

# Country Report: Romania



2019  
update

## Acknowledgements & Methodology

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

The information in this report draws upon statistics provided by the General Immigration Inspectorate (IGI), interviews throughout 2019 with relevant stakeholders at IGI, UNHCR Romania and civil society organisations, including legal counsellors providing services in the different Regional Centres for Accommodation and Procedures for Asylum Seekers of the country (Timișoara, Șomcuta Mare, Rădăuți, Galați, Bucharest and Giurgiu), as well as visits to the Regional Centre of Timișoara on 17-18 October 2019 and the Public Custody Centre of Arad on 21 October 2019.

The information in this report is up-to-date as of 31 December 2019, unless otherwise stated.

## The Asylum Information Database (AIDA)

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



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



# Table of Contents

Glossary & List of Abbreviations .....	6
Statistics .....	7
Overview of the legal framework .....	9
Overview of the main changes since the first report .....	11
Asylum Procedure .....	13
<b>A. General .....</b>	<b>13</b>
1. Flow chart .....	13
2. Types of procedures .....	14
3. List of authorities that intervene in each stage of the procedure .....	14
4. Number of staff and nature of the first instance authority .....	14
5. Short overview of the asylum procedure.....	16
<b>B. Access to the procedure and registration.....</b>	<b>18</b>
1. Access to the territory and push backs .....	18
2. Registration of the asylum application .....	26
<b>C. Procedures .....</b>	<b>28</b>
1. Regular procedure .....	28
2. Dublin .....	48
3. Admissibility procedure .....	56
4. Border procedure (border and transit zones).....	58
5. Accelerated procedure .....	61
<b>D. Guarantees for vulnerable groups .....</b>	<b>64</b>
1. Identification .....	64
2. Special procedural guarantees .....	68
3. Use of medical reports .....	70
4. Legal representation of unaccompanied children .....	72
<b>E. Subsequent applications .....</b>	<b>76</b>
<b>F. The safe country concepts .....</b>	<b>79</b>
1. Safe country of origin .....	79
2. Safe third country .....	80

3. First country of asylum .....	81
<b>G. Information for asylum seekers and access to NGOs and UNHCR .....</b>	<b>81</b>
1. Provision of information on the procedure .....	81
2. Access to NGOs and UNHCR.....	86
<b>H. Differential treatment of specific nationalities in the procedure .....</b>	<b>86</b>
<b>Reception Conditions.....</b>	<b>87</b>
<b>A. Access and forms of reception conditions .....</b>	<b>87</b>
1. Criteria and restrictions to access reception conditions.....	87
2. Forms and levels of material reception conditions.....	88
3. Reduction or withdrawal of reception conditions.....	91
4. Freedom of movement .....	93
<b>B. Housing.....</b>	<b>94</b>
1. Types of accommodation .....	94
2. Conditions in reception facilities.....	95
<b>C. Employment and education .....</b>	<b>100</b>
1. Access to the labour market.....	100
2. Access to education .....	102
<b>D. Health care .....</b>	<b>104</b>
<b>E. Special reception needs of vulnerable groups .....</b>	<b>106</b>
<b>F. Information for asylum seekers and access to reception centres .....</b>	<b>110</b>
1. Provision of information on reception.....	110
2. Access to reception centres by third parties .....	111
<b>G. Differential treatment of specific nationalities in reception .....</b>	<b>112</b>
<b>Detention of Asylum Seekers .....</b>	<b>113</b>
<b>A. General .....</b>	<b>113</b>
<b>B. Legal framework of detention.....</b>	<b>114</b>
1. Grounds for detention .....	114
2. Alternatives to detention.....	116
3. Detention of vulnerable applicants.....	117
4. Duration of detention.....	118
<b>C. Detention conditions .....</b>	<b>119</b>

1. Place of detention .....	119
2. Conditions in detention facilities.....	120
3. Access to detention facilities .....	126
<b>D. Procedural safeguards .....</b>	<b>127</b>
1. Judicial review of the detention order .....	127
2. Legal assistance for review of detention.....	128
<b>E. Differential treatment of specific nationalities in detention .....</b>	<b>129</b>
<b>Content of International Protection .....</b>	<b>130</b>
<b>A. Status and residence .....</b>	<b>132</b>
1. Residence permit .....	132
2. Civil registration.....	132
3. Long-term residence .....	134
4. Naturalisation .....	136
5. Cessation and review of protection status .....	136
6. Withdrawal of protection status .....	140
<b>B. Family reunification .....</b>	<b>140</b>
1. Criteria and conditions .....	140
2. Status and rights of family members.....	144
<b>C. Movement and mobility .....</b>	<b>145</b>
1. Freedom of movement.....	145
2. Travel documents.....	145
<b>D. Housing.....</b>	<b>146</b>
<b>E. Employment and education .....</b>	<b>148</b>
1. Access to the labour market.....	148
2. Access to education .....	151
<b>F. Social welfare .....</b>	<b>156</b>
<b>G. Health care .....</b>	<b>159</b>
<b>ANNEX I – Transposition of the CEAS in national legislation .....</b>	<b>161</b>

## Glossary & List of Abbreviations

<b>Public custody centre</b>	Detention centre for persons facing removal or transfer under the Dublin Regulation. There are two such centres, located in Otopeni and Arad.
<b>Regional centre</b>	Regional Centre for Accommodation and Procedures for Asylum Seekers ("reception centre"). There are six such centres, located in: Timișoara, Șomcuta Mare, Rădăuți, Galați, Bucharest and Giurgiu.
<b>AIDRom</b>	Ecumenical Association of Churches from Romania   Asociația Ecumenică a Bisericii din România
<b>AJOFM</b>	County Employment Agency   Agenția Județeană pentru Ocuparea Forței de Muncă
<b>AJPIS</b>	County Agency for Payments and Social Inspection   Agenția Județeană pentru Plăți și Inspecție Socială
<b>AMIF</b>	Asylum, Migration and Integration Fund
<b>ANOFM</b>	National Employment Agency   Agenția Națională pentru Ocuparea Forței de Muncă
<b>CAS</b>	Health Insurance House   Casa de Asigurări de Sănătate
<b>CJAS</b>	County Health Insurance House   Casa Județeană de Asigurări de Sănătate
<b>CNRED</b>	National Centre for Recognition and Validation of Diplomas   Centrul Național pentru Recunoașterea și Echivalarea Diplomelor
<b>CNRR</b>	Romanian National Council for Refugees   Consiliul Național Român pentru Refugiați
<b>DGASPC</b>	Directorate-General for Social Assistance and Child Protection   Direcția Generală de Asistență Socială și Protecția Copilului
<b>EASO</b>	European Asylum Support Office
<b>ECHR</b>	European Convention on Human Rights
<b>ECtHR</b>	European Court of Human Rights
<b>EDAL</b>	European Database of Asylum Law
<b>IGPF</b>	General Inspectorate of the Romanian Border Police   Inspectoratul General Politia de Frontiera
<b>IGI</b>	General Inspectorate for Immigration   Inspectoratul General pentru Imigrari
<b>IGI-DAI</b>	General Inspectorate for Immigration – Directorate for Asylum and Integration   Inspectoratul General pentru Imigrari – Direcția Azil și Integrare
<b>IML</b>	Institute of Legal Medicine   Institutului de Medicină Legală
<b>IOM</b>	International Organisation for Migration
<b>IPJ</b>	County Police Inspectorate   Inspectoratul de Poliție Județean
<b>ISJ</b>	County School Inspectorate   Inspectoratul Școlar Județean
<b>ISR</b>	Social Reference Indicator   Indicator Social de Referință
<b>JRS</b>	Jesuit Refugee Service Romania
<b>LADO</b>	Liga Apărării Drepturilor Omului
<b>NAC</b>	National Authority for Citizenship
<b>NIML</b>	National Institute of Legal Medicine   Institutului Național de Medicină Legală
<b>ROI</b>	Regulation of Internal Order   Regulamentul de Ordine Interioară

## Statistics

### Overview of statistical practice

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

### Applications and granting of protection status at first instance: 2019

	Applicants in 2019*	Pending at end 2019	Refugee status	Subsidiary protection	Rejection	Refugee rate	Sub. Prot. rate	Rejection rate
<b>Total</b>	2,587	722	287	276				

Breakdown by countries of origin of the total numbers

Iraq	686	223	33	42	149	7.1%	9%	32%
Syria	460	142	145	170	10	45.5%	53.4%	3.1%
Afghanistan	200	47	22	15	49	14.3%	9.8%	32%
Algeria	130	44	:	:	:	:	:	:
Iran	127	38	16	0	44	17.9%	:	49.4%
Somalia	120	24	41	14	24	42.7%	14.5%	25%
Bangladesh	112	:	2	0	99			
Turkey	102	30	:	:				
Morocco	81	27	:	:				
Tunisia	53	:						

Source: IGI-DAI. According to IGI-DAI's Annual Activity Report of 2019 the total number of applications was 2592.

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

#### Gender/age breakdown of the total number of applicants\*: 2019

	Number	Percentage
<b>Total number of applicants</b>	<b>2,587</b>	
Men	2,041	78.8 %
Women	546	21.1%
Children	-	
Unaccompanied children	189	7.3 %

Source: IGI-DAI

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

#### Comparison between first instance and appeal decision rates: 2019

In first instance 1,183 decision were issued, of which 563 granted a form of international protection (287 refugee status and 276 subsidiary protection), with a recognition rate of 47.6%.

Full statistics are not available. A total of 598 appeals were lodged and 364 decisions were taken on appeals.<sup>1</sup>

As regards onwards appeals, there were 256 decisions on appeals against Regional Court decisions in 2019, of which 42 were positive (14 refugee status and 28 subsidiary protection).<sup>2</sup>

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<sup>1</sup> Information provided by IGI-DAI, 14 February 2020.

<sup>2</sup> *Ibid.*



## Overview of the legal framework

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

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

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

Title (EN)	Original Title (RO)	Abbreviation	Web Link
Government Decree No. 1251 of 13 September 2006 regarding the Methodological Norms for Applying Act 122/2006 <i>Last updated: 25 January 2016</i>	Hotărârea Guvernului nr. 1251 din 13 septembrie 2006 privind Normele Metodologice de aplicare a Legii 122/2006 <i>Formă actualizată: 25 ianuarie 2016</i>	Asylum Decree	<a href="http://bit.ly/2fJRiI0">http://bit.ly/2fJRiI0</a> (RO)
Government Emergency Ordinance No. 194 of 12 December 2002 regarding the regime for foreigners in Romania <i>Last updated: 9 November 2018</i>	Ordonanță de urgență nr. 194 din 12 decembrie 2002 privind regimul străinilor în România <i>Formă actualizată: 9 noiembrie 2018</i>	Aliens Ordinance	<a href="http://bit.ly/2x9zGrL">http://bit.ly/2x9zGrL</a> (RO)
Government Ordinance No. 44 of 29 January 2004 regarding the social integration of foreigners granted international protection or a right of residence in Romania, as well as the citizens of the Member States of the European Union, the European Economic Area and the citizens of the Swiss Confederation <i>Last updated: 10 October 2019</i>	Ordonanța Guvernului nr. 44 din 29 ianuarie 2004 privind integrarea socială a străinilor care au dobândit protecție internațională sau un drept de ședere în România, precum și a cetățenilor statelor membre ale Uniunii Europene, Spațiului Economic European și a cetățenilor Confederației Elvețiene <i>Formă actualizată: 10 Octombrie 2019</i>	Integration Ordinance	<a href="https://bit.ly/2pp5IHW">https://bit.ly/2pp5IHW</a> (RO)
Decision No. 1483 of September 9, 2004 for the approval of the Methodological Norms for the application of the Government Ordinance	HOTĂRÂRE Nr. 1483 din 9 septembrie 2004 pentru aprobarea Normelor metodologice de aplicare a Ordonanței Guvernului nr. 44/2004 privind integrarea socială a străinilor	Integration Decree	<a href="https://bit.ly/2wjZ3fl">https://bit.ly/2wjZ3fl</a> (RO)

no.44/2004 regarding the social integration of foreigners who have acquired a form of protection or a right of residence in Romania, as well as of the citizens of the state's members of the European Union and the European Economic Area <i>Last updated: 12 June 2007</i>	care au dobândit o formă de protecție sau un drept de ședere în România, precum și a cetățenilor statelor membre ale Uniunii Europene și Spațiului Economic European <i>Formă actualizată: 12 Iunie 2007</i>		
Ordinance No. 441 of 4 April 2008 for determining the attributions of the authorities responsible for implementing the data in the Eurodac system and for establishing the practical methodology of cooperation in the application of European regulations, with amendments and additions	Ordinul nr. 441/2008 din 4 aprilie 2008 pentru stabilirea atribuțiilor autorităților responsabile cu implementarea datelor în sistemul Eurodac și pentru stabilirea metodologiei practice de cooperare în vederea aplicării regulamentelor europene în domeniu, cu modificările și completările ulterioare	Ordinance 441/2008	<a href="http://bit.ly/2x7WsFr">http://bit.ly/2x7WsFr</a> (RO)
Regulation of Internal Order in the Regional Centres of Accommodation and Procedures for Asylum Seekers of 25 August 2016	Regulamentul de ordine interioară al centrelor regionale de proceduri și cazare a solicitanților de azil din 25.08.2016	ROI	<a href="http://bit.ly/2DefFYk">http://bit.ly/2DefFYk</a> (RO)
Regulation of Centres for Aliens Taken into Public Custody of 30 July 2014	Regulament centrelor de cazare a străinilor luați în custodie publică din 30.07.2014	Public Custody Centres Regulation	<a href="http://bit.ly/2DA2QHI">http://bit.ly/2DA2QHI</a> (RO)

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

The previous update was published in **March 2019**.

