, Bulgaria torture prevention: UN experts concerned about migrant children in detention, published on 5 November 2021, available at: <https://bit.ly/423qKUI>.

<sup>542</sup> Council of Ministers, Decision No 129 of 5 July 2018, available in Bulgarian at: <https://bit.ly/2DpJHHK>.

<sup>543</sup> MOI statistics, December 2023, available in Bulgarian at: <https://bit.ly/48C57wC>.

<sup>544</sup> UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Comments of Bulgaria on the recommendations and observations addressed to it in connection with the Subcommittee visit undertaken from 24 to 30 October 2021, published on 25 October 2022, available at: <https://bit.ly/3uMsZ2T>, § 99.

<sup>545</sup> Article 28a LARB, St.G. №34/2019, enforced on 24 October 2019.

<sup>546</sup> Article 63k and 63l Regulations for Implementation of the Law on Aliens in the Republic of Bulgaria (LARB Regulations), St.G. №23/2019, enforced on 26 November 2019.

<sup>547</sup> LAR amendments, State Gazette No.89 from 16 October 2020, available in Bulgarian at: <https://bit.ly/2M5pyh6>.

<sup>548</sup> State Agency for Refugees and State Agency for Child Protection, Age Assessment Instruction, published on 1 December 2023, enforced on 1 March 2024, available in Bulgarian at: <https://bit.ly/4ctn0AN>.

were safeguarded from detention vs. 22% who unduly suffered it (2022: 24% detained vs. 76% who avoided detention; 2021: 28% detained vs. 72% who avoided detention; 2020: 37% detained vs. 63% who avoided detention).<sup>549</sup>

Unlawful detention of unaccompanied children: 2020-2023				
	2020	2021	2022	2023
Unaccompanied children who suffered detention	37%	28%	24%	22%
Unaccompanied children who avoided detention	63%	72%	76%	78%

#### 4. Duration of detention

##### Indicators: Duration of Detention

- What is the maximum detention period set in the law (incl. extensions):
  - ❖ Short-term detention 30 days
  - ❖ Pre-removal detention 18 months
  - ❖ Asylum detention Indefinite<sup>550</sup>
- In practice, how long in average are asylum seekers detained?
  - ❖ Short-term detention 6 days
  - ❖ Asylum detention 56 days

#### 4.1 Duration of pre-removal detention and short-term detention

The maximum immigration detention period is 18 months, including extensions. Initial detention order is in principle issued for a period of 6 months. Following an amendment to the LARB in 2017, extensions can be ordered by the Immigration Police instead of the court after the expiry of the initial or consecutive detention order.<sup>551</sup> Each consecutive extension is also issued for a minimum of 6 months until the 18-month limit is reached.

Short-term detention can be ordered for a maximum of 30 days.<sup>552</sup> Short-term detention orders were frequently issued by the police until the summer of 2022 when, in attempt to give proof to EU institutions of the readiness of Bulgaria to join the Schengen zone, the caretaker cabinet's MOI management instructed on direct application of long-term detention orders - with initial period of 6 months - without any prior consideration of personal circumstances or submitted asylum claim.

The LAR safeguards the registration of asylum applications and the release of the asylum applicants from pre-removal detention centres within 6 working days, in line with the recast Asylum Procedures Directive.<sup>553</sup> As a result, in 2016 the overall detention duration of first-time asylum applicants prior to their registration decreased to 9 days on average, in observance with the registration deadline. In 2017, this trend was inverted, as the average duration of detention rose to 19 days. After the Supreme Administrative Court acknowledged the illegality of pre-removal detention after the submission of an asylum application,<sup>554</sup> the average detention duration decreased back to 9 days in 2018 to increase again to 12 days in 2019 and decreased in 2020 to 8 calendar days, 7 calendar days in 2021, and 6 calendar days in 2022 on average. In 2023 the average detention duration maintained minimal to 7 calendar days.

<sup>549</sup> Bulgarian Helsinki Committee, December 2023 UNICEF report, 10 January 2024.

<sup>550</sup> Article 45d(1) LAR.

<sup>551</sup> Article 46a(3) and (4) LARB, repealed by Law amending the LARB, State Gazette No 97, 5 December 2017.

<sup>552</sup> Article 44(13) LARB.

<sup>553</sup> Article 58(4) LAR.

<sup>554</sup> Supreme Administrative Court, Decision No 77, 4 January 2018, available in Bulgarian at: <http://bit.ly/2rTKmO4>. The Court refers to CJEU, Case C-537/11 M.A.

Average period of pre-removal detention pending registration (days)								
Year	2016	2017	2018	2019	2020	2021	2022	2023
Average detention period	9	19	9	12	8	7	6	7

Source: SAR, MOI, Bulgarian Helsinki Committee.

Out of the 16,025 persons applying from pre-removal detention, no asylum seeker (0%) was detained for more than 6 months.

The average duration of detention of wrongly detained unaccompanied children decreased to 19 days in 2023. It should be noted, however, that 14-days of medical quarantine, if such is applied, are excluded from the detention duration.

## 4.2 Duration of asylum detention

Detention during the status determination procedure in closed reception facilities is limited by the law to the shortest period possible.<sup>555</sup> However, in practice the SAR kept asylum seekers in closed centres until the decision on their asylum applications became final, which for some of the detained asylum seekers extended to 6-7 months, and nearly 11 months in one case in 2018. The regular review of necessity as per the law is so far applied formally,<sup>556</sup> resulting in detained asylum seekers being released only following the engagement of legal assistance and representation.<sup>557</sup>

The average asylum detention duration in 2023 increased again to 64 days on average, in comparison to 56 days in 2022. It remains far from the legal standard set in the law according to which detention should last for the “shortest period possible”, but it should be noted that it still constitutes an improvement compared to previous years (e.g. 252 days in 2019 and 192 days in 2018).

## C. Detention conditions

### 1. Place of detention

#### Indicators: Place of Detention

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

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

### 1.1 Pre-removal detention centres

There are 2 detention centres for irregular migrants in the country, with a total capacity of 1,060 places. Due to the increased number of the new arrivals from 25 August to 19 November 2021, the Ministry of

<sup>555</sup> Article 45e LAR.

<sup>556</sup> Article 45d (2) LAR.

<sup>557</sup> Bulgarian Helsinki Committee, Monthly Situation Report: December 2017, 10 January 2018.



Interior reopened as auxiliary the former Elhovo Triage centre with a capacity 240 places. However, from August to November, the detention capacity increased to 1,300 places:

Pre-removal detention centres in Bulgaria			
Detention centre	Location	Capacity	Occupancy end 2023
Busmantsi	Sofia	400	92
Lyubimets	South-Eastern Bulgaria	660 <sup>558</sup>	295
<b>Total</b>		<b>1,060</b>	<b>387</b>

Source: MOI.

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

Initially designated for the pre-registration of asylum seekers,<sup>559</sup> **Elhovo** was thereupon used as an “allocation centre” or “triage centre” to detain asylum seekers apprehended at the land borders outside the official border checkpoint until its closure in February 2017. In 2021, due to the increased number of new arrivals the Ministry of Interior reopened as auxiliary the former Elhovo Triage centre with capacity of 240 places from 25 August to 19 November 2021, after which the centre was closed again. In May 2022, the MOI finished working on the creation of a new detention facility in the town of Elhovo, which consists of 221 container compartments fit for 1,768 individuals. In 2022, the regular government which first tried to use it as a transit centre for Ukrainian refugees.<sup>560</sup> This attempt was abandoned following widespread protests from the general public and non-governmental organisations. On 16 November 2022, the caretaker government<sup>561</sup> officially designated Elhovo detention center to serve as a transit centre for re-distribution of newly arrived Ukrainian refugees despite its utterly unsuitable conditions, including due to its remote location, and the repeated protests.<sup>562</sup> Since November 2022, just 589 Ukrainian refugees (2%) passed through Elhovo center in order to be assigned accommodation, out of 24,441 Ukrainians registered in 2023 under the temporary protection.