### Covid 19 related measures

Please note that this report has largely been written prior to the outbreak of COVID-19 in Romania. Subsequently measures have been taken that impact the asylum procedures. These measures do not figure in this AIDA report. This box presents some measures, without being exhaustive.

In April 2020, the following measures were being applied:

- ❖ **Access to the territory:** The border guard agency has been reinforced, with the measures tightened to prevent “illegal” migration. The president declared the state of emergency and the government (the Ministry of Internal Affairs) issued military ordinances determining the emergency measures. On 21 March 2020, the Military Ordinance no. 2/21.03.2020 was adopted, which established, among other things, temporary limitation of entry in Romania of third-country nationals and stateless persons making non-essential travels.
- ❖ **Access to asylum:** During the state of emergency all activities of the Registry are suspended, with the exception of those activities related to applications for international protection and applications for access to a new asylum procedure.

Consequently, examples<sup>3</sup> of application and requests that shall not be received include: requests for issuing travel documents for beneficiaries of a form of international protection; requests for issuing of residence permits for beneficiaries of a form of international protection; requests for the return of the national passports from the personal file; requests for the release of some copies of documents / documents from the personal file; applications for obtaining the right of long-term residence; Requests for rectifying of personal data of the beneficiaries of international protection.

If the residence permits / travel documents issued for the beneficiaries of a form of international protection expire during the state of emergency, their validity will be automatically extended until the end of this situation, without requiring that persons concerned submit a request in this regard at the counters (Registry) of the regional centres.

- ❖ **Dublin transfers:** Dublin transfers have been suspended.<sup>4</sup>
- ❖ **Family reunification:** procedures have been suspended.<sup>5</sup>

### Asylum procedure

- ❖ **Access to the territory:** UNHCR Serbia reported that 1,561 persons were collectively expelled from Romania to Serbia from 1 January to 31 December 2019,<sup>6</sup> with higher numbers registered in the last months of the year (288 in October; 439 in November and 123 in December 2019). The number increased in comparison to 2018, when 746-persons were collectively expelled. According to the Border Police, interpretation at the border for asylum information is still lacking.

<sup>3</sup> IGI-DAI, COVID-19, News, available in English at : <https://bit.ly/3bynRAm>.

<sup>4</sup> ECRE, Information sheet 8 april 2020: covid-19 measures related to asylum and migration across Europe, 9 April 2020, available at: <https://bit.ly/2KhaSHz>.

<sup>5</sup> ECRE, Information sheet 8 april 2020: covid-19 measures related to asylum and migration across Europe, 9 April 2020, available at: <https://bit.ly/2KhaSHz>.

<sup>6</sup> UNHCR, *UNHCR Serbia Update*, available at: <https://data2.unhcr.org/en/search>.

- ❖ **Interpretation:** The availability and quality of interpretation has remained an issue. In Rădăuți, Galați and Giurgiu, IGI-DAI still uses double interpretation from Kurdish to Arabic and from Arabic to Romanian.
- ❖ **Interview - Videoconferencing:** In 2019, when the interpreter of certain languages was not available, interviews were conducted in most of the regional centres through videoconferencing. Generally, no complaints were recorded regarding the interview's procedural aspects. In one case, it was reported that a person without mandate in the procedure, was allowed to attend the interview.

#### *Content of international protection*

- ❖ **Integration Ordinance amended:** On 10 October 2019, the Integration Ordinance No 44/2004 was amended. The main amendments concern the following areas:
  - Article 16: The deadline for the application to take part in the integration programme was prolonged from 30 days to 3 months, as of the date international protection was granted.
  - Article 20: The duration of integration programmes for beneficiaries of international protection is prolonged from 6 months to 12 months, with the possibility of extension for another 6 months.
  - Article 21(2): Beneficiaries of international protection who participate in integration programmes and have no sufficient financial means, have the right to stay in Regional Centres or in other facilities managed by the Ministry of Internal Affairs for a general period of 12 months (instead of 6 months), with the possibility of extension for another 6 months.
  - Article 22(3): Until the first payment of the non-refundable monthly financial aid, beneficiaries of international protection receive from IGI-DAI financial assistance equal to the one granted to asylum seekers, within the limits of available funds, for a maximum of 3 months (instead of 2 months).

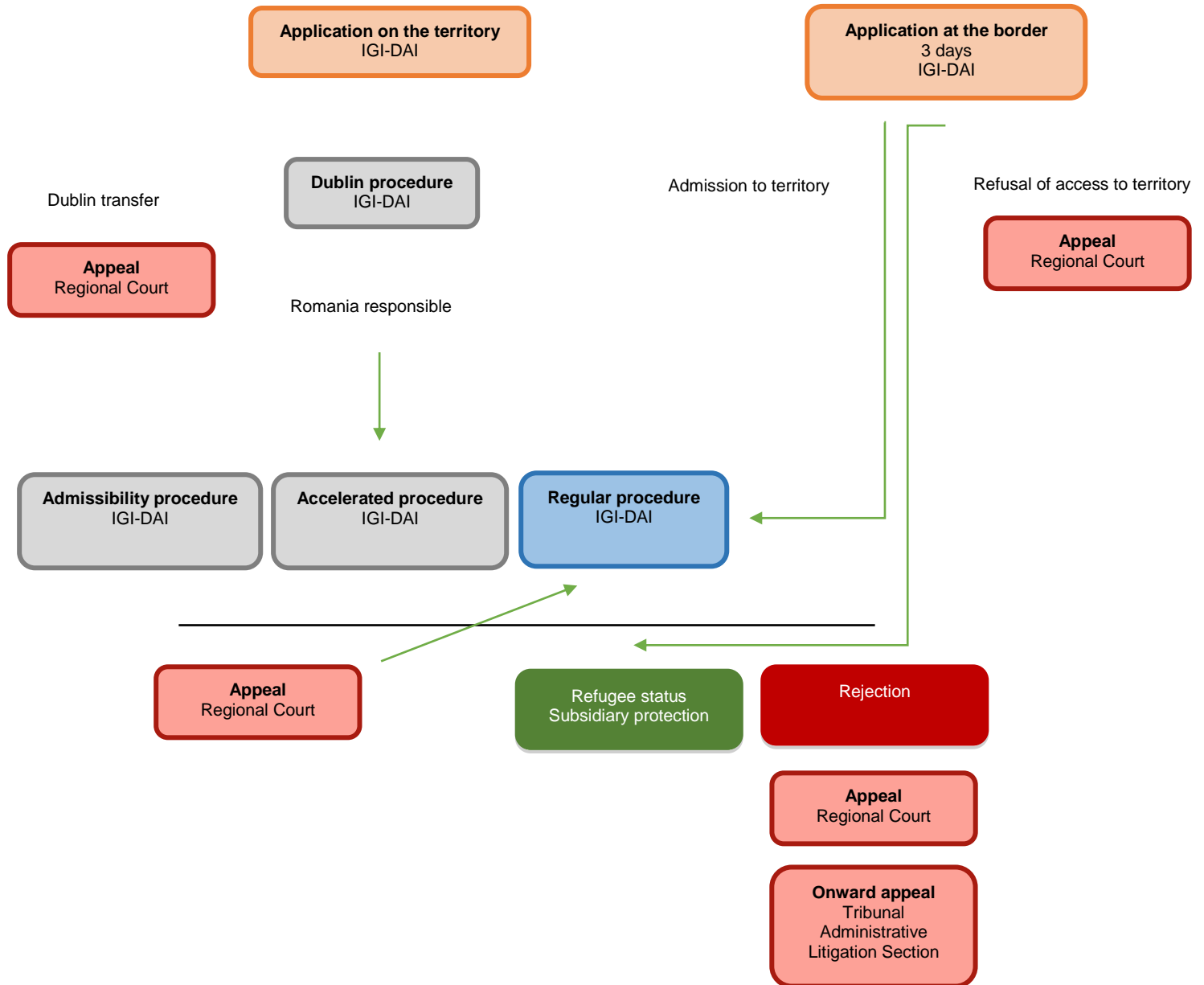
The amendments provide for a more consistent participation of NGOs and local authorities in the integration programme.

- ❖ **Integration programme:** In 2019, 793 beneficiaries of international protection were enrolled in the integration programme, down from 1,146 registrations in 2018. Of these, 450 started the programme in 2019 while the rest continued the one started in 2018.
- ❖ **Housing:** A total of 114 beneficiaries of international protection were residing in the Regional Centres at the end of 2019. JRS continued the implementation of the project "A New House" in all the Regional Centres, funded through the AMIF national programme, covering partially or entirely the rental fees and/or the utility costs for beneficiaries of international protection. In 2019, 241 beneficiaries of international protection received rental/utilities subsidies.
- ❖ **Cessation and review of protection status:** In 2019, IGI-DAI issued 57 decisions of cessation (31 cessations of refugee status and 26 of subsidiary protection), up from the 3 issued in 2018.

# Asylum Procedure

## A. General

### 1. Flow chart



## 2. Types of procedures

### Indicators: Types of Procedures

Which types of procedures exist in your country?

- |   |   |  |
|---|---|--|
| ❖ Regular procedure:                    | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ▪ Prioritised examination: <sup>7</sup> | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ▪ Fast-track processing: <sup>8</sup>   | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| ❖ Dublin procedure:                     | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ❖ Admissibility procedure:              | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ❖ Border procedure:                     | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ❖ Accelerated procedure: <sup>9</sup>   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ❖ Other:                                | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |

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

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

Stage of the procedure	Competent authority (EN)	Competent authority (SI)
Application <ul style="list-style-type: none"> <li>❖ At the border</li> <li>❖ On the territory</li> </ul>	General Inspectorate for Immigration – Directorate for Asylum and Integration (IGI-DAI)	Inspectoratul General pentru Imigrari – Directia Azil si Integrare (IGI-DAI)
Dublin	General Inspectorate for Immigration – Directorate for Asylum and Integration (IGI-DAI)	Inspectoratul General pentru migrari – Directia Azil si Integrare (IGI-DAI)
Refugee status determination	General Inspectorate for Immigration – Directorate for Asylum and Integration (IGI-DAI)	Inspectoratul General pentru Imigrari – Directia Azil si Integrare (IGI-DAI)
First appeal	Regional Court	Judecatorie Sectia Civila, materie: Contencios Administrativ si Fiscal
Onward appeal	County Tribunal Administrative Litigation Section	Tribunal Sectia de Contencios Administrativ si Fiscal
Subsequent application	General Inspectorate for Immigration – Directorate for Asylum and Integration (IGI-DAI)	Inspectoratul General pentru Imigrari – Directia Azil si Integrare (IGI-DAI)

## 4. Determining authority

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the first instance authority?
General Inspectorate for Immigration – Directorate for Asylum and Integration (IGI-DAI)	315 <sup>10</sup>	Ministry of Internal Affairs	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

<sup>7</sup> For applications likely to be well-founded or made by vulnerable applicants.

<sup>8</sup> Accelerating the processing of specific caseloads as part of the regular procedure.

<sup>9</sup> Labelled as “accelerated procedure” in national law.

<sup>10</sup> Out of the total IGI-DAI staff: 38 work at DAI; 60-Regional Centre Bucharest; 49- Regional Centre Timisoara; 49- Regional Centre Radauti; 39- Regional Centre Somcuta Mare; 47- Regional Centre Galati; 33- Regional Centre Giurgiu.