Regarding short-term detention, which entered into force on 6 June 2018, the LARB foresees separate detention facilities for the purpose of this form of detention.<sup>563</sup> However, the few short-term detention orders issued in 2023 were implemented in the pre-removal detention centres.

## 1.2 Asylum detention centres (“closed reception centres”)

The law foresees the asylum detention under the responsibility of the SAR (see [Grounds for Detention](#)). The only operational centre at the moment is **the closed reception ward (ПЗТ)** in Busmantsi detention centre, with 20 places.

The SAR **Pastrogor** transit centre, situated on the Bulgarian-Turkish border can also be used as a closed facility, if necessary. Presently, it operates as an open reception facility with a capacity of 320 places.

<sup>558</sup> 360 containers installed in Lyubimets detention centre.

<sup>559</sup> EASO, Stock taking report on the asylum situation in Bulgaria, March 2014, 3.2. Asylum Determination Procedure.

<sup>560</sup> dnes.bg, Временният център в Елхово е готов за бежанците, ето как изглежда, published on 31 May 2022, available in Bulgarian at: <https://bit.ly/3l0ck73>.

<sup>561</sup> COM No. 980 from 16 November 2022.

<sup>562</sup> Bulgarian Helsinki Committee, Кой настанява украинските бежанци в лагера за задържане на мигранти в Елхово?, published on 4 November 2022, available in Bulgarian at: <https://bit.ly/3YACdYW>.

<sup>563</sup> Article 44(13) LARB.

## 2. Conditions in detention facilities

### Indicators: Conditions in Detention Facilities

1. Do detainees have access to health care in practice?  Yes  No  
❖ If yes, is it limited to emergency health care?  Yes  No

### 2.1 Overall living conditions

In previous years, the detention centres were frequently overcrowded due to the increase of the number of asylum applications and to the delayed release for registration of detained asylum seekers. In mid-2023, pre-removal detention centres were once more close to reaching their maximum capacity, while the overall number of persons in detention gradually increase from 119 persons at the end of 2019, to 337 at the end of 2020, 728 at the end of 2021, 704 at the end of 2022 out of 16,767 detainees and 387 out of 18,554 detainees at the end of 2023 in total placed in both national detention centres throughout the year.<sup>564</sup>

Overall conditions with respect to means to maintain personal hygiene as well as general level of cleanliness remain unsatisfactory. In 2017, it was reported that the number of showers and toilets available was not sufficient to meet the needs of the detained population, especially when premises are overcrowded.<sup>565</sup> Detainees are allowed to clean the premises themselves. However, they are not provided with means or detergents, which they have to buy at their own expenses. Clothing is provided only if supplied by NGOs. Bed linen is not washed on a regular basis, but usually once a month.

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

The UN Subcommittee on Prevention of Torture 2021 report established<sup>566</sup> that: “Varied food is delivered daily on site, in compliance with the requirements of a healthy diet, including meat and dairy products with a reduced content of fat and salt. Fresh fruits and vegetables are delivered daily. The food is packaged in portions in single-use boxes, with the corresponding. In 2022 the Ombudsperson<sup>567</sup> reported that cutlery placed in isothermal containers, ensuring the preservation of the original temperature. If there is a medical prescription, diet food is provided.”<sup>568</sup>

Access to open-air spaces is provided twice a day for a period of one hour each, the spaces in all detention centres are of adequate size. Children in detention centres are using the common outdoor recreational facilities, but not many possibilities for physical exercise exist except the usual ball sports. Reading and leisure materials are provided if only supplied by donations. Computer / internet access is not available in any of the detention centres.<sup>569</sup>

<sup>564</sup> MOI statistics, December 2023, available in Bulgarian at: <https://bit.ly/48C57wC>.

<sup>565</sup> CERD, Concluding observations on the combined twentieth to twenty-second periodic reports to Bulgaria, CERD/C/BGR/CO/20-22, 31 May 2017, available at: <http://bit.ly/2wSzlpq>, para 21(e); Centre for Legal Aid – Voice in Bulgaria, Who Gets Detained?, September 2016, 25.

<sup>566</sup> UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Comments of Bulgaria on the recommendations and observations addressed to it in connection with the Subcommittee visit undertaken from 24 to 30 October 2021, published on 25 October 2022, available at: <https://bit.ly/3uMsZ2T>.

<sup>567</sup> Ombudsperson of the Republic of Bulgaria, Доклад на Националния превантивен механизъм за извършени проверки в структури на Дирекция „Миграция“ към Министерство на вътрешните работи и Държавна агенция за бежанците към Министерски съвет, published in September 2022, available at: <https://bit.ly/3leBgzJ>.

<sup>568</sup> Ibid, § 100-102.

<sup>569</sup> Bulgarian Helsinki Committee, based on organization’s regular observations from its weekly detention monitoring, implemented in Busmantsi detention center since 2006 and since 2011 in Lyubimets detention center.

Similar to **Busmantsi**, communal toilets in **Lyubimets** were reported to be locked and inaccessible at night. Toilets and showers for women and families with children, though freely accessible, have been found to be dilapidated, dirty and flooded. The collective showers for men, recently refurbished and located in the basement, were accessible in groups twice a day.

Staff interpreters are not required by law, nor provided in practice. Verbal abuse, both by staff and other detainees, is reported often by the detainees. In 2021, as in previous years, detainees have complained about the lack of tailored and translated information and uncertainty on their situation.<sup>570</sup> This has led to risks of re-traumatisation for persons with vulnerabilities.<sup>571</sup> In 2022, the Ombudsperson<sup>572</sup> reported that no staff translators were assigned in both national detention centers, but some of the employees working there were enrolled in language courses in order to have better communication with the residents, and if necessary the services of contracted translators were used. Similar findings were stated in UN CAT Subcommittee report from its 2021 visit.<sup>573</sup>

With regard to material conditions, the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) focusing on immigration detention facilities in Bulgaria, published in July 2019, stressed that some improvements were observed by the delegation at **Busmantsi** and **Lyubimets** centres since the CPT's previous visit in 2018, but this is mainly due to the fact that both establishments were operating well below their official capacities.<sup>574</sup> Moreover, the CPT did not find any improvement in the provision of healthcare to detained foreign nationals at the **Busmantsi** and **Lyubimets** detention centres, where the only positive changes were the 24/7 staff presence and the clean infirmary in Lyubimets (as opposed to the infirmary in Busmantsi). The medical equipment was found to be very scarce and often out of order, while the range of free-of-charge medication was also very limited, with expired medicine and restricted access to specialist care. The CPT was particularly concerned by the lack of access to psychiatric care, which is limited to emergencies. The CPT thus urged for measures to address these deficiencies.<sup>575</sup>

In 2021, the report of the UN Subcommittee on Prevention of Torture established<sup>576</sup> ongoing efforts to improve conditions in the detention centers, including trough activities funded under the emergency AMIF assistance mechanism. The report found that the bed bug problem was limited to a tolerable level, all existing problems related to the heating systems solved and a so-called "preliminary filter" applied with respect to every new detainee, including the opportunity to take a shower, provision of clean and disinfected clothes, with personal clothes washed at high temperature and a possibility to freeze the personal luggage of the newcomers for 24 hours for the purpose of sanitizing.

However, in 2022 the Ombudsperson<sup>577</sup> reported that: "In the course of the inspection, it was established that from 2020 health inspectors have not visited the centers to check and control the sanitary conditions

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<sup>570</sup> CPT, 2019 Bulgaria report, July 2019, available at: <https://rm.coe.int/1680966286>; Centre for Legal Aid – Voice in Bulgaria, Who Gets Detained?, September 2016, 25.

<sup>571</sup> CPT, 2019 Bulgaria report, July 2019, available at: <https://rm.coe.int/1680966286>; Cordelia Foundation et al., From Torture to Detention, January 2016, 19.

<sup>572</sup> Ombudsperson of the Republic of Bulgaria, Доклад на Националния превантивен механизъм за извършени проверки в структури на Дирекция „Миграция“ към Министерство на вътрешните работи и Държавна агенция за бежанците към Министерски съвет, published in September 2022, available at: <https://bit.ly/3leBgzJ>.

<sup>573</sup> UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Comments of Bulgaria on the recommendations and observations addressed to it in connection with the Subcommittee visit undertaken from 24 to 30 October 2021, published on 25 October 2022, available at: <https://bit.ly/3uMsZ2T>, § 107.

<sup>574</sup> CPT, 2019 Bulgaria report, July 2019, available at: <https://rm.coe.int/1680966286>.

<sup>575</sup> CPT, 'Report to the Bulgarian Government on the visit to Bulgaria carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 17 December 2018, Executive Summary, available at: <https://bit.ly/2uFmEXu>.

<sup>576</sup> UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Comments of Bulgaria on the recommendations and observations addressed to it in connection with the Subcommittee visit undertaken from 24 to 30 October 2021, published on 25 October 2022, available at: <https://bit.ly/3uMsZ2T>.

<sup>577</sup> Ombudsperson of the Republic of Bulgaria, Доклад на Националния превантивен механизъм за извършени проверки в структури на Дирекция „Миграция“ към Министерство на вътрешните работи и

despite a previous Ombudsperson's recommendations. Presently, detainees with chronic skin problems, such as scabies and pyoderma were established once again, along bed bug bites, and travel injuries with secondary infections." In addition, the report noted the "unsuccessful struggle of the detention administrations" with pests, such as woodworms, cockroaches and fleas.

In 2022, the Ombudsperson<sup>578</sup> reported that many of the detainees in Busmantsi detention centers expressed complaints regarding the food, and others that they are asked to pay for the medicines they need with their own funds.

## 2.2 Vulnerable groups in detention

There are no mechanisms established to identify vulnerable persons in detention centres. Although the law<sup>579</sup> provides that authorities should conduct an assessment whether an individual belongs to a vulnerable group before issuing detention orders, such as detention, such assessment is not carried out in practice.<sup>580</sup> The lack of mechanisms for identification and support of vulnerable asylum seekers was also indicated by the European Commission a letter of formal notice from 8 November 2018.<sup>581</sup> According to the last research on the topic made by the Assistance Centre for Torture Survivors (ACET), mental health professionals in Busmantsi have observed that persons who are socially inhibited or depressed are not being identified by the police as persons in need of assistance as far as they do not cause problems.<sup>582</sup> If identified, there are no provisions in the law for vulnerable persons' release on that account, unless before the court.

In its July 2019 report, the CPT found insufficient access to health care and communication problems with medical staff due to the language barrier. The report highlighted the lack of access to psychiatric care, which is limited to emergencies but which also results from the lack of interpretation and the lack of health insurance of the concerned persons.<sup>583</sup> The CPT underlined that communication problems between detained foreign nationals and psychologists severely limited the possibilities to provide any psychological assistance.<sup>584</sup> In 2021, the report of the UN Subcommittee on Prevention of Torture established<sup>585</sup> that since 2019, the MOI Medical Institute requests information on regular basis about the number of seriously sick migrants, including rare diseases as malaria, leishmaniasis, tuberculosis and other, the number and health status of the children up to 18 years and the number and status of pregnant women. The report found that the MOI Medical Institute have contracts with hospitals in the country for providing emergency care and basic treatment of detainees; therefore, it is considered that the medical assistance is provided in a timely manner without any delay with the cost of the medical treatment paid within a project, funded by the European Union.

Article 45e(3) LAR envisages that vulnerable groups shall be provided with appropriate assistance depending on their special situation. Separate wings are provided for families, single women and

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Държавна агенция за бежанците към Министерски съвет, published in September 2022, available at: <https://bit.ly/3leBgzJ>.

<sup>578</sup> Ombudsperson of the Republic of Bulgaria, Доклад на Националния превантивен механизъм за извършени проверки в структури на Дирекция „Миграция“ към Министерство на вътрешните работи и Държавна агенция за бежанците към Министерски съвет, published in September 2022, available at: <https://bit.ly/3leBgzJ>.

<sup>579</sup> Article 44(2) LARB.

<sup>580</sup> Migrant Life, Позиция на Център за правна помощ – Глас в България и Фондация за достъп до права ФАР относно смъртен случай в СДВНЧ – София, в. „Бусманци“, published on 31 June 2021, available in Bulgarian at: <https://bit.ly/42WknTS>.

<sup>581</sup> European Commission, 'November infringements package: key decisions', MEMO/18/6247, 8 November 2018, available at: <https://bit.ly/2RETZfR>.

<sup>582</sup> Cordelia Foundation et al., From Torture to Detention, January 2016, 18.

<sup>583</sup> CPT, 2019 Bulgaria report, July 2018, Executive summary, available at: <https://rm.coe.int/1680966287>.

<sup>584</sup> Ibid. para 35

<sup>585</sup> UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Comments of Bulgaria on the recommendations and observations addressed to it in connection with the Subcommittee visit undertaken from 24 to 30 October 2021, published on 25 October 2022, available at: <https://bit.ly/3uMsZ2T>.

unaccompanied children, in line with the law.<sup>586</sup> Single men are separated from single women. Other vulnerable persons are detained together with all other detainees. The LAR provides for access to education and leisure activities for children in closed asylum facilities,<sup>587</sup> but there is no relevant practice yet as children have not been placed in closed reception centres in 2023.

### 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 |

Lawyers as well as representatives of NGOs and UNHCR have access under the law and in practice to the detention centres during visiting hours but also *ad hoc* without prior permission when necessary or requested by asylum seekers.<sup>588</sup> Some NGOs have signed official agreements with the Migration Directorate and do visit detention centres for monitoring and assistance once a week.<sup>589</sup> In practice the Bulgarian Helsinki Committee is the only NGO which visits both detention centres on a weekly basis without exclusions. Other NGOs do random visits to Busmantsi detention centre, but none except BHC visits regularly the centre in Lyubimets. Media and politicians also have access to detention centres, which is authorised upon written request.

NGOs' and legal aid providers' right to access to asylum seekers is explicitly regulated and expanded to also include border-crossing points and transit zones.<sup>590</sup> However, the Bulgarian Helsinki Committee was the only NGO in 2020 and 2021 visiting border and detention centres regularly as well as the SAR closed facility as all the rest refrained from visitations due to COVID-19. In 2023, other NGOs such as Centre for Legal Aid and FAR re-established their visits to Busmantsi detention centre near Sofia.<sup>591</sup>

## D. Procedural safeguards

### 1. Judicial review of the detention order

#### Indicators: Judicial Review of Detention

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

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

Detention is also not subject to a prompt judicial review of the initial decision to detain and to a regular review thereafter. The law no longer provides for automatic judicial review of detention orders, following

<sup>586</sup> Article 45f(4) LAR.