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

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

IGI-DAI may request public institutions, agencies or organisations operating in the territory of Romania, the necessary documentation to analyze the applicant's situation and take a decision, respecting the confidentiality rules. In these cases, the consent of the applicant is not required.<sup>11</sup>

The Head of IGI, the general inspector, is appointed by an order of the Minister of Internal Affairs.<sup>12</sup> The head is assisted by 2 deputy general inspectors, who are selected after an examination/competition organised by IGI. The examination is organised in compliance with the provisions of Law no. 360/2002 on the Status of the Police Officer, the Order of the Ministry of Internal Affairs no. 140/2016 on the human resources management activity in the Ministry, the General Manager's Order of the General Directorate of Human Resources Management no. II / 1620 / 15.09.2015 on procedures and forms used in human resource management activity by the Ministry of Internal Affairs. At the time of writing (March 2020) IGI has a general inspector and only 2 deputy general directors.

IGI-DAI includes a director and a deputy director. These positions are filled through an exam, the reassignment from a different location or by direct designation, according to Law 360/2002 on the Status of the Police Officer.<sup>13</sup>

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

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

IGI-DAI has a total of 23 case officers<sup>14</sup> and 16 officers responsible for the preliminary interviews.<sup>15</sup> Out of which, 11 case officers have less than 3 years of experience, 2 have between 3 and 5 years of experience, 4 have between 5 and 10 years of experience and 4 have more than 10 years of experience.<sup>16</sup>

According to IGI-DAI, the case officers are receiving internal and external training.

The internal training includes the following activities:

- IGI-DAI develops internal guidelines distributed among the specialised staff at the regional centres;
- The case officers at the regional centres attend common activities and trainings provided by officers from the International Protection Service within DAI.

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<sup>11</sup> Article 49(2) Asylum Act.

<sup>12</sup> Art.2(1) DECISION no. 639 of 20 June 2007 (amended) on the organizational structure and attributions of the General Inspectorate for Immigration.

<sup>13</sup> Information provided by IGI-DAI, 22 July 2019.

<sup>14</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>15</sup> Information provided by IGI-DAI, 22 July 2019.

<sup>16</sup> Ibid.

- The International Protection Service issues recommendations on the interpretation and application of the asylum law;
- Relevant information gathered through different internal and external activities is disseminated among the case officers of the regional centres.
- Dissemination of EASO's common practical tools and guidance.

The external trainings include:

- Attendance at seminars organised by UNHCR, JRS, CNRR, AIDRom, Save the Children, etc.;
- Participation to EASO's Training Curriculum;
- Participation to EASO's working groups.<sup>17</sup>

Case officers are permanently informed through the Country of Origin Information Office (BITO) within IGI-DAI and through the COI website, developed together with CNRR INDICIUM<sup>18</sup>. They may also request COI in relation to individual cases. Case officers can also participate at thematic conference analysing the geopolitical situation in specific countries.<sup>19</sup>

According to IGI-DAI, part of the case officers attended the EASO's training module on 'Interviewing vulnerable persons' and they have also access to UNHCR's materials. These case officers are responsible to decide on the applications submitted by vulnerable persons.<sup>20</sup>

IGI-DAI monitors the quality of the decisions issued at the regional level. IGI-DAI and UNHCR have a collaboration protocol regarding the quality control of the decisions. Based on this collaboration, UNHCR assesses monthly 10 interview transcripts and 10 decisions from all the regional centres. UNHCR and the International Protection Service of DAI are doing the assessment in parallel.<sup>21</sup> The quality decision is assessed after the decision has been taken.<sup>22</sup>

To ensure uniform interpretation of the asylum law IGI-DAI has internal guidelines regulating different procedures. These internal working procedures are intended only for internal use and for IGI staff members.<sup>23</sup>

## 5. Short overview of the asylum procedure

### Application

Access to the asylum procedure is ensured to any foreign national or stateless person who is on Romanian territory or at the border, from the time the person manifested his or her intention to request protection from the Romanian state, in writing or orally.<sup>24</sup> An asylum application may be made at the border or on the territory.

Apart from IGI-DAI, there are also other authorities competent to receive asylum applications such as the Border Police operating offices, police units including pre-trial detention and detention centres, structures of the National Administration of Penitentiaries within the Ministry of Justice.<sup>25</sup> IGI-DAI has to register the asylum application within a maximum of 3 working days if the application was made at the IGI,<sup>26</sup> or within a maximum of 6 working days if the application was made with another competent authorities. In case of a mass influx of applications for international protection filed with any of the latter

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

<sup>18</sup> <https://www.portal-ito.ro/#/home>

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.*

<sup>24</sup> Article 4 Asylum Act.

<sup>25</sup> Article 36<sup>1</sup>(2) Asylum Act, citing Article 35 Asylum Act.

<sup>26</sup> Article 36<sup>1</sup>(1) Asylum Act.



competent authorities, the registration can be made within 10 working days from the date when the application was filed.<sup>27</sup>

### **First instance procedure**

The first instance is an administrative procedure carried out by IGI-DAI. Asylum seekers are photographed, fingerprinted and issued with a temporary identity document,<sup>28</sup> which includes a personal numeric code.<sup>29</sup> The temporary identity document is extended periodically. After the asylum application is registered, a preliminary interview takes place for the purposes of determining the applicant's personal data, information on family members, relatives or any other persons of interest, the route from the country of origin to Romania, possible previous asylum procedures in another Member State or in a third country, as well as identity or travel documents in his or her possession.<sup>30</sup> If there are indications of another Member State's responsibility for assessing the asylum claim, the Dublin procedure is triggered, while the asylum procedure in Romania is suspended.

After the preliminary interview, a case officer of IGI-DAI conducts the personal interview. The law foresees a 30-day deadline to issue a decision, starting from the moment when the file is handed over to the case officer.<sup>31</sup> In the event of a negative decision, the applicant may appeal with suspensive effect to the Regional Court within 10 days since the communication of the decision.<sup>32</sup>

### **Accelerated procedure**

The Asylum Act provides for an accelerated procedure for manifestly unfounded applications, asylum applications of persons who, through their activity or membership of a particular group, pose a threat to national security or public order in Romania and asylum applications of persons coming from a safe country of origin.<sup>33</sup> The accelerated procedure may be triggered during the regular procedure if the case officer determines the existence of one of the grounds for applying an accelerated procedure.<sup>34</sup> A decision is issued within 3 days from the start of the accelerated procedure.<sup>35</sup> A negative decision in the accelerated procedure may be appealed within 7 days from the notification of the decision. If the appeal is filed within the deadline, it has automatic suspensive effect.<sup>36</sup> The decision of the court is irrevocable.<sup>37</sup>

### **Border procedure**

The border procedure concerns asylum and subsequent applications submitted at a border-crossing point. The law provides a 3-day deadline to issue a decision in case of border procedure.<sup>38</sup> As well as in the accelerated procedure, a negative decision may be appealed within 7 days from the notification. The decision of the court is irrevocable.<sup>39</sup>

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<sup>27</sup> Article 36<sup>1</sup>(3) Asylum Act, citing Article 35 Asylum Act.

<sup>28</sup> Article 17(1)(h) Asylum Act. Such a document is not issued to applicants: (i) who have applied for asylum at a border crossing point, as long as they have not been granted access to the territory by a decision of IGI-DAI; (ii) detained in public custody for reasons of national security and public order requesting asylum, as long as this measure is maintained; and (iii) who are taken into public custody due to a "significant risk of absconding" in a Dublin procedure.

<sup>29</sup> Article 17(1<sup>1</sup>) Asylum Act.

<sup>30</sup> Article 43(1) Asylum Act.

<sup>31</sup> Article 52(1) Asylum Act.

<sup>32</sup> Article 55(1) Asylum Act.

<sup>33</sup> Article 75(1) Asylum Act.

<sup>34</sup> Article 78 Asylum Act.

<sup>35</sup> Article 79 Asylum Act.

<sup>36</sup> Article 80(1) Asylum Act.

<sup>37</sup> Article 81(2) Asylum Act.

<sup>38</sup> Article 82 Asylum Act.

<sup>39</sup> Article 86(2) Asylum Act.

## Appeal

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

## 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

According to Romanian Border Police reports, Asylum seekers arrive in Romania mainly by land through the south-western border with Serbia,<sup>40</sup> the southern border with Bulgaria,<sup>41</sup> and through the northern border with Ukraine<sup>42</sup>.

<sup>40</sup> Border Police, 'Zece cetățeni afgani călăuziți de un cetățean român, opriți la frontiera cu Serbia, 12 October 2019, available in Romanian at: <https://bit.ly/36kkUBa>; 'Trei cetățeni afgani călăuziți de un cetățean iranian, opriți la frontiera cu Serbia, 10 October 2019, available in Romanian at: <https://bit.ly/2NmVyu1>; 'Unsprezece cetățeni turci și trei călăuze, depistați de polițiștii de frontieră de la Oravița, 22 October 2019, available in Romanian at: <https://bit.ly/2MYc707>; 'O familie de cetățeni chinezi, călăuzită de un alt membru de familie, oprită la frontiera cu Serbia, 20 August 2019, available in Romanian at: <https://bit.ly/2owabmn>; 'Trei cetățeni din Kosovo, opriți la frontiera de sud-vest, 19 August 2019, available in Romanian at: <https://bit.ly/2MY2r5L>; 'Zece irakieni călăuziți de un cetățean sârb, opriți la frontiera cu Serbia, 03 August 2019, available in Romanian at: <https://bit.ly/2PxnOg0>; 'Trei cetățeni albanezi și un turc, depistați în timp ce încercau să intre ilegal pe teritoriul României, 15 July 2019, available in Romanian at: <https://bit.ly/2MWmVzT>; 'Cinci irakieni călăuziți de un cetățean sârb, opriți la frontiera cu Serbia, 1 July 2019, available in Romanian at: <https://bit.ly/2psckzL>; 'Nouă cetățeni turci și două călăuze, opriți la frontiera de sud-vest, 27 June 2019, available in Romanian at: <https://bit.ly/34fBDnE>; 'Doi cetățeni albanezi depistați în timp ce încercau să intre ilegal pe teritoriul României, 22 May 2019, available in Romanian at: <https://bit.ly/347dnUC>; 'Nouă cetățeni străini, opriți la frontiera cu Serbia, 14 March 2019, available in Romanian at: <https://bit.ly/2q8lPV2>; 'Șaisprezece cetățeni străini, opriți la frontiera cu Serbia, 27 February 2019, available in Romanian at: <https://bit.ly/32ZObzI>;

<sup>41</sup> Border Police, 'Doi tineri afgani ascunși sub un camion, depistați la P.T.F. Giurgiu', 14 October 2019, available in Romanian at: <https://bit.ly/2q4dzVQ>; '26 de cetățeni străini, descoperiți ascunși într-o autoutilitară, la P.T.F. Giurgiu', 27 September 2019, available in Romanian at: <https://bit.ly/2NsjCvx>; 'Patru cetățeni din Bangladesh și unul din India ascunși într-un camion, depistați la P.T.F. Calafat', 24 August 2019, available in Romanian at: <https://bit.ly/2ptlF9x>; 'Cetățean turc, ascuns deasupra cabinei unui camion, depistat la P.T.F. Calafat', 22 August 2019 available in Romanian at: <https://bit.ly/2WoVBcV>; 'Mamă și fiu cu documente de călătorie aparținând altor persoane, depistați la P.T.F. Calafat', 20 August 2019, available in Romanian at: <https://bit.ly/34ouCRB>; 'Doi irakieni, ascunși pe osia unei semiremorci, depistați la P.T.F. Giurgiu', 14 August 2019, available in Romanian at: <https://bit.ly/2q2g76U>; 'Nouă irakieni ascunși într-un microbuz, printre echipamente pentru scufundări, depistați la P.T.F. Calafat, 12 July 2019, available in Romanian at: <https://bit.ly/3302ofy>; 'Cetățean turc, ascuns deasupra cabinei unui autocamion, depistat la PTF Calafat, 22 June 2019, available in Romanian at: <https://bit.ly/2or4W7g>; 'Cetățean sirian ascuns în portbagajul unui autoturism, depistat la P.T.F. Calafat, 21 May 2019, available in Romanian at: <https://bit.ly/2MXCraU>; 'Cinci cetățeni din Siria și Irak, ascunși printre semințe de floarea soarelui, depistați la P.T.F. Bechet, 7 May 2019, available in Romanian at: <https://bit.ly/32Xwwbu>; 'Trei cetățeni irani, ascunși printre piese auto, depistați la P.T.F. Giurgiu, 7 May 2019, available in Romanian at: <https://bit.ly/2MYRGQH>; 'Zece cetățeni din Irak și Siria, depistați la P.T.F. Calafat, ascunși printre geamuri termopan, 6 May 2019, available in Romanian at: <https://bit.ly/2PwKu07>; 'O femeie din Iran descoperită ascunsă într-un autoturism la P.T.F. Bechet, 29 April 2019 available in Romanian at: <https://bit.ly/34fKdT8>; 'Șase cetățeni străini, ascunși sub podeaua unui autocar, depistați în P.T.F. Giurgiu, 22 April 2019, available in Romanian at: <https://bit.ly/2BSmCMe>; 'Femeie ascunsă în cabina unui autocamion, depistată la P.T.F. Giurgiu, 15 March 2019, available in Romanian at: <https://bit.ly/2N0zw1h>; 'Trei pakistanezi, ascunși printre calorifere, depistați la P.T.F. Giurgiu, 5 March 2019, available in Romanian at: <https://bit.ly/2WpBZ8g>; 'Doi cetățeni turci depistați de polițiștii de frontieră în timp ce încercau să intre ilegal în țară, 18 February 2019, available in Romanian at: <https://bit.ly/2MYNKPU>; 'Patru cetățeni turci cu documente de identitate bulgărești, depistați la P.T.F. Giurgiu, 17 January 2019, available in Romanian at: <https://bit.ly/2N2NkIF>;