<sup>587</sup> Article 45f(2) LAR.

<sup>588</sup> This has been a systematic concern. See JRS Europe, *Becoming Vulnerable in Detention* (Detention of Vulnerable Asylum Seekers - DEVAS Project), 2010, National Chapter on Bulgaria, 147 - points. 3.1 and 3.2.

<sup>589</sup> Bulgarian Helsinki Committee, Bulgarian Red Cross, Nadya Centre, Centre for Legal Aid-Voice in Bulgaria, Foundation for Access to Rights, etc.

<sup>590</sup> Article 23(3) LAR.

<sup>591</sup> Center for Legal Aid-Voice in Bulgaria, available at: <https://bit.ly/3ntNoW9>; Foundation for Access to Rights, available at: <https://www.farbg.eu/>.



the abolition of judicial review upon prolongation of detention.<sup>592</sup> This reform took place against the backdrop of the impossibility to access legal aid for detainees wishing to challenge detention orders.

As a result, judicial review may only be triggered at the initiative of the applicant. Detention orders can be appealed within 14 calendar days of the actual detention before the Administrative Court in the area of the headquarters of the authority which has issued the contested administrative act.<sup>593</sup> The appeal does not suspend the execution of the detention order.<sup>594</sup> The submission of the appeal is additionally hindered by the fact that the detention orders are not interpreted. The short deadline for lodging an appeal has proved to be highly disproportionate and usually not complied with by detained individuals, including asylum seekers.<sup>595</sup>

## 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

Detained applicants have the right to legal aid.<sup>596</sup> However, legal aid has not been provided to detainees, including asylum seekers in detention centres, as of the end of 2019 due to National Legal Aid Bureau's budget constraints, despite a pilot project financed by AMIF which provided legal aid to vulnerable asylum seekers for the first time in Bulgaria (see [Regular Procedure: Legal Assistance](#)).

In its 2019 report, the CPT highlighted that legal assistance is left entirely to various NGOs whose representatives visit both detention centres and assist detained individuals *pro bono* in their immigration and asylum procedures, including for access to courts. In this context, the CPT reiterated its recommendation that the system of legal aid run by the National Legal Aid Bureau should be extended to detained foreign nationals in all phases of the detention procedure; whereas for destitute foreign nationals these services should be provided free of charge.<sup>597</sup> However, as of the end of 2023, no actions in this respect had been undertaken by the NLAB, mainly due to overall restrictions related to state budgeted legal aid.

Whilst legal aid is provided for appeals under the state budget, access to the courts to lodge such an appeal turns heavily on the provision of legal assistance by NGO providers in the absence of legal aid outside court procedures. Consequently, effective access to legal assistance during the procedure for these applicants is completely negated.

There is also a lack of state-funded legal assistance for children detained in closed facilities to challenge the detention order, despite the general child protection legislation which envisaging the right of all children to such an assistance.<sup>598</sup> As the LARB does not envisage the appointment of guardians to unaccompanied or separated children, and since according to Bulgarian law children can only undertake legal actions through or with the consent of their guardians, they cannot challenge their detention order unless provided tailored legal support to submit an appeal without it.

<sup>592</sup> Article 46a(3)-(4) LARB, repealed by Law amending the LARB, State Gazette No 97, 5 December 2017.

<sup>593</sup> Article 46 LARB.

<sup>594</sup> Article 46a LARB.

<sup>595</sup> Bulgarian Helsinki Committee, Detention Mapping report Bulgaria, October 2016, para 23.

<sup>596</sup> Article 22(9) Law on Legal Aid.

<sup>597</sup> CPT, 2019 Bulgaria report, July 2019, para 41.

<sup>598</sup> Article 15(8) Law on Child Protection.



## E. Differential treatment of specific nationalities in detention

In 2023, no cases of discrimination against specific nationalities were reported concerning detention. In the past, when this malpractice was more widely applied, asylum seekers who had their registrations in the pre-removal facilities ranged from all nationalities without exclusion. The reasons provided previously by the national asylum agency SAR to implement registrations in pre-removal centres was the inability to fulfil otherwise the obligation to meet the short 6-working days deadline under the national and community law,<sup>599</sup> if the release from detention and the transfer of detained applicants to open asylum centres was delayed by the immigration police or national security services. In 2023, as in 2022, the SAR almost completely abandoned this malpractice,<sup>600</sup> with only 1 determination conducted in a police pre-removal detention centre.

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<sup>599</sup> Article 58(4) LAR, Article 6(1) APD.

<sup>600</sup> Bulgarian Helsinki Committee, 2023 Annual Refugee Status Determination Monitoring Report, 31 January 2024, available at: <https://bit.ly/3SX3ST7>.

## Content of International Protection

Recognised **refugees** are explicitly entitled to equal treatment in rights to Bulgarian nationals with just a few exclusions, such as: participation in general and municipal elections, in national and regional referenda; participation in the establishment of political parties and membership of such parties; holding positions for which Bulgarian citizenship is required by law; serving in the army and, other restrictions explicitly provided for by law.<sup>601</sup> Individuals granted **subsidiary protection** (“humanitarian status”) have the same rights as third-country nationals with permanent residence.<sup>602</sup>

### 2023 as the tenth “zero integration year”

Since 2013 and up to 2023, Bulgaria followed a “zero integration policy”. The first National Programme for the Integration of Refugees (NPIR) was adopted and applied until the end of 2013, but since then all beneficiaries of international protection have been left without any integration support. This resulted in extremely limited access or ability by these individuals to enjoy even the most basic social, labour and health rights, while their willingness to permanently settle in Bulgaria was reported to have decreased to a minimum.<sup>603</sup> In 2023, 46% of asylum applicants abandoned their status determination procedures in Bulgaria,<sup>604</sup> which were subsequently terminated. In comparison, this percentage was 45% in 2022, 26% in 2021, 39% in 2020, 83% in 2019, and 79% in 2018.

The necessary integration legal framework, the Integration Decree, was finally adopted in 2016,<sup>605</sup> but it remained unused throughout 2016 and 2017, as none of the 265 local municipalities had applied for funding to launch an integration process with any of the individuals granted international protection in Bulgaria. On 31 March 2017, on the last day of its mandate, the caretaker Cabinet fulfilled the election promise of the newly elected Bulgarian President and repealed the Decree without any reasonable justification.<sup>606</sup> A new Decree was adopted on 19 July 2017, which in its essence repeated the provisions of its predecessor.<sup>607</sup> Since its adoption, only 125 status holders benefitted from integration support,<sup>608</sup> however all of them were relocated with integration funding provided under the EU relocation scheme, not by the general national integration mechanism. Following relentless advocacy efforts by UNHCR, the Refugee Council and the Red Cross with the support of the SAR, in 2021 and 2022 the **Vitosha** and **Oborishte** Districts (Sofia municipality) provided this integration support, although in 2023 the only provider was **Vitosha** District. The support itself consisted of rent expenses covered by the municipalities and the fee for the Bulgarian language courses, covered by the Red Cross. In 2023, just 22 individuals benefitted from these integration agreements.<sup>609</sup> In 2021 Oborishte District received funding from the Norwegian financial mechanism to refurbish municipal flats which later to be used as transitional accommodation of unaccompanied children granted protection,<sup>610</sup> and who traditionally are the most difficult age group to find accommodation in the regular child care facilities. No other integration measures or activities were planned, funded or available to individuals granted international protection – refugee or humanitarian status. The program for the integration of displaced persons from Ukraine under temporary

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<sup>601</sup> Article 32(1) LAR.