There were also isolated cases reported by the Border Police of foreigners arrived in Romania through the Eastern border with Moldova.<sup>43</sup>

According to the Romanian Border Police, all the persons apprehended at the border with Bulgaria were “taken over by the Bulgarian Border Police, according to the Romanian-Bulgarian agreement, in order to continue the investigations and to arrange the legal measures that are required”<sup>44</sup>. The same was reported also in case of the foreigners apprehended at the border with Ukraine; they “were handed over to the Ukrainian border authorities for further investigations, based on the readmission agreement”.<sup>45</sup>

According to the Border Police, a total of 2,048 persons were apprehended for irregular entry in 2019.<sup>46</sup>

Breakdown by border region where the persons were apprehended:

Border regions where persons were apprehended for irregular entry: 2019	
Border	Number
Serbia	1,398
Bulgaria	415
Ukraine	124
Moldova	45
Hungary	30
Air border	24
Maritime border	12
<b>Total</b>	<b>2,048</b>

Source: Border Police

In 2019, as well as in 2018, it was reported that unaccompanied children who were apprehended trying to cross irregularly the border from Serbia to Romania, were prosecuted for having crossed illegally the border and for migrant smuggling. The children were/ are held in pre-trial detention. In 2019 an unaccompanied minor from Afghanistan who admitted that he illegally crossed the state border, but declared to have no involvement in migrant smuggling criminal activities was sentenced to 1 year and 2 months of confinement in a re-education centre.<sup>47</sup> The child was in pre-trial detention for 7 months, from 20 June 2016 to 31 January 2019, when he was transferred to the Buziaş Education Center. On 18 March 2019 he was early released. The early release was revoked in December 2019 due to non-compliance with the reporting obligations. According to IGI-DAI, he left the reception centre.<sup>48</sup>

The case of other two unaccompanied minors is still pending before the Court of Appeal Timișoara. They are in pre-trial detention since 23 October 2019. They are also indicted for illegally crossing the border and smuggling of migrants. Their attorneys’ requests to revoke pre-trial detention to allow house

<sup>42</sup> Border Police, ‘Doi cetățeni din Algeria și Tunisia, opriți la frontiera de nord a țării, 23 Octombrie 2019, available in Romanian at: <https://bit.ly/2JyjcCE>; ‘Trei cetățeni străini opriți la frontiera de nord a țării, 16 September 2019, available in Romanian at: <https://bit.ly/34dmnaM>; ‘Cetățeni din Bangladesh depistați de polițiștii de frontieră botoșăneni în cooperare cu grănicerii ucraineni, 10 July 2019, available in Romanian at: <https://bit.ly/34dkfj7>; ‘Patru cetățeni străini opriți la frontiera de nord a țării, 3 July 2019, available in Romanian at: <https://bit.ly/34dSHtZ>; ‘Trei cetățeni din Gambia, opriți la frontiera de nord a țării, 27 June 2019, available in Romanian at: <https://bit.ly/36etMbZ>; ‘Trei cetățeni libieni, opriți la frontiera de nord a țării, 30 Aprilie 2019 available in Romanian at: <https://bit.ly/2JB4FGp>; ‘Şase cetățeni din Bangladesh opriți la frontiera de nord a țării, 15 Martie 2019, available in Romanian at: <https://bit.ly/2psj3cX>;

<sup>43</sup> Border Police, ‘Doi sirieni au traversat Prutul pe o cameră de tractor, 23 Februarie 2019, available in Romanian at: <https://bit.ly/34aDAS0>; ‘Doi cetățeni străini, ascunși sub un autocar, depistați în P.T.F. Oancea, 20 May 2019, available in Romanian at: <https://bit.ly/2phtgJs>.

<sup>44</sup> Border Police press releases.

<sup>45</sup> Border Police press releases.

<sup>46</sup> Information provided by the Border Police, 12 February 2020.

<sup>47</sup> Court of Appeal Timișoara, 2270/115/2018, 28.01.2019.

<sup>48</sup> Tribunal of Caras Severin, Decision 80 of 12 December 2019.

arrest were dismissed by the Tribunal of Caras-Severin.<sup>49</sup> According to a JRS representative, they applied for asylum a month after their criminal proceedings started.

## Relocation

Romania pledged to resettle 109 refugees during 2018-2019<sup>50</sup> from Turkey (69) and Jordan (40). According to JRS and IOM, 73 persons were relocated (42 from Jordan and 31 from Turkey).<sup>51</sup>

In addition, a number of 12 migrants rescued in the central Mediterranean were relocated to Romania.<sup>52</sup> 9 migrants were relocated from Italy and 3 from Malta.

## Pushbacks and border monitoring

In 2019, 2,048 persons were apprehended for crossing, or attempting to cross, the border.<sup>53</sup> The Border Police prevented the entry of 6,042 persons.<sup>54</sup>

While in the first 6 months of 2018, only 655 third-country nationals were apprehended for irregular entry,<sup>55</sup> in 2017, the border guards apprehended 5,846 foreign nationals who tried to irregularly cross the border, of which 2,840 entering the country and 3,006 exiting, a large part of them acting illegally at the border organised in groups of migrants, with the support of smugglers.<sup>56</sup>

Persons apprehended for irregular entry: 2019	
Country	Number
Iraq	662
Syria	168
Afghanistan	159
Turkey	132
Bangladesh	112
Other	815
<b>Total</b>	<b>2,048</b>

Source: Border Police

Reports from UNHCR Serbia show an increase in 2019 of collective expulsions in comparison with 2018 (746-persons were collectively expelled in 2018). 1,561 persons were collectively expelled from Romania to Serbia in the period from 1 January to 31 December 2019,<sup>57</sup> with higher numbers registered in the last months of the year (October: 288; November: 439; December: 123). At the same time, the Jesuit Refugee Service (JRS) representative stated that they did not receive any reports on pushbacks or collective expulsions.

<sup>49</sup> Tribunal of Caras-Severin, Case file 2277/115/2019

<sup>50</sup> Article 3<sup>^</sup>1 (1<sup>^</sup>3) Government Decision 1596/2008.

<sup>51</sup> IGI-DAI, Annual Activity Report of 2019, available in Romanian at: <https://bit.ly/3cUh1FU>.

<sup>52</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>53</sup> Information provided by Border Police, 12 February 2020.

<sup>54</sup> *Ibid.*

<sup>55</sup> Information provided by Border Police, 27 August 2018.

<sup>56</sup> Border Police, *Evaluation of the activity of the Romanian Border Police in 2017*, 15 February 2018, available in Romanian at: <https://bit.ly/2IRfEwc>.

<sup>57</sup> UNHCR, *UNHCR Serbia Update*, available at: <https://data2.unhcr.org/en/search>.

According to the JRS representative, administrative returns are always documented, regardless if persons are being returned under the readmission agreement or because of a refusal of entry. There were no reports of summary returns in 2019.<sup>58</sup>

### Information and interpretation at the border

According to the Asylum Act, if there are elements that lead to the idea that a foreigner intends to apply for international protection in Romania in the context of pre-trial detention or detention facilities, penitentiaries, border crossing points or transit area, the competent authorities for the asylum application provide information on the possibility of submitting the request.<sup>59</sup>

The Border Police stated that they orally inform foreigners about the possibility to apply for asylum in Romania in a language widely used internationally (such as English or French). However, the Border Police stated that during specific border surveillance and control activities, they focus on identifying foreign citizens who express their willingness to make an asylum application (vulnerability indicators). There is no interpreter at this activity.<sup>60</sup>

The Border Police also reported that, as a result of the cooperation activities carried out by the Border Police with non-governmental organisations providing assistance to asylum seekers, leaflets were developed and distributed to all the territorial structures of the Border Police. The leaflets were translated in English and French, but also in languages and dialects spoken by the asylum seekers (analysing the statistical data from 2018 regarding the prevailing nationalities of asylum seekers). The leaflets include basic information related to the asylum system in Romania, a series of provisions regarding the rights and obligations of asylum seekers and contact details of non-governmental organisations specialised in providing assistance to asylum seekers.<sup>61</sup>

According to the JRS representative, JRS Romania, in partnership with UNHCR Romania, has developed information leaflets in English, French, Arabic, Farsi and Pashto for asylum-seekers at the border of Romania. The content of the leaflets has been agreed upon by the General Inspectorate of the Border Police and the brochures are now available in most of the border crossing points. This year, a new batch has been printed to supply the border crossing points not stocked yet.

It was reported by the JRS representative that even though the leaflets were distributed, they have no feedback on how they are used in practice by the Border Police. Also, the impact of the existence of these leaflets at the border crossing points was not monitored.

According to the JRS representative, even though the law foresees an obligation to provide information at border-crossing points, there is no established mechanism on how this should be provided, because the specifics of each border post differ. Some of the border crossing points have materials from IGI (printed excerpts from legislation, briefings), which they use as support for providing information, some use the information leaflet provided by JRS. So, the practice varies, but this is relatively normal considering Romania's borders have different capacity and resources.

At this stage, NGOs have access to border-crossing points only once third-country nationals have submitted the asylum application. Furthermore, NGOs need to be informed about the people's presence directly by the Border Police or through UNHCR Romania. Nevertheless, a JRS report published in July 2018, based on findings collected through interviews, also raises issues concerning information provision.<sup>62</sup> It includes testimonies from 26 migrants who arrived in Romania. The testimonies describe

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<sup>58</sup> Act 61/2001 on the ratification of the Agreement between the Government of Romania and the Government of the Republic of Bulgaria on the readmission of its own citizens and aliens, available in Romanian at: <https://bit.ly/2G1aHjb>.

<sup>59</sup> Article 35<sup>1</sup> Asylum Act.

<sup>60</sup> Information provided by Border Police, 12 February 2020.

<sup>61</sup> Information provided by Border Police, 12 February 2020.

<sup>62</sup> JRS, *Forgotten at the Gates of Europe: Ongoing Protection Concerns at the EU's External Border*, June 2018, available at: <https://bit.ly/2NcY0VL>.

how the Border Police and other officials fail to provide migrants with necessary information and have even given misleading information.<sup>63</sup>

- The report lays out the experience of a 16-year-old boy who was rescued by the Romanian Coast Guard in the Black Sea: "He was told to 'go to court' to apply for asylum, and while he did have a court hearing eventually, the hearing was about his stay in detention and not about accessing the asylum procedure. It was only after initiating a hunger strike that the authorities finally relented and gave him access to the asylum procedure."<sup>64</sup>
- Furthermore, another man stated that he "did not apply for asylum because the authorities discouraged it, telling him that Romania was unable to host more asylum seekers."<sup>65</sup>
- A group of Iraqi Kurds, who were granted tolerated status<sup>66</sup> in Romania even though they wanted to apply for asylum did not do so because they believed their tolerated status prevents them from seeking asylum. As a consequence some of them agreed to voluntary repatriation.
- A Pakistani national, who prior to his arrival in Romania had made an asylum application in Bulgaria and did not want to return there, explained why he did not make an asylum application in Romania: "I was told that once registered as an asylum seeker in another European country, there is a real risk to be sent back there."<sup>67</sup> After his fingerprints were found in the Eurodac database, he lodged an asylum application in Romania in order to avoid being transferred to Bulgaria. The asylum seeker declared: "[t]hey didn't tell me anything about it. They sent me to detention and looked at me as an offender, since I crossed the border illegally. I had no proper interpreter, no lawyer, no information, and no time to understand my situation. Nobody gave me proper information on the possibility and consequences of asylum."<sup>68</sup>

According to a JRS representative, the arrangements for interpretation differ from one border crossing point to another, but in principle it is available. The arrangements are different, in the sense that the border crossing points closer to big cities have easier access to interpreters (even of rarer languages), while other border crossing points have a more restricted access, only to some languages or they call the interpreters via telephone or via skype. The JRS representative also reported that while it is impossible to verify how the information is provided at the border, since they are not there when this happens, there were no reports of withholding information.