<sup>602</sup> Article 32(2) LAR.

<sup>603</sup> CERD, Concluding observations on the combined twentieth to twenty-second periodic reports to Bulgaria, CERD/C/BGR/CO/20-22, 31 May 2017, available at: <http://bit.ly/2wSzlpq>, para 21(f); Bulgarian Council on Refugees and Migrants, Annual Monitoring Report on Integration of Beneficiaries of international protection in Bulgaria, Sofia, December 2014.

<sup>604</sup> Ibid.

<sup>605</sup> Ordinance No 208 of 12 August 2016 on rules and conditions to conclude, implement and cease integration agreements with foreigners granted asylum or international protection (hereafter “Integration Decree”), State Gazette No 65/19.08.2016, available in Bulgarian at: <http://bit.ly/2jJwnEi>.

<sup>606</sup> Liberties.eu, ‘Bulgarian caretaker government repealed regulation on refugee integration’, 13 April 2017, available at: <http://bit.ly/2BLqhsS>.

<sup>607</sup> Ordinance No 144 of 19 July 2017 State Gazette No 60/25.08.2017, available in Bulgarian at: <http://bit.ly/2Ec2uHL>.

<sup>608</sup> SAR statistics, 2021: 83 beneficiaries, 2022: 20 beneficiaries and 2023: 22 beneficiaries

<sup>609</sup> Statistics provided by the Bulgarian Council for Refugees and Migrants on 8 January 2024.

<sup>610</sup> Teleconference on 14 January 2022 with Nadezhda Bobcheva, Deputy Mayor, Oborishte District, Sofia Municipality.

protection drafted by the regular government was not adopted as this government was ousted by a vote of no confidence on 22 June 2022. Therefore, Bulgaria marked the ninth consecutive year of the national “zero integration” policy.

In his report issued in April 2018, the Council of Europe Special Representative on migration and refugees also underlined that, while the decentralization of integration responsibilities from the government to municipalities would in principle be a sensible step forward, the fact that the discharge of such responsibilities was not mandatory but left to the discretion of municipalities raised questions about the effectiveness of integration measures in Bulgaria. This was illustrated by fact that no municipality has volunteered to conclude Integration Agreements, although funds would be allocated to them for every refugee participating in such agreements.<sup>611</sup>

Courts and human rights monitoring bodies have taken into account the treatment of beneficiaries of international protection in Bulgaria when assessing the legality of readmissions. In a case of 15 December 2016, the United Nations Human Rights Committee ruled against the return of a Syrian family from Denmark to Bulgaria, on the ground that their residence permit would not protect them against obstacles to accessing healthcare, or risks of destitution and hardship.<sup>612</sup> Similar arguments are found in the Human Rights Committee interim measures granted on 1 February 2017 to prevent the transfer of an Afghan family with three young children from Austria to Bulgaria.<sup>613</sup> Notwithstanding the family was returned to Bulgaria by the Austrian authorities shortly after it.

National courts in some European countries have also halted transfers of beneficiaries of protection to Bulgaria on account of substandard conditions.<sup>614</sup> For example, the German Administrative Court of Köln, for example, found that risks of inhuman and degrading treatment existed for both for asylum seekers and BIPs in the country, through a decision issued on 15 November 2022.<sup>615</sup> In the case of BIPs, the Court concluded that there was a lack of almost any state support to ensure minimum subsistence and fulfilment of basic needs, as well as widespread racism and intolerance, at the very least ignored by the police.

Moreover, the Committee on the Rights of the Child (CRC) issued its decision in the case of *MKAH v Switzerland* on 6 October 2021, which was brought by the Centre Suisse pour la défense des droits des migrants (CDSM) with the intervention from the AIRE Centre, ECRE and the Dutch Council for Refugees.<sup>616</sup> The CRC found that, although the applicants were granted subsidiary protection status in Bulgaria, they had to live for eight months in a camp with inadequate material conditions and no access to education nor the labour market. This forced them to leave Bulgaria and seek the support of relatives. The CRC thus recommended Switzerland to: reconsider the decision to return MKAH to Bulgaria; urgently re-examine the applicant and his mother’s asylum application ensuring the best interests of the child are a primary consideration, the applicant is duly heard and taking into account the particular circumstances of the case; take in to account that MKAH may remain stateless in Bulgaria, ensure MKAH receives qualified psychological assistance to facilitate his rehabilitation and to take all necessary measures to ensure violations don’t recur.<sup>617</sup>

The National Strategy on Migration was adopted in Bulgaria for the period 2021-2025, including a chapter on integration, which mentions that policies are implemented with AMIF funding but no specific areas for improvement are listed. As an initiative from non-state actors, the Multi-Kulti Collective, the Bulgarian Council on Refugees and Migrants and UNHCR Bulgaria started to develop the country’s first Refugee

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<sup>611</sup> Council of Europe, Report of the fact-finding mission by Ambassador Tomáš Boček, Special Representative of the Secretary General on migration and refugees to Bulgaria, SG/Inf(2018)18, 19 April 2018, available at: <https://bit.ly/2HtHSgv>, 17.

<sup>612</sup> Human Rights Committee, *R.A.A. v. Denmark*, Communication No 2608/2015, 15 December 2016.

<sup>613</sup> Human Rights Committee, Communication No 2942/2017.

<sup>614</sup> See AIDA Country Report on Bulgaria – 2021 Update.

<sup>615</sup> (Germany) Administrative Court of Köln, 20 K 3733/22.A, 15 November 2022, available at: <https://bit.ly/3zdPDQp>.

<sup>616</sup> UN Committee on the Rights of the Child (CRC), *A.M. (au nom de M.K.A.H.) c. Suisse*, No 95/2019, 6 October 2021, available at: <https://bit.ly/3rv6iur>.

<sup>617</sup> See also : EDAL summary, CRC: Declares Switzerland did not consider the best interests of the child in a removal decision to Bulgaria, 6 October 2021, available at: <https://bit.ly/3GguTIQ>.

Integration Manifesto, which is planned to be used as an advocacy document to shape the integration of beneficiaries of international protection at national and local levels.<sup>618</sup>

## A. Status and residence

### 1. Residence permit

#### Indicators: Residence Permit

- |  |            |
|--|------------|
| 1. What is the duration of residence permits granted to beneficiaries of protection? |            |
| ❖ Refugee status   | Indefinite |
| ❖ Subsidiary protection  | Indefinite |

Both refugee and subsidiary protection (“humanitarian”) statuses granted are indefinitely and are not limited in duration, but differ in the duration of validity of identity documents issued to holders. The duration of validity is 5 years for **refugee status** holders,<sup>619</sup> and 3 years for **subsidiary protection** holders.<sup>620</sup> The different validity of the documents derives from the different scope of rights attributed to each of them. However, in 2020 an amendment to the law introduced a new illegal ground to cease or withdraw international protection (see [Cessation and review of protection status](#)).<sup>621</sup>

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

During the period 1 January 2014 to 31 December 2023, the Ministry of Interior issued 10,136 refugee identity cards and 19,645 humanitarian identity cards.<sup>622</sup>

### 2. Civil registration

No identity documents can be issued unless the individual is registered in the civil national database (ЕЦПАОН) except for certain categories, including asylum seekers.<sup>623</sup> Identification on the basis of a valid document is a pre-condition for exercising almost any personal right envisaged, especially relating to housing, social support or assistance, health insurance and care, access to employment etc.