According to the JRS representative, JRS Romania has not received any complaints related to information provision at the border crossing points in 2019, nor of ill-treatment. Most of the complaints received were linked to readmission agreements (people contesting this decision). Third country nationals complained about this to JRS, UNHCR in counseling during the Participatory Assessment and/or via emails.

However, according to the JRS representative from Rădăuți, 3 asylum seekers who wanted to cross the border from Serbia to Romania, declared that they were beaten by the Romanian Border Police officers and pushed back to Serbia. The second time they tried to cross the border, no problems were encountered and they were taken to the Regional Centre of Timișoara. Another stakeholder being interviewed mentioned that asylum seekers apprehended at the border declared that the Romanian Border Police officers had destroyed their phones.

### **The bipartite agreement on border monitoring**

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

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<sup>63</sup> *Ibid*, 17 and 19.

<sup>64</sup> *Ibid*, 17.

<sup>65</sup> *Ibid*.

<sup>66</sup> Article 106<sup>1</sup> Aliens Act - Toleration status is granted to third country nationals who do not have the right to stay in Romania and due to objective reasons, foreseen by the Aliens Act cannot leave Romania.

<sup>67</sup> JRS, *Forgotten at the Gates of Europe*, June 2018, 19.

<sup>68</sup> *Ibid*, 19-20.

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

The border monitoring activity implies gathering data on entries and exits in and from Romania through public sources – media monitoring – official statistics and visits to designated border areas. During the visits to the designated border areas, the implementing partner: inspects the facilities in the transit zones designated for asylum seekers; conducts interviews with the asylum seekers accommodated there; discusses with the authorities at the border crossing point, border sector or Territorial Inspectorate of Border Police. The discussions with the authorities usually cover trends, routes, number of entries and exits, particular cases and other relevant information.

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

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

In 2019, 15 monitoring visits were conducted, out of which 6 were conducted jointly with UNHCR and some were cross-border missions.

### 1.1. Refusal of entry

According to the Border Police 7,640 third country nationals were refused entry into Romania in 2019.

Persons refused entry: 2019	
Country	Number
Moldova	3,004
Ukraine	1,469
Serbia	631
Turkey	519
Albania	492
Other	1,525
<b>Total</b>	<b>7,640</b>

Source: Romanian Border Police



Breakdown of the total number of persons refused entry by border region (2019):

Persons refused entry by border region: 2019	
Border	Number
Moldova	3,021
Ukraine	1,382
Serbia	1,080
Air border	1,070
Bulgaria	560
Hungary	458
Maritime border	69
<b>Total</b>	<b>7,640</b>

Source: Romanian Border Police

In the first half of 2018, 2,466 third country nationals were refused entry into Romanian territory. Only 23 appeals were lodged against decisions refusing entry.<sup>69</sup>

In 2019, only 55 appeals were lodged against decisions refusing entry.<sup>70</sup>

Pursuant to the Aliens Act, the refusal of entry is motivated by the Border Police authorities and it is immediately communicated to the person concerned, using the form provided in Part B of Annex V of the Schengen Borders Code and the National Visa Centre within the Ministry of Foreign Affairs.<sup>71</sup> This form is provided to the person concerned in Romanian and English.<sup>72</sup>

As the Aliens Act does not foresee a special remedy against the decision of refusal of entry, general administrative law applies.<sup>73</sup> As a result, the person concerned may lodge an action against the decision before the Administrative Court with territorial jurisdiction over the area in which the issuing body of the contested administrative act is located.<sup>74</sup>

Prior to lodging an appeal at the Administrative Court, the person, who considers that his or her rights have been breached by an administrative act issued by a public institution, shall appeal to the issuing public authority within 30 days. The complaint should be addressed to the hierarchically superior body if there still is one (for example when the act had already been taken by a superior there might no longer be a hierarchically superior body).<sup>75</sup> The appeal is assessed in 30 days.<sup>76</sup> An appeal lodged to the Administrative Court without fulfilling this prior procedural step will be declared inadmissible. The complaint and the appeal to the Administrative Court have no suspensive effect.

The applicant may request the suspension of the administrative act to the competent court, when lodging the prior appeal,<sup>77</sup> or when appealing to the court.<sup>78</sup>

The Aliens Act prescribes that the foreigner against whom the measure of non-entry to Romania has been taken has the possibility to voluntarily leave the border crossing point within 24 hours. The term is calculated from the time when the measure of non-entry to Romania was ordered.<sup>79</sup>

<sup>69</sup> Information provided by Border Police, 27 August 2018.

<sup>70</sup> Information provided by Border Police, 12 February 2020.

<sup>71</sup> Article 8(4) Aliens Act.

<sup>72</sup> Information provided by Border Police, 12 February 2020.

<sup>73</sup> Act 554/2004 on Administrative Litigation.

<sup>74</sup> Articles 6-18 Act on Administrative Litigation.

<sup>75</sup> Article 7(1) Act on Administrative Litigation.

<sup>76</sup> Article 7(4) in conjunction with Article 2(1)g) Act on Administrative Litigation.

<sup>77</sup> Article 14 Act on Administrative Litigation.

<sup>78</sup> Article 15 Act on Administrative Litigation.



Upon the expiration of the 24-hour term, the decision of refusal of entry to Romania is enforced by the Border Police, taking into account the state of health of the person concerned. The person is sent to the country of origin or to another destination accepted both by the person and the third state concerned, except Romania.<sup>80</sup> The consequence of this provision is that the foreigner against whom a decision of refusal of entry was taken has only 24 hours to lodge the appeal against the decision.

If the Border Police needs more than 12 hours to carry out the removal from the border-crossing point, the individual is accommodated in a space arranged for this purpose in the transit area, or, if this is not possible, to another location established outside the border-crossing point with transit area status.<sup>81</sup>

The Aliens Act prescribes a special procedure when the foreigner declares to the Border Police authorities that, in case he or she was forced to leave the border crossing point, he or she would have to go to a state where he or she fears that his or her life is endangered or he or she will be subjected to torture, inhuman or degrading treatment and he or she does not submit an asylum application.<sup>82</sup> When this occurs the Border Police officers shall immediately inform IGI-DAI, which, within maximum of 10 days, shall analyse the situation of the foreigner and determine whether the declaration is well-founded.<sup>83</sup> If person's statement is unfounded, IGI-DAI communicates the decision to the border police authorities, which will inform the person concerned in this respect.<sup>84</sup>

If the foreigner's declaration is well-founded, IGI-DAI will enforce the decision of refusal of entry to Romania by removal under the escort of the foreigner. The provisions of the Aliens Act on removal under the escort, public custody of foreigners and toleration status on the territory of Romania apply accordingly.<sup>85</sup>

## 1.2. Apprehension for irregular exit to Hungary

While irregular entry or stay in Romania committed by persons who have been granted a form of protection is not punishable,<sup>86</sup> irregular exit from the country is punishable under the Criminal Code by imprisonment from 6 months to 3 years or a fine.<sup>87</sup>

Up to 2018, asylum seekers or other migrants apprehended trying to irregularly cross the border into Hungary, were sanctioned only with a fine.<sup>88</sup> The situation changed in 2018 when the Regional Court of Chişineu-Criş started delivering sentences of six months' imprisonment, coupled with a two-year entry ban from the territory of Romania and, in some cases, even legal expenses of 1,000 RON / €212.<sup>89</sup> At least 19 persons have been convicted, including a family with minor children. The family was apprehended in November 2018 and held in prison, while their four children were taken into care by the Directorate-General for Social Protection and Child Protection (DGASPC). The parents were released on 21 December 2018, after their appeal was admitted.

According to the Director of the Regional Centre Timişoara there were no cases as such in 2019. The same was echoed by the stakeholders interviewed from **Şomcuta Mare, Galaţi, Rădăuţi, Timişoara, Bucharest.**

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<sup>79</sup> Article 9(1) Aliens Act.

<sup>80</sup> Article 9(2) Aliens Act.

<sup>81</sup> Article 9(3) Aliens Act.

<sup>82</sup> Article 9(5) Aliens Act.

<sup>83</sup> Article 9(6) Aliens Act.

<sup>84</sup> Article 9(7) Aliens Act.

<sup>85</sup> Article 9(8) Aliens Act.

<sup>86</sup> Article 11 Asylum Act.

<sup>87</sup> Article 262(1) Criminal Code.

<sup>88</sup> Only one case of imprisonment for attempt to irregularly cross the border from 2016 was reported by JRS representative.

<sup>89</sup> Regional Court Chişineu-Criş: Decisions 47/2018, 48/2018, 49/2018 and 50/2018, 29 March 2018; Decision 81/2018, 17 May 2018; Decisions 133/2018 and 134/2018, 27 September 2018.

## 2. Registration of the asylum application

### Indicators: Registration

1. Are specific time limits laid down in law for making an application? ☐ Yes ☒ No  
❖ If so, what is the time limit for 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

Asylum applications are registered by the General Inspectorate for Immigration – Asylum and Integration Directorate (IGI-DAI) within a maximum of 3 working days if the application is made at the IGI<sup>90</sup> and within a maximum of 6 days if the application is submitted to another competent authority such as the Border Police operating offices, the police units in which pre-trial detention and detention centres are established and functioning, or the structures of the National Administration of Penitentiaries within the Ministry of Justice.<sup>91</sup>

In case of a mass influx of applications for international protection filed with any of the latter competent authorities, the registration of applications can be made within 10 working days from the date when the application was filed.<sup>92</sup>

Asylum applications are recorded in special registers if they are submitted at a border-crossing point, at the units subordinated to the National Administration of Penitentiaries within the Ministry of Justice, and at the pre-trial detention and detention centres within the police units.<sup>93</sup>

When a person expresses the intention to seek asylum at one of the structures of the Ministry of Internal Affairs of Romania, the asylum application is sent to the Regional Centres for Asylum Seekers, together with an outline of the asylum seeker's situation. In addition, authorities may also attach documents drawn up after the apprehension or the first submission to the competent authorities.<sup>94</sup>

According to the Border Police, a person who expresses the intention to seek asylum at the Romanian border is given a form, which he or she fills in, in the language he or she knows. The form is registered in a special register of the Border Police structure. After registering the form, the person is informed, through an interpreter, about his or her rights and obligations. Subsequently, the form is submitted by fax to the territorially competent section of IGI-DAI.<sup>95</sup>

Asylum applications made at border-crossing points or airports are transmitted to IGI-DAI together with an information note on the asylum seeker, which includes the hour of arrival, documents in his or her possession, persons accompanying him or her and other elements which may contribute to resolve the case in due time.<sup>96</sup>

In 2018, there were 2 cases of Pakistani nationals, who wanted to make an asylum claim respectively in Otopeni Airport and Cluj Airport, but the Border Police never registered their claim. JRS had no access to them, even though the foreigners had contacted them. No similar cases were reported in 2019.

<sup>90</sup> Article 36<sup>1</sup>(1) Asylum Act.

<sup>91</sup> Article 36<sup>1</sup>(2) Asylum Act, citing Article 35 Asylum Act.

<sup>92</sup> Article 36<sup>1</sup>(3) Asylum Act, citing Article 35 Asylum Act.

<sup>93</sup> Article 38(5) Asylum Act.

<sup>94</sup> Information provided by IGI-DAI, 21 August 2018.

<sup>95</sup> Information provided by Border Police, 27 August 2018.

<sup>96</sup> Information provided by IGI-DAI, 21 August 2018.

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

There are no time limits set in law for making an application. According to Article 36(3) of the Asylum Act, competent authorities cannot refuse to register the asylum application on the grounds that it was filed at a later stage.<sup>97</sup> In addition, when assessing an asylum claim, IGI-DAI cannot reject it solely on the ground that it was filed late.<sup>98</sup>

According to IGI-DAI, asylum applications are registered in IGI-DAI database on the same day they are received, a registration number is automatically assigned. Simultaneously with the registration of the asylum application, the person is fingerprinted, photographed and issued a temporary identity document, which is extended periodically.<sup>99</sup> This practice is corroborated by the information provided by JRS representatives in the Regional Centres. As a consequence, there have been no delays in registering an asylum application in any of the Regional Centres.