The registration in ЕЦПАОН is mandatory to the beneficiaries of international protection.<sup>624</sup> Based on it, they are given a unique identification number (единен граждански номер, ЕГН). Only after registration can beneficiaries apply for the issuance of identity documents.

To be registered in the national database, any individual has to indicate, *inter alia*, a domicile.<sup>625</sup> However, newly recognised beneficiaries who have lived in reception centres are no longer permitted by the SAR to state the address of the respective reception centre as domicile. Therefore, since the end of 2016 beneficiaries cannot provide a valid address or domicile, as they cannot rent a place of residence without a valid identity document. This legal ‘catch 22’ has led to continuous malpractice, including false renting and address registrations for the sake of enabling beneficiaries to obtain identity documents, as the valid identity document is a pre-condition to exercising their rights.

#### 2.1 Child birth registration

<sup>618</sup> EUAA, Annual Asylum Report (2022), page 230, available at: <https://bit.ly/3YD0NYU>.

<sup>619</sup> Article 59(1)(2) Law on Bulgarian Identity Documents.

<sup>620</sup> Article 59(1)(3) Law on Bulgarian Identity Documents.

<sup>621</sup> Article 42(5) LAR, enforced on 20 October 2020.

<sup>622</sup> MOI, Identity Documents Department, reg. No.УПИ 285300-323 from 2 January 2024.

<sup>623</sup> Article 29(1)(7) LAR.

<sup>624</sup> Articles 100-115 Law on Civil Registration.

<sup>625</sup> Article 92(2) Law on Civil Registration.

The same rules as for nationals apply to the civil registration of birth of a descendent of an asylum seeker or beneficiary of international protection. Residency requirements do not apply with respect to birth registration. The registration of a new-born child is made within 7 days following the day of the delivery.<sup>626</sup>

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

The registration of birth is free of charge.

## 2.2 Marriage registration

Marriages in Bulgaria are subject to a residency requirement.<sup>627</sup> Therefore at least one of the spouses must be either a Bulgarian citizen or a long-term or temporary resident of Bulgaria.

Foreigners need to prove that they do not have another marriage registered in their country of origin. Only beneficiaries of international protection are exempted from this requirement, which is substituted by a civil status certificate issued by the SAR based on prior notarised statement by the beneficiary. This means that marriages cannot be registered by asylum seekers due to the lack of identity documents necessary to make notarised statements.<sup>628</sup>

According to general legislation relating to family arrangements, only civil marriages are legally valid in Bulgaria.<sup>629</sup> The religious ceremony is optional and can be performed only after a civil ceremony has taken place. The religious ceremony itself has no legal effect.

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

## 3. Long-term residence

Long-term residence is not applicable for refugees and subsidiary protection holders at all, as they get their identity cards issued automatically by the police on the basis of the SAR's decision granting status. Therefore, refugees and subsidiary protection holders are not issued additional residence permits at all. Recognised refugees are *ex lege* considered equal in rights with Bulgarian nationals,<sup>630</sup> subject to a few exceptions,<sup>631</sup> whereas individuals granted subsidiary protection enjoy the same rights as the permanent residents.

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<sup>626</sup> Article 42(1) Law on Civil Registration.

<sup>627</sup> Article 76(2) Code on Private International Law.

<sup>628</sup> Article 40(3) LAR, since the asylum registration card does not certify the identity of the applicant. This follows Article 6(3) recast Reception Conditions Directive.

<sup>629</sup> Article 4 Family Code.

<sup>630</sup> Article 32 LAR.

<sup>631</sup> To vote and be elected in local and/or general elections, to serve in the military or as a government official, if citizenship is required to occupy the position of the latter, as well as other exceptions if such have been explicitly promulgated.

Refugees and subsidiary protection holders can apply and receive long-term residence in 5 years after their recognition.<sup>632</sup> However, in practice, this opportunity is useful only for subsidiary protection holders to whom the long-term residence card guarantees visa-free travel within the EU.

#### 4. Naturalisation

Indicators: Naturalisation	
1. What is the waiting period for obtaining citizenship?	
❖ Refugee status	3 years
❖ Subsidiary protection	5 years
2. Number of citizenship grants to beneficiaries in 2023:	136

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

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

The application is examined within 18 months.<sup>633</sup> Citizenship is granted by the president, who issues a decree following a proposal in this respect of the Minister of Justice, the latter based on a positive opinion by the Citizenship Committee at the Ministry of Justice.

From 2014 to 2023, Bulgaria granted citizenship to 621 beneficiaries of international protection, namely 228 refugee status holders and 393 subsidiary protection holders.<sup>634</sup>

#### 5. Cessation and review of protection status

Indicators: Cessation	
1. Is a personal interview of the asylum seeker in most cases conducted in practice in the cessation procedure?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2. Does the law provide for an appeal against the first instance decision in the cessation procedure?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
3. Do beneficiaries have access to free legal assistance at first instance in practice?	<input type="checkbox"/> Yes <input type="checkbox"/> With difficulty <input checked="" type="checkbox"/> No

According to Article 17(1) LAR, international protection may be ceased if the protection holder:

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

<sup>632</sup> Article 24r(4) LARB.

<sup>633</sup> Article 35(1)(1) Law on Bulgarian Citizenship.

<sup>634</sup> Ministry of Justice, reg. No.95-00-185 from 2 January 2024.



Following the decision of the SAR's Chairperson to initiate a cessation procedure, a caseworker may suggest to cease protection based on available data indicating that one of the above legal grounds applies. The beneficiary of protection is to be notified by a letter with recorded delivery that such a procedure has been initiated, the reasons thereof and the date and place for a mandatory interview in which he or she will have the opportunity to raise any objections against the cessation of the protection status. As of the date of notification, the SAR has 3 months to issue a decision. Such decision can also be taken in the absence of opinion or objections by the protection status holder if they have not been made on his own failure. When the SAR has not established the grounds for cessation, the initiated procedure must be discontinued.

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

Although there is no systematic review of protection status in practice, cessation procedures are initiated by the SAR when the MOI provides information indicating that status holders have either returned to their country of origin, obtained residence or citizenship in a third country, or have not renewed their Bulgarian identification documents for a period exceeding 3 years.

In 2023, a total of 166 cessations were made. The cessations affected individuals from the following countries of origin: <sup>635</sup>

Cessation of refugee status: 2023	
Country of origin	Number
Syria	51

Cessation of subsidiary protection: 2023	
Country of origin	Number
Syria	100
Ukraine	14
Morocco	1

In 2020, an amendment to the law introduced an additional clause, which allows cessation or revocation of international protection where the status holders fail to renew their expired Bulgarian identity documents, or to replace them if they have been lost, stolen or destroyed, in a period of 30 days.<sup>636</sup> Despite being contrary to 1951 Refugee Convention, the amendment was aimed at legalising a malpractice applied by the SAR since 2018. This broadened interpretation of the recast Qualification Directive introduces *de facto* an additional cessation ground in violation of national and EU legislation. The undue cessation of international protection has affected 4,264 status holders in total, respectively – 770 persons in 2018; 2,608 persons in 2019; 886 persons in 2020, 105 in 2021, and 41 in 2022 and 0 in 2023.<sup>637</sup>

The introduction of said additional clause led national courts in some European countries to halt transfers of beneficiaries of protection to Bulgaria. In May 2022, the German Administrative Court of Düsseldorf refused to uphold a transfer of a BIP whose residency card had expired in 2019, considering that, in light of the new law and practices in terms of cessation and withdrawal, it was sufficiently likely that their

<sup>635</sup> SAR, reg. No. №ПД05-31 from 15 January 2024.

<sup>636</sup> Article 42(5) LAR, enforced on 20 October 2020.