If an unaccompanied minor expressed his or her intention to apply for asylum, in writing or orally, before the competent authorities, he or she will be registered as an asylum seeker in a special register, and the asylum application will be filed after a legal representative is appointed.<sup>100</sup> The identification data stated by unaccompanied minor are recorded in the special register.<sup>101</sup>

If an unaccompanied child has expressed his or her intention to seek asylum, in writing or orally, before the competent authorities other than IGI-DAI, the respective authority will immediately inform IGI-DAI, which ensures the applicant's transport to the competent Regional Centre to assess the asylum application.<sup>102</sup>

According to the JRS representatives working in the Regional Centres, there were no obstacles to the registration of applications in 2019. The Romanian National Council for Refugees (CNRR) stated that they are not aware of problems with regard to the registration of asylum applications.<sup>103</sup>

However, according to the JRS representative in **Timișoara**, asylum seekers complained about the lack of interpreters at the stage of registration and lodging of the asylum application. The Director of the Regional Centre Timișoara confirmed this. He stated that they do not call interpreters even though they have the possibility to call an interpreter at this stage of the procedure. The same issue was reported in **Giurgiu** and **Rădăuți** with the mention that IGI-DAI turns to asylum seekers or refugees accommodated in the centre for interpretation. In **Bucharest** asylum seekers did not report problems at this stage, even though there are no interpreters when the asylum application is registered.

In **Rădăuți**, asylum seekers still complain about the fact that the Border Police does not use interpreters who speak their native language at the border. As consequence, information such as the name, the date of birth and the grounds of the asylum application, are not correctly recorded. Therefore, potential errors in the recording of personal information may arise during the assessment of their asylum application by IGI-DAI and contradictions may appear between the statements made at the border and those made during the personal interview.

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<sup>97</sup> Article 36(3) Asylum Act.

<sup>98</sup> Article 13(3) Asylum Act.

<sup>99</sup> Information provided by IGI-DAI, 21 August 2018.

<sup>100</sup> Article 39(3) Asylum Act.

<sup>101</sup> Information provided by IGI-DAI, 21 August 2018.

<sup>102</sup> Article 39(4) Asylum Act.

<sup>103</sup> Information provided by CNRR, 9 December 2019.

On the other hand, in **Șomcuta Mare**, there is not always an interpreter present when the asylum seekers are transferred from Timișoara, or when asylum requests are directly submitted in the centre. In addition to this, the Romanian Ombudsman noticed during the visit made at the Regional Centre Șomcuta Mare that several documents signed by the asylum seekers were drafted only in Romanian, such as: the request for accommodation, the statement regarding the money that he or she has on her when accommodated in the centre, the obligation to respect ROI, information regarding prohibitions and sanctions, etc.<sup>104</sup> which, in general, are all signed when the asylum application is registered.

In **Galați**, it was reported that an interpreter is generally present when the asylum application is registered and lodged, with the exception of asylum applications made during the night, when authorities resort to asylum seekers or refugees accommodated in the Regional Centre who can speak the applicant's language or English.

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

After the asylum application is lodged, the applicant receives a "temporary asylum seeker identity document" (*Document temporar de identitate solicitant de azil*). This is a card containing a photograph, personal details and a registration number.<sup>105</sup>

In **Timișoara**, it was reported that when groups of 20-30 asylum seekers arrive in the centre, they are not issued temporary identity documents immediately, but they receive only a certificate containing the personal identification number, without picture. In these cases, the temporary identity documents are issued the next days. In case only 2 or 3 asylum seekers arrive, they are issued immediately the temporary identity document.

## C. Procedures

### 1. Regular procedure

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

##### Indicators: Regular Procedure: General

- |  |   |
|--|---|
| 1. Time limit set in law for the determining authority to make a decision on the asylum application at first instance:     | 30 days   |
| 2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Backlog of pending cases at first instance as of 31 December 2019:  | 722   |

The law foresees a 30-day deadline to issue a decision, starting from the moment when the file is handed over to the case officer.<sup>106</sup>

The time frame of 30 days provided in Article 52(1) of the Asylum Act shall be suspended during: (a) the Dublin procedure for determining the Member State responsible for examining the asylum application; (b) the **First Country of Asylum** procedure; (c) the **Safe Third Country** procedure; or, where appropriate, (d) the European safe third country procedure. When the reason for suspension no longer exists, the assessment period cannot be less than 20 days.<sup>107</sup>

<sup>104</sup> Ombudsman, Report 44, 24 September 2019, available in Romanian at: <https://bit.ly/2Txk0gT>.

<sup>105</sup> A template can be found at: <https://bit.ly/2Q77KQ6>.

<sup>106</sup> Article 52(1) Asylum Act.

<sup>107</sup> Article 52(4) Asylum Act.

The 30-day time limit shall be extended successively with further periods of no more than 30 days, and not exceeding 6 months from the lodging of the asylum application in total<sup>108</sup>: if the assessment of the case requires additional documentation, which makes impossible to carry out the activities necessary to decide on the asylum application or could lead to the non-observance of the guarantees recognised by the law due to causes not imputable to the applicant.

However, if the maximum time frame of 6 months is exceeded, the applicant should be informed of the delay and shall receive, upon request, information on the reasons of the delay and the time limit for the decision to be taken on his or her application.<sup>109</sup>

The term of 6 months may be extended successively for new cumulative periods, not exceeding 9 months, when:<sup>110</sup>

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

Exceptionally, in duly justified cases, a further extension may be applied for a maximum of 3 months.<sup>111</sup>

In practice, in the Regional Centres for Procedures and Accommodation for Asylum Seekers at Rădăuți, Galați, Timișoara, Șomcuta Mare (Maramureș) and Giurgiu, the 30-day term is respected. In exceptional cases, the 30-day deadline to issue a decision was extended. In 2 cases in Galați, two brothers seeking asylum had their interviews on 30 of August 2019 and the decision was communicated on the 11 of October 2019. The legal counsellor was not aware of the reason for this extension; neither the asylum seekers were informed of the delay and its reasons.

In **Rădăuți**, the JRS representative reported that there were no cases in which the deadline was extended, but it was reported that in one case the asylum seeker was issued the decision within 2 days from the day of the interview, even though at the interview the case officer told him that he may bring evidence within 3 days from the date of the personal interview. This issue was also argued at the Regional Court of Rădăuți.<sup>112</sup> However, according to another stakeholder interviewed, there were cases in which the deadline was extended.

In **Bucharest**, according to the JRS representative, in general the first instance decision is communicated within 2-3 weeks, especially when a form of protection is granted. Nevertheless, there were cases in which the 30-day deadline to issue a decision was extended for 10-20 days, in order to assess the country of origin information or the credibility of the asylum seeker.

According to IGI-DAI statistics, in 2019 the average duration of the asylum procedure was 60 days in case of regular procedure and 9 days in case of accelerated procedure<sup>113</sup>, compared to 50 days in 2018.<sup>114</sup> In case of Syria, Iraq or Afghanistan nationalities, the average procedure was 60 days.<sup>115</sup>

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<sup>108</sup> Article 52(2) Asylum Act.

<sup>109</sup> Article 52(3) Asylum Act.

<sup>110</sup> Article 52(5) Asylum Act.

<sup>111</sup> Article 52(6) Asylum Act.

<sup>112</sup> Decision 2207/17 September 2019, Regional Court of Radauti.

<sup>113</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>114</sup> Information provided by IGI-DAI, 5 March 2019.

<sup>115</sup> Information provided by IGI-DAI, 20 February 2020.

In practice, the average length of the asylum procedure from the moment of lodging the application until the first instance decision is taken, differs from one centre to another as follows:

Average duration of the asylum procedure by Regional Centre: 2019	
Regional Centre for Procedures and Accommodation for Asylum Seekers	Average duration in days
Timișoara	45
Șomcuta Mare	30
Rădăuți	30
Galați	45-60
Bucharest	60-90
Giurgiu	30-40

**Timișoara:** According to the Director of IGI-DAI in Timișoara, the average duration of the asylum procedure is 45 days. This was also echoed by one of the attorneys interviewed. According to the JRS representative the length of the asylum procedure varies from case to case and there were cases in which the procedure lasted 90 days. According to another attorney, in the cases where he was appointed, the average duration was 47 days.

**Bucharest:** According to the JRS representative, in general, the interviews are postponed due to the lack of interpreters, especially in case of asylum seekers from Bangladesh, Eritrea and Ethiopia. However, it was noted that this may also occur in case of Arabic speaking asylum seekers, where an interpreter is more accessible.

**Rădăuți:** There were cases in which the asylum procedure lasted 2-3 months, because there was no interpreter available.<sup>116</sup>

According to CNRR, the average length of the asylum procedure is 30 working days from the time the application is handed over to the case officer until the decision is communicated. There are exceptions: in case of absence of the interpreter or where there is a need for an additional interview.<sup>117</sup>

## 1.2. Prioritised examination and fast-track processing

According to the law, priority is given to asylum applications lodged by unaccompanied children.<sup>118</sup> IGI takes, in the shortest time, all the necessary measures for the appointment of a legal representative, which will assist the unaccompanied asylum-seeking child in all stages of the asylum procedure.<sup>119</sup> In practice, IGI-DAI instructs in writing the Directorate-General for Social Assistance and Child Protection to appoint a legal representative for the unaccompanied child, which will assist him or her during the asylum procedure. The notification is sent the next day or in a maximum of 3 days after the application was registered and the unaccompanied child was accommodated in one of the Regional Centres.

In case of vulnerable asylum seekers who are placed in specially designated closed spaces in the Regional Centres (see [Detention of Asylum Seekers](#)), the identity check and the assessment of their applications should be done with priority.<sup>120</sup> There have been no reported cases of this situation in practice.

<sup>116</sup> Decision 3417/02 December 2019, regional Court of Radauti- asylum application made on 05 August 2019, IGI-DAI decision issued on 17 October 2019; decision 2622/14 October 2019 Regional Court of Radauti- asylum application made on 13 June 2019, IGI-DAI decision issued on 4 September 2019; decision 48/20 November 2019 Administrative County Court of Suceava- asylum application made on 29 November 2018, IGI-DAI decision issued on 5 February 2019.

<sup>117</sup> Information provided by CNRR, 9 December 2019.

<sup>118</sup> Article 16(1) Asylum Act.

<sup>119</sup> Article 16(2) Asylum Act.

<sup>120</sup> Article 19^11 Asylum Act.

**Șomcuta Mare:** The asylum applications of vulnerable asylum seekers (3 pregnant women) were not examined with priority. It was also noted that families with children were not interviewed before single male asylum seekers. However, for unaccompanied children, it could be observed that their asylum application was assessed with priority (usually they received the decision within 3 weeks). However, the swiftness of the procedure in case of unaccompanied children also depends on the availability of the legal representative.

**Rădăuți:** The length of the asylum procedure for an unaccompanied child is the same as the procedure for an adult. The assessment of their application depends on the availability of a legal representative. Another stakeholder stated that some asylum applications made by unaccompanied children are examined with priority and some are not. Some of the unaccompanied children received the decision in 3 weeks.

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

**Timișoara:** According to the JRS representative, in a case of a single parent family (mother and son) the decision was given within 30 days since the day they were accommodated in the Regional Centre. ICAR Foundation and CNRR representatives assisted them at the interview. The director of IGI-DAI centre stated that in this case the decision was given in 45 days. The length of the asylum procedure for an unaccompanied child in Timișoara is 60 days. Even though IGI-DAI takes all the necessary measures with priority – in a maximum of 3 days after the unaccompanied child has been accommodated in the centre – and the legal representative is assigned in 2-3 weeks. According to the director of IGI-DAI Timișoara, the asylum procedure of unaccompanied children may be delayed due to the bureaucratic procedures carried out by DGASPC.

**Giurgiu:** According to the JRS representative, the asylum applications of minors were prioritised, however the length of the procedure is the same as for adults. The assessment of their application depends on the availability of the interpreters.

**Bucharest:** According to the JRS representative, efforts were made to prioritise the asylum applications of unaccompanied minors and in general they were assessed with priority. However, even in their cases, there were numerous delays caused by the lack of interpreters.

According to Save the Children Romania, the examination of the asylum application of an unaccompanied minor is directly related to the appointment of the legal representative from DGASPC. It was reported that in some cases the appointment of the legal representative may take a lot of time, around 1-2 months. Also, the unaccompanied minors living in the reception centres, do not receive appropriate assistance from the designated legal representative (counselling, information). The legal representative attends the interviews in the asylum procedure, but they don't have enough information to actually represent their interests.<sup>121</sup>

CNRR stated that they have no information on the use of prioritised or fast-track procedures.<sup>122</sup> According to IGI-DAI, in comparison with the previous years when no asylum claim was prioritised under Article 31(7) of the recast Asylum Procedures Directive, in 2019, 189 asylum requests made by unaccompanied minors were prioritised.<sup>123</sup>

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<sup>121</sup> Information provided by Save the Children, 5 December 2019.

<sup>122</sup> Information provided by CNRR, 9 December 2019.

<sup>123</sup> Information provided by IGI-DAI, 20 February 2020.

### 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

According to the law, an interview is conducted in order to assess the elements of an application for international protection.<sup>124</sup> Although the general rule is that an interview should be held in order to correctly assess the asylum claim, there are two situations where the interview is not mandatory:<sup>125</sup>

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

In 2019, 1,121 interviews were conducted, out of which 116 were conducted through videoconferencing. IGI-DAI took 70 decisions without an interview; out of which 67 were refugees relocated from Turkey and Jordan. IGI-DAI also took 806 decisions to discontinue the asylum procedure.<sup>126</sup>

All personal interviews, assessments of the reasons invoked by the asylum seeker and decisions are conducted by a designated case officer of IGI-DAI.<sup>127</sup>

#### 1.3.1. Interpretation

Article 45(2) of the Asylum Act sets out the rules regarding the right to have an interpreter during the personal interview. At the request of the applicant and when deemed necessary for presenting all the reasons for the asylum application, the interview shall be carried out by the case officer, with the support of an interpreter, in the language indicated by the applicant or in a language he or she understands and can communicate clearly. As far as possible, if the applicant requests it, both the case officer and the interpreter will be of the same gender as the interviewee.<sup>128</sup>

#### Availability of interpreters and double interpretation

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

**Galați:** There are only one Urdu and few Arabic interpreters. Their services are used by IGI-DAI and by the courts. As a consequence, quality control of their interpretation services is impossible to carry out. In one case, the procedure was delayed because the asylum seeker spoke a dialect and the authorities could not find an interpreter. Double interpretation was used from Kurdish to Arabic and from Arabic to Romanian. In this case, the asylum seeker declared only after his asylum application was rejected by IGI-DAI, that the transcript did not mention all the information provided by him at the interview.

**Rădăuți:** IGI-DAI frequently uses the same three interpreters – one for Arabic, one for Farsi / Dari / Urdu and one for Bengali. It was noted that the Bengali interpreter had no experience in interpretation in asylum cases or good command of Romanian. The Ombudsman noted that the low remuneration for

<sup>124</sup> Article 19^6(2) Asylum Act.

<sup>125</sup> Article 45(3) Asylum Act.

<sup>126</sup> Information provided by IGI-DAI, 5 March 2019.

<sup>127</sup> Article 48 Asylum Act.

<sup>128</sup> Article 45(2) Asylum Act.



interpreters, 23 RON/ €4.8/ hour, is one reason for the low number of interpreters contracted by IGI-DAI.<sup>129</sup>

**Timișoara:** There is a lack of interpreters for different dialects. Iranian asylum seekers complained about the fact that at the interview IGI-DAI used an Afghani interpreter and they could not communicate well with the interpreter. The director of IGI-DAI Timișoara also mentioned that there should be more Kurdish and Arabic interpreters in the centre and also Bengali, Somali, Hindi, Farsi.

**Giurgiu:** There is still a lack of interpreters, especially for different dialects. However, efforts are made in order to solve this issue.

In **Rădăuți**, IGI-DAI uses double interpretation from Kurdish to Arabic and from Arabic to Romanian. The interpreter for Arabic is not qualified and the interpreter for Kurdish was an asylum seeker himself that later obtained protection.

In 2019, the JRS representative from Rădăuți reported that IGI-DAI still uses double interpretation from Kurdish to Arabic and from Arabic to Romanian. The Kurdish translator is a beneficiary of international protection and is illiterate. IGI-DAI also uses double interpretation from Kurdish to Turkish and from Turkish to Romanian and the Kurdish interpreter is an asylum seeker. According to the JRS representative, many asylum seekers complained about the quality of the double interpretation once they received a negative decision from IGI-DAI.

This aspect was also brought to the attention of the court in the appeal lodged against a negative decision taken through the accelerated procedure by IGI-DAI, which acknowledged the reluctance of the applicant to share his whole story because of the presence of a Kurdish interpreter who also lived in the Regional Centre of Rădăuți. The applicant also criticised the fact that the Kurdish interpreter only graduated from Primary School and has no formal training in this field. The Regional Court Rădăuți dismissed the appeal without even assessing the applicant's claims regarding the double interpretation.<sup>130</sup>

Double interpretation is also used in **Giurgiu**, even though its effectiveness is questionable. In 2019 the double interpretation was used in cases concerning Tigrinya language.

The shortcomings of double interpretation were also highlighted in a decision of the Regional Court of Giurgiu in 2018.<sup>131</sup> The appellant, an Ethiopian national of Oromo ethnicity, claimed that "over 80% of the information included in the interview did not correspond to his statements, the reason being the faulty interpretation, as two interpreters participated in the interview and the relevant information he provided was incomplete or omitted by one of the translators". The appellant was heard, his statement being recorded separately and attached to the case file. The Regional Court of Giurgiu dismissed the case, but the appellant lodged an onward appeal. On 13 June 2018, the Administrative Country Court of Giurgiu allowed the appeal, quashed the decision of the Regional Court and remitted the case for re-examination. The Regional Court of Giurgiu heard the appellant again on 8 October 2018, with the help of an interpreter.

**Șomcuta Mare:** The Regional Centre collaborates with the same interpreters as last year, of the following languages: Farsi, Dari, Arabic, English and French. There is no Somali interpreter.

Stakeholders interviewed also reported that there is a limited number of female interpreters in the asylum procedure. For example, in the Regional Centre of **Galați**, there is a female interpreter for Arabic, English, French, Russian and Ukrainian. In **Giurgiu**, there are two female interpreters for English and Russian, in **Rădăuți** there is one interpreter for English/French, in **Șomcuta Mare** and **Timișoara** there are no female interpreters for rare languages. They are only available for English,

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<sup>129</sup> Ombudsman, Report 46,2019, available in Romanian at: <https://bit.ly/3am46vB>.

<sup>130</sup> Regional Court Rădăuți, Decision 3121/2019, 13 November 2019.

<sup>131</sup> Regional Court Giurgiu, Decision 5170/2018, 24 October 2018. Unofficial translation by the author.

Spanish, Russian and French. However, the director of IGI-DAI Timișoara stated that they are collaborating with a female Arabic interpreter.

Similarly, there is a limited number of female case officers at IGI-DAI. In **Timișoara**, there is only one female case officer and 3 male case officers per city. However, the female case officer in Timișoara mainly deals with Dublin cases. In **Bucharest**, there are 3 female case officers, according to the JRS representative. In the rest of the Regional Centres, there are no female case officers. In **Giurgiu** and **Șomcuta Mare**, there are only two male case officers. In Șomcuta Mare, the legal counsellor asked the female asylum seekers if they would like to have the interview with a female case officer and they answered negatively. In **Galați**, there are 3 case officers and they are all male. In **Rădăuți**, there are three male case officers.

### Quality and conduct

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

- Some interpreters do not refrain from making comments, they express doubt about the asylum seekers' declarations; e.g. "I was there, there are no Taliban", "I know better";
- Some interpreters have private conversations with the asylum seeker and do not translate the conversation, or they express emotions;
- Asylum seekers complained about an interpreter, who made comments during the personal interview like: "more briefly, I do not have all day at your disposal", he selected the documents that the asylum seeker should present at IGI-DAI, and translated only a summary of what is written on the page and not the whole interview (question and answer). Even though the asylum seekers wanted to be assisted by the legal counsellor during the interview, the interpreter told them that "the presence of the legal counsellor is not necessary because you will be granted a form of protection anyway".

In **Timișoara**, it was reported that a Farsi interpreter of Afghan origin was hired to translate during the interview for Iranian asylum seekers and, even though the asylum seekers requested another interpreter, the director of the Regional Centre Timișoara dismissed their request, saying that the interpreter would not be changed. According to an attorney, many asylum seekers complained that the interpreters are not translating accurately the declarations made during the interview. For example, although they told their story in several phrases, the interpreter translated everything only in one sentence. Small mistakes were noticed in the transcripts, but also small details can be essential for the outcome of the decision in their cases.

This was also echoed by another attorney, who mentioned in addition that the transcript is not read at the end of the interview, details are omitted, and interpreters are not making a diligent effort to interpret as accurately as possible. The attorney also reported that in one case the Arabic interpreter summoned by the court, clearly showed a lack of Romanian language skills as his knowledge was not sufficient in order to be able to express what the asylum seeker was saying. In order to avoid any misunderstandings, the attorney requested the judge to allow the applicant to speak in English. The judge granted this request because the judge also spoke English. The attorney also mentioned that in case of an Iranian family the court summoned an Afghani interpreter and it was clear that the interpreter did not know what the asylum seekers were saying. To make sure that the interpreter is exactly saying what the applicants were saying, the attorney had to ask many guiding questions. The same attorney also reported that at the court hearings, the interpreters never translate to the applicant the oral arguments of the attorney and of IGI-DAI's legal counsellor, nor what the judge is saying, when the judge does not address the applicant directly, even though the judge requests the interpreter to translate for the applicants.

In **Șomcuta Mare**, it was reported that interpreters are not professionally trained on asylum issues. It was also noted that asylum seekers complain about the quality of interpretation during the interview only

after they receive a negative decision from IGI-DAI. Asylum seekers declared that the interpreter omitted to translate some of the answers, or the interpretation was not accurate.

**Rădăuți:** Many asylum seekers complained about the English/French interpreter, as she did not translate everything they were saying at the interview or did not translate accurately. The JRS representative observed that the Arabic and French interpreters are not relaying the exact message of the asylum seekers; they are rephrasing or changing the meaning of the message which may be detrimental for the asylum seeker. It was also noted that asylum seekers are complaining about these facts when they are issued a negative decision. It was also reported that two Somali asylum seekers had an Arabic interpreter at the interview; at the Regional Court they requested a Somali interpreter, but the judge refused to grant their request. As they had signed the transcript of the interview, the judge deemed that they were able to understand and communicate with the Arabic interpreter.

**Bucharest:** There are problems with interpretations for rare languages, for Bengali language, for example, there are only two interpreters and one of them does not have a good command of Romanian language and sometimes he translates only with “yes” or “no” an obvious longer answer of the asylum seeker. The case officer has to insist in order for the interpreter to relay the exact answer of the asylum seeker. For Tigrinya language, there is only one interpreter who is rarely available for interviews.

In relation to the problems with the quality of interpretation and conduct of interpreters, CNRR stated that there are no means / modalities available for verifying the interpretation, and appreciations are subjective.<sup>132</sup>

According to Save the Children Romania, one of the shortcomings for the asylum seekers is interpretation. IGI-DAI ensures interpretation only during the preliminary and personal interview and in all other situations when interpretation is needed it is ensured by NGOs or by other asylum seekers or beneficiaries of international protection from the community. The usual practice consists of volunteering other asylum seekers or beneficiaries to translate. Unaccompanied minors, whether they live in the child protection facilities or in the reception centre, don't benefit from an interpreter that can mediate their interaction with the legal representative and with social workers, psychologists, and educators that work for DGASPC.<sup>133</sup>

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

All the stakeholders interviewed by the author have declared that they have never heard about a Code of Conduct for interpreters in the asylum procedure, except one legal counsellor who stated that when JRS signs a contract with an interpreter they also have to sign a Code of Conduct. CNRR, on the other hand, stated that the Code of Conduct is applied in practice and provides elements such as the rights and obligations of the interpreter, the position and attitude during the personal interview and counselling sessions, the importance of using correct terminology, the impartiality and confidentiality concerning the information the interpreter comes into contact with. This Code of Conduct was transmitted to IGI-DAI by CNRR and they believe it is applied by IGI-DAI.<sup>134</sup>

### 1.3.2. Recording

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

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<sup>132</sup> Information provided by CNRR, 9 December 2019.

<sup>133</sup> Information provided by Save the Children, 5 December 2019.

<sup>134</sup> *Ibid.*

Court sessions are recorded according to the Civil Procedure Code.<sup>135</sup> The rules concerning the recording of court hearings are set out in Article 13 of Act 304/2004 on Judicial Organisation, which provides that:

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

In 2019, interviews were conducted through videoconferencing in most of the regional centres, when there was no interpreter of certain languages.

**Şomcuta Mare:** In 2019 IGI-DAI conducted the interview for the first time through videoconference with interpreters from other centres, when there was no interpreter of that language in the area of the Regional Centre Şomcuta Mare. For example, in the cases of Somali, Bangladeshi and Sinhalese asylum seekers the videoconference was used during the interview. The legal counsellor asked the asylum seekers how the interview went, and they said that they could hear the interpreter and they could communicate with the interpreters without any issue.