<sup>637</sup> SAR, reg. No. №ПД05-31 from 15 January 2024.

protection status had been since withdrawn and that they would not be able to have it reinstated without presenting an entirely new application.<sup>638</sup>

In the Netherlands, the District Court of the Hague took several decisions concerning two groups of families potentially affected by the 2020 Bulgarian law on cessation of protection. In the first decisions from July 2022, the Court stated that this new ground was illegal under international law and that the authorities should ascertain Bulgarian practice on the matter and secure procedural safeguards, notably with regard to non-refoulement. The authorities however refused to do so, thus the Court contacted Bulgarian authorities directly. Once it had received the answers from Bulgarian authorities, in its final decisions the court concluded that there was a significant likelihood the families' statuses would be ceased or withdrawn upon them requesting new identity documents, without their current need for protection being assessed; the families would have to file subsequent applications, which would be subject to an admissibility procedure. This would thus entail risks of refoulement.<sup>639</sup>

## 6. Withdrawal of protection status

Refugee status ought to be withdrawn where:<sup>640</sup>

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

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

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

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

There are serious reasons to assume that he or she constitutes a serious danger to the host society or to the national security.

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<sup>638</sup> (Germany) Administrative Court of Düsseldorf, 12 L 1073/22.A, 25 May 2022.

<sup>639</sup> District Court of the Hague, NL22.2064 en NL22.2066 T, 8 July 2022, available at: <https://bit.ly/42POziX>; District Court of the Hague, NL22.2064 en NL22.2066, 26 October 2022, available at: <https://bit.ly/3nmnxiz>.

<sup>640</sup> Article 12(1) LAR.

The procedure for withdrawing status in the law is the same as for [Cessation](#) of status. In 2023, a total of 20 withdrawals were made. The withdrawals affected individuals from the following countries of origin:<sup>641</sup>

Withdrawal of refugee status: 2023	
Country of origin	Number
N/A	0

Withdrawal of subsidiary protection: 2023	
Country of origin	Number
Syria	15
Iraq	4
India	1

## B. Family reunification

### 1. Criteria and conditions

#### Indicators: Family Reunification

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

The law does not request any waiting period before a beneficiary can apply for a family reunification, nor sets a maximum time limit for submitting a family reunification application.<sup>642</sup> Both recognised **refugees** and **subsidiary protection** holders are entitled to ask to be reunited with their families in Bulgaria without any distinction in the scope of their rights or procedures applicable. The family reunification permit is issued by the SAR.

#### 1.1 Eligible family members

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

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

<sup>641</sup> SAR, reg. No. №ПД05-31 from 15 January 2024.

<sup>642</sup> Article 34(1) LAR.

Unaccompanied children who have been granted international protection also have the right to reunite with their parents, but also with another adult member of their family or with a person who is responsible for them by law or custom when the parents are deceased or missing.<sup>643</sup>

Family reunification can be refused on the basis of an exclusion clause or with respect to a spouse in cases of polygamy when the status holder already has a spouse in Bulgaria.<sup>644</sup>

If the status holder is unable to provide official documents or papers certifying marriage or kinship, the latter can be established by a declaration on his behalf.<sup>645</sup>

## 1.2 Issuance of documents for family reunification

The family members issued a family reunification permit can obtain visas by the diplomatic or consular representations. The SAR has an obligation to facilitate the reunification of separated families by assisting the issuance of travel documents, visas as well as for their admission into the territory of the country.<sup>646</sup> However, in practice, Bulgarian consular departments have stopped issuing travel documents to minor children who have not been issued national documents after their birth, under the pretext of avoiding eventual child smuggling or trafficking.

Family members without national identity documents however experienced serious difficulties and delays as their right to be issued Bulgarian laissez-passers to replace the lacking passports was not respected uniformly by all consulate services and some needed further intervention to, and by the Consulate Directorate of the Ministry of Foreign Affairs (MFA). The MFA itself however continued to request in all of these cases the usual supporting documents, e.g. documents proving sufficient financial means or secured housing, which should have not been the case in visa applications based on family reunification procedure due to the previous vetting and special exclusions with regard to these requirements, envisaged and implemented by the asylum agency SAR when issuing the family reunification permit.<sup>647</sup>

Since 2022, beneficiaries of international protection, mainly from Syria began reporting that their family members experienced serious problems to even approach the Bulgarian consulate services in Istanbul, Ankara and Bursa in Türkiye in order to apply for reunification visas or laissez-passers. A joint NGO communication to MFA raised concerns<sup>648</sup> and requested transparent rules of work to be adopted by these services, however no answer or measures were undertaken in this respect until the end of 2023.

In 2023, a total of 1,165 family reunification applications were submitted to the SAR, out of which 1,116 were approved and 49 rejected.<sup>649</sup>

## 2. Status and rights of family members

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

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<sup>643</sup> Article 34(4) LAR.

<sup>644</sup> Article 34(3) LAR.

<sup>645</sup> Article 34(5) LAR.

<sup>646</sup> Article 34(7)-(8) LAR.

<sup>647</sup> Ministry of Foreign Affairs, Consulate Department, Exh. N KOB-25-00-1 from 25 August 2021.

<sup>648</sup> Bulgarian Helsinki Committee, Foundation Access to Rights, communication to MFA from 28 April 2023.

<sup>649</sup> SAR, reg. No. №РД05-31 from 15 January 2024.

## C. Movement and mobility

### 1. Freedom of movement

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

Beneficiaries are not dispersed according to a distribution scheme. If applied, the integration scheme foreseen under the 2017 Integration Decree would disperse those who opt to be enrolled according to the area of the municipality which provides the integration support and which was chosen by the beneficiary. The 2017 Integration Decree, however, has not been put into operation so far, although for the first time since its adoption **Vitosha** and **Oborishte** Districts (Sofia municipality) starting from 2021 provided only 125 status holders integration support,<sup>650</sup> all with integration funding provided under the EU relocation scheme, not by the general national integration mechanism.<sup>651</sup>

Based on the two types of international protection in Bulgaria, refugee status and subsidiary protection (“humanitarian status”), the travel documents issued are also two types: (a) travel document for refugees and (b) travel document of foreigners granted humanitarian status.<sup>652</sup>

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

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

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

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

During the period between 1 January 2014 and 31 December 2023, the Ministry of Interior issued 12,424 refugee travel documents and 19,399 travel documents for subsidiary protection holders.<sup>653</sup>

### 2. Travel documents

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<sup>650</sup> SAR statistics, 2021: 83 beneficiaries, 2022& 20 beneficiaries and 2023: 22 beneficiaries

<sup>651</sup> Statistics provided by the Bulgarian Council for Refugees and Migrants on 8 January 2024.

<sup>652</sup> Article 59(1)(5) and (7) Law on Bulgarian Identity Documents.

<sup>653</sup> MOI, Identity Documents Department, reg. No.YPII 285300-323 from 2 January 2024.

<sup>654</sup> Article 59(1)(5) and (7) Law on Bulgarian Identity Documents.