**Timișoara:** JRS was not aware of any interviews being conducted through videoconferencing. However, the director of the Regional Centre Timișoara stated that several interviews were conducted through videoconferencing due to the lack of interpreters. They conducted interviews through this method with Bengali interpreters from Bucharest and Giurgiu.

**Galați:** According to the JRS representative, IGI-DAI conducted interviews through videoconferencing with interpreters from other regional centres, in cases of asylum seekers who spoke Kurdish, Pashto, Farsi and Dari. Asylum seekers did not complain about the interviews conducted this way. The JRS representative also attended an interview conducted through videoconference and stated that it was like a real time, face to face communication, there were no delays and they could hear and see clear the interpreter. It was also noted that in the room with the interpreter there was another person, the legal counsellor was unaware of who he was.

**Rădăuți:** This year interviews were conducted through videoconferencing for Somali and Bangladeshi asylum seekers. An asylum seeker from Bangladesh declared that the interpreter interfered with the manner in which the asylum seeker was telling his story. The same was reported about the Arabic interpreter, who also interfered and told the asylum seeker to state only the important matters and briefly.

**Giurgiu:** Videoconferencing was also used to conduct interviews. The JRS representative attended one interview conducted through videoconference and she stated that the interview was lengthy due to technical problems that interrupted the interview several times; the interview was taking place in the meeting room. Thus, the case officer had no access to a computer and he was constrained to handwrite the interview and to transcribe it afterwards.

## Transcript

The case officer conducting the interview transcribes the questions and the answers/statements *verbatim*. The transcript includes at least the following data: identification data of the applicant, the name of the case officer who performs the interview, the name of the interpreter and, as the case may be, of the legal representative, the counsellor and/or the lawyer assisting the applicant, the language of the interview, the reasons for the request for international protection, as well as the applicant's

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<sup>135</sup> Article 231(4) Civil Procedure Code: The court will record the court hearings. If the parties are challenging the content of the clerk's notes, it will be verified and, if necessary, supplemented or rectified based on the records of the court hearing.

statement that all the data and information presented at the interview are correct. Where appropriate, the interview note shall also include the applicant's explanations of the failure to present elements to be considered when examining the asylum application and/or clarification of inconsistencies or contradictions in his or her statements.<sup>136</sup>

At the end of the interview, the transcript of the interview is orally translated by the interpreter to the applicant.<sup>137</sup> The applicant has the possibility to formulate observations and/or to offer clarifications relating to any errors of translation or misunderstanding, which will be recorded in the interview transcript.<sup>138</sup> After this, the transcript is signed on every page by all the persons present at the interview.<sup>139</sup> A copy of the transcript is given to the asylum seeker or legal representative, his or her lawyer or counsellor, as the case may be, which assisted him or her at the interview, after the document was signed.<sup>140</sup> If the applicant refuses to sign the transcript, the reasons for his or her refusal will be mentioned on the transcript. The applicant's refusal to sign the transcript does not prevent IGI-DAI from taking a decision on the asylum application.<sup>141</sup>

In **Timișoara**, asylum seekers complained that they are not notified in advance of the date of the interview. According to the JRS representative, the officers are waking them up on the day of the interview or they are not allowed to leave the accommodation centre in the morning, or they are informed about the interview the day before. The latter is not applied often because IGI-DAI is afraid that the asylum seekers might leave. Furthermore, the information on the practice was corroborated by an attorney who stated that some asylum seekers mentioned that they are woken up at 7 AM and taken to the interview. It was also reported by one of the attorneys that at the end of the interview, the transcript is not fully translated by the interpreter; the interpreter only informs the asylum seekers that they have to sign the transcript as it includes all of their statements. According to the director of IGI-DAI Timișoara, asylum seekers are notified about the date of the interview in writing in their language or in English or at the preliminary interview when the interpreter is available. According to JRS representative, in 2019 there were no cases of asylum seekers complaining about the translation of the transcripts.

In **Galați**, there have been no cases of asylum seekers complaining about the quality of the interpretation and the transcript. According to the legal counsellor, the transcript was read out during all the interviews she attended. There was only one asylum seeker complaining about the fact that the interpreter did not relay everything, aspects that he mentioned were omitted by the interpreter.

In **Giurgiu**, the legal counsellor explained that at the interviews she attended the transcript was read out loud by the interpreter and asylum seekers had the opportunity to formulate objections and to make additional notes, which were subsequently inserted in the transcript.

In **Șomcuta Mare**, according to the legal counsellor, at the interviews she attended the transcripts were read. However, 2 asylum seekers complained that the transcript was not read at all at the end of their interview. The JRS representative shared that they argued this in court. The judge, however, ruled that they could not successfully claim that the interpreter did not read the transcript since the applicants had signed it.

In **Rădăuți**, some of the asylum seekers have reported that the interpreter does not translate the whole transcript (questions and answers), but only makes a summary thereof. There were no problems reported regarding the formulation of observations at the end of the interview. According to the JRS representative, she attended interviews where the interpreter rephrased the transcript, but also where the interpreter translated the whole transcript word for word.

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<sup>136</sup> Article 45(5) Asylum Act.

<sup>137</sup> Article 45(7) Asylum Act.

<sup>138</sup> Article 45(6) Asylum Act.

<sup>139</sup> Article 45(8) Asylum Act.

<sup>140</sup> Article 45(9) Asylum Act.

<sup>141</sup> Article 45(10) Asylum Act.

In **Bucharest**, it was reported by the JRS representative that the interpreter reads the transcript and the asylum seeker is asked if he has any objections. However, an asylum seeker declared to the NGOs staff that the objections were not registered.

If necessary, the case officer may conduct another interview with the asylum seeker.<sup>142</sup>

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

The decision taken (admission or rejection) by IGI-DAI is communicated, immediately, to the asylum seeker in writing, through direct communication by the representatives of the IGI-DAI if the asylum seeker lives in the Centre, or by post at the last declared residence of the applicant.<sup>143</sup> The decision may be communicated to the lawyer or NGO representative representing the asylum seeker, if the asylum seeker has expressly requested this.<sup>144</sup>

The decision is accompanied by written information, in Romanian and in a language that the applicant understands or is reasonably supposed to understand, related to the admission or rejection of the asylum application and the conditions under which the decision may be appealed, as the case may be.<sup>145</sup> In practice, the justification of the decision is written in Romanian and is translated by the NGO representatives.

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

### 1.4.1. Appeal before the Regional Court

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

The appeals, as well as the other procedural acts regarding the resolution of the appeal, are exempt from legal taxes and legal expenses cannot be demanded.<sup>146</sup>

In 2019, a total of 598 appeals against IGI-DAI decisions were filed before the Regional Courts.<sup>147</sup>

#### Time limits

The deadline for lodging an appeal is 10 days from the day the decision was communicated.<sup>148</sup> The appeal has automatic suspensive effect, if it was lodged within the term prescribed by law.<sup>149</sup>

<sup>142</sup> Article 45(11) Asylum Act.

<sup>143</sup> Article 54(1) Asylum Act.

<sup>144</sup> Article 54(1<sup>^</sup>1) Asylum Act.

<sup>145</sup> Article 54(1) Asylum Act.

<sup>146</sup> Article 65 Asylum Act.

<sup>147</sup> Information provided by IGI-DAI, 5 March 2019.

<sup>148</sup> Article 55(1) Asylum Act.

<sup>149</sup> Article 55(2) Asylum Act.

The law contains a procedural safeguard in case of appeals lodged after the time limit set out by law.<sup>150</sup> Therefore, in case of filing the appeal or onward appeal after the deadline, the applicant may request the suspension of the execution of the return decision. The request for suspension shall be settled within 7 days from its registration, by the competent court, which shall pronounce the decision in the council chamber, without the parties being summoned, by an irrevocable decision.<sup>151</sup> While this review is pending, the foreigner cannot be removed from the country.<sup>152</sup>

If the court admits the request to suspend the execution of the removal decision, the foreigner has the right to remain in the country pending the outcome of the request for reinstatement of the legal term to appeal.<sup>153</sup> The foreigner will benefit from all the rights provided by Articles 17 and 18 of the Asylum Act from the moment the court admits the request for reinstatement of the legal term to appeal.<sup>154</sup>

The appeal has to be motivated in fact and in law.<sup>155</sup> It may be lodged at IGI-DAI, which has issued the decision or directly to the competent court.<sup>156</sup> The appeal has to be accompanied by a copy of the IGI-DAI decision and other documents or elements on which the appeal is based on.<sup>157</sup> The court carries out an assessment of both points of facts and law. The decision of the first instance court incorporates the reasons in fact and law on which it is based.<sup>158</sup>

In general, there are no problems in appealing a decision, if asylum seekers consult the legal counsellor of an NGO.<sup>159</sup> In **Bucharest**, when communicating the decision, IGI-DAI also provides the asylum seeker with the postal address of the Romanian National Council for Refugees (CNRR) in English. Asylum seekers are told by the representative of IGI-DAI who communicates the decision, that they have to go to CNRR for legal counselling and assistance for lodging an appeal. This practice is in place since 2017. The JRS representative reported that sometimes this information is communicated to the asylum seeker, taking into account that CNRR has an office in Tudor Gociu Centre. Nevertheless, there were cases in which the rejected asylum seekers did not know who to turn to for the drafting the appeal against the decision of IGI-DAI.

Article 62 of the Asylum Act provides that asylum cases should be dealt with priority before other civil matters.<sup>160</sup> The court should take a decision on the appeal within 30 days.<sup>161</sup> The court has to motivate its decision within 5 days since it was pronounced.<sup>162</sup>

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<sup>150</sup> Article 69 Asylum Act.

<sup>151</sup> Article 69(1) Asylum Act.

<sup>152</sup> Article 69(2) Asylum Act.

<sup>153</sup> Article 69(3) Asylum Act.

<sup>154</sup> Article 69(4) Asylum Act.

<sup>155</sup> Article 57(1)(c) Asylum Act.

<sup>156</sup> Article 56 Asylum Act.

<sup>157</sup> Articles 56(1) and 57 Asylum Act.

<sup>158</sup> Article 425(b) Civil Code.

<sup>159</sup> Information provided by CNRR, 9 January 2018.

<sup>160</sup> Article 62(1) Asylum Act.

<sup>161</sup> Article 64(2) Asylum Act.

<sup>162</sup> Article 64(3) Asylum Act.

IGI-DAI statistics refer to 1 to 3 months average duration of the appeal procedure.<sup>163</sup> In practice, the average processing time for the first instance judicial court defers from county to county, as follows:

Average duration of the appeal procedure by Regional Court: 2018	
Regional Court	Number of days
Bucharest (District 4)	90
Galați	90
Baia-Mare	30
Giurgiu	90
Rădăuți	14 – 90
Timișoara	35 - 90

**Șomcuta Mare:** The JRS representative reported that the duration of the appeal procedure differs from case to case. There were cases where the appeal procedure lasted maximum 30 days, if the interpreter and the lawyers were present and the asylum seeker could be heard. In cases where there is no lawyer appointed or the interpreter is not present, the court hearings are postponed, and the appeal can last 3-4 months.

**Galați:** If there is a need for a Kurdish interpreter, the procedure can last 3 months, as the available Kurdish interpreter is no longer approved by IGI-DAI.

**Rădăuți:** According to the JRS representative there were cases where the appeal procedure lasted 60 days. According to the legal counsellor, the length of the procedure depends on the judge; there are some judges that are not postponing the hearing for any reason. In these cases, the appeal may last 14 days.

**Timișoara:** According to a lawyer, the average duration of the appeal procedure is around 35 days. Another lawyer mentioned that the average duration of the appeal is 45 days. According to the Director of the Regional Centre Timișoara, the average duration of the appeal procedure is 3 months.

In one case in 2018, the Regional Court of **Giurgiu** “gave the floor to the parties in order to estimate the duration of the proceedings. The applicant’s representative estimated the length of the procedure to 2 to 3 court hearings. IGI-DAI’s legal counsellor estimated the length of the proceedings to a single hearing. According to Article 248 of the Civil Procedure Code, the court estimated the duration of the procedure to one month”.<sup>164</sup>

## Hearing

The law establishes that the court may order the hearing of the asylum seeker when it considers that it is useful to settle the case.<sup>165</sup>

Some Regional Courts (**Galați, Baia-Mare**) always hear the asylum seeker *ex officio*. In **Galați**, in some cases the judge asks the applicant if he or she has something to add; in others the judge may ask questions. However, it was reported that in one case the asylum seeker requested the judge of the Regional Court of Galați to be heard, but the judge said it was not necessary if he did not have anything new to add. In Baia-Mare, on the other hand, there is an actual hearing.

In **Giurgiu** it was reported that if the asylum