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## D. Housing

### Indicators: Housing

- |   |          |
|---|----------|
| 1. For how long are beneficiaries entitled to stay in reception centres?        | 0 months |
| 2. Number of beneficiaries staying in reception centres as of 31 December 2023: | 2,736    |

At the end of 2020, the law was amended to abolish the provision which foresaw financial support for housing for a period of up to 6 months as from the date of entry into force of the decision for granting international protection.<sup>655</sup> In practice, however, some more vulnerable beneficiaries of international protection are still allowed to remain in the reception centres for couple of months due to lack of any integration support (see [General Remark on Integration](#)), unless in situations of mass influx or increased new arrivals. At the end of 2023, the number of beneficiaries staying in reception centres was 2,736.<sup>656</sup>

Beneficiaries face acute difficulties in securing accommodation due to the legal ‘catch 22’ surrounding [Civil Registration](#). Holding valid identification documents is necessary in order to enter into a rental contract, yet identification documents cannot be issued if the person does not state a domicile. The situation has been exacerbated since the SAR has prohibited beneficiaries from stating the address of the reception centre where they resided during the asylum procedure as domicile for that purpose. It led to corruption practices of fictitious rental contacts and domiciles stated by the beneficiaries of international protection to be able to obtain their status holders’ identification documents.

## E. Employment and education

### 1. Access to the labour market

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

Professional qualifications obtained in the country of origin are not recognised in general. The law does not provide for a solution with respect to refugees and subsidiary protection beneficiaries except the

<sup>655</sup> Para 4 of Article 32 LAR, State Gazette, N89 from 16 October 2020.

<sup>656</sup> SAR, reg. No. №РД05-31 from 15 January 2024.



general rules and conditions for legalization of diplomas. On its own, the latter constitutes a complicated procedure which in most of the cases requires re-taking of exams and educational levels.

In 2023, the SAR issued 579 labour permits to asylum seekers pending status determination who were looking to support themselves while their asylum claims were being processed.<sup>657</sup> Out of them, only 2 asylum seekers alongside 17 persons granted international protection were employed through employment programs, while the rest found work independently and on their own initiative.<sup>658</sup> At the same time a total of 1,484 persons with temporary protection were employed through employment programs.<sup>659</sup>

## 2. Access to education

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

## F. Social welfare

Beneficiaries of international protection have access to all types of social assistance envisaged by the law.<sup>660</sup> The law foresees the same conditions for nationals, recognised refugees or subsidiary protection holders.

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

The Agency for Social Assistance (Агенция за социално подпомагане, ASA) of the Ministry of Labour and Social Policy is the authority responsible for the provision of all types of social assistance available nationally.<sup>661</sup> The ASA has territorial units in every district and municipality in Bulgaria.

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

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

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

Since 2018, the Bulgarian Helsinki Committee has been litigating against the unlawful refusal of child care support to the beneficiaries of subsidiary protection. In 2022 the ASA applied same approach toward the child support to the beneficiaries of temporary protection. Despite the unanimous jurisprudence of the

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<sup>657</sup> SAR, reg. No. №РД05-31 from 15 January 2024.

<sup>658</sup> Employment Agency, reg. No.РД08-2852 from 22 December 2023.

<sup>659</sup> Ibid.

<sup>660</sup> Article 2(1) Law on Social Assistance.

<sup>661</sup> Article 5 Law on Social Assistance.

national courts proclaiming the practice unlawful and discriminatory<sup>662</sup> in more than 160 positive court decisions<sup>663</sup> ever since, the Agency for Social Assistance continued to maintain it until the date of this report.

## G. Health care

With respect to health care, the same rules that apply for asylum seekers are also applicable for beneficiaries of international protection (see [Reception Conditions: Health Care](#)). In general, from the first day after recognition, health insurance paid until then by the SAR ceases with respect to beneficiaries of international protection and they have to cover on their own the monthly health insurance payment. This minimum fee is 31.20 BGN / 15.95 € for unemployed persons who do not receive indemnities.<sup>664</sup> In 2023, both beneficiaries for international protection and asylum seekers had unrestricted access to vaccination against COVID-19.

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<sup>662</sup> First decision №6608 from 13 November 2018, Administrative Court Sofia-City, 61st chamber, case №5349/2018.

<sup>663</sup> Bulgarian Helsinki Committee – 2018: 1 court decision, 2019: 13 court decisions, 2020:23 court decisions, 2021: 20 court decisions, 2022: 22 court decisions, 2023: 72 court decision / Foundation Access to Rights – 2023: 11 court decisions.

<sup>664</sup> Article 40(5)(1) Law on Health Insurance. 8% deducted from ½ of the minimum wage.

## ANNEX I - Transposition of the CEAS in national legislation

### Directives and other CEAS measures transposed into national legislation

Directive	Deadline for transposition	Date of transposition	Official title of corresponding act	Web Link
<b>Directive 2011/95/EU</b> Recast Qualification Directive	21 December 2013	16 October 2015	Law on Amendment of the Law on Asylum and Refugees, State Gazette No.80/16 October 2015	<a href="https://bit.ly/3xbI52v">https://bit.ly/3xbI52v</a>
<b>Directive 2013/32/EU</b> Recast Asylum Procedures Directive	20 July 2015	25 December 2015	Law on Amendment of the Law on Asylum and Refugees, State Gazette No.101/22 December 2015	<a href="https://bit.ly/43smCOZ">https://bit.ly/43smCOZ</a>
		19 October 2020	Law on Amendment of the Law on Asylum and Refugees, State Gazette No.89/16 October 2020	<a href="https://bit.ly/494u9VB">https://bit.ly/494u9VB</a>
<b>Directive 2013/33/EU</b> Recast Reception Conditions Directive	20 July 2015	19 October 2020	Law on Amendment of the Law on Asylum and Refugees, State Gazette No.89/16 October 2020	<a href="https://bit.ly/494u9VB">https://bit.ly/494u9VB</a>
<b>Regulation (EU) No 604/2013</b> Dublin III Regulation	Directly applicable 20 July 2013			

On 8 November 2018 the European Commission sent a letter of formal notice to the **Bulgarian** government concerning the incorrect implementation of EU asylum legislation.<sup>665</sup> The Commission found that shortcomings in the Bulgarian asylum system and related support services were in breach with provisions of the recast Asylum Procedures Directive, the recast Reception Conditions Directive and the Charter of Fundamental Rights. Concerns related in particular to: the accommodation and legal

<sup>665</sup> European Commission, 'November infringements package: key decisions', MEMO/18/6247, 8 November 2018, available at: <https://bit.ly/2RETZfR>.

representation of unaccompanied children; the correct identification and support of vulnerable asylum seekers; provision of adequate legal assistance; and the detention of asylum seekers as well as safeguards within the detention procedure. The Commission indicated that if Bulgaria would not act within the next two months, the Commission would proceed with sending a reasoned opinion on this matter. In January 2019 the EC delegation made a follow-up visit to Bulgaria to inquire the post-notification developments, but further information on this was not made publicly available. In 2020, Bulgaria adopted amendments to its national law which re-arranged the mandatory legal representation of unaccompanied asylum seeking and refugee children.<sup>666</sup> The responsibility for legal representation has been shifted from the local municipalities to selected legal aid lawyers from the National Legal Aid Bureau (NLAB), with requirements for qualification and clearly outlined responsibility and liability.

In 2020, an amendment to the law introduced an additional clause, which allows cessation or revocation of international protection where the status holder fails to renew expired Bulgarian identity documents, or to replace them if they have been lost, stolen or destroyed, in a period of 30 days.<sup>667</sup> Despite being contrary to 1951 Refugee Convention, the amendment was aimed at legalising a malpractice applied by the SAR since 2018. This broadened interpretation of the recast Qualification Directive introduces *de facto* an additional cessation ground in violation of national and EU legislation.

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<sup>666</sup> National Parliament, Law on Amendment of the Law on Asylum and Refugees, State Gazette №89 from 16 October 2020, available at: <https://bit.ly/37eFDJ9>.

<sup>667</sup> Article 42(5) LAR, enforced on 20 October 2020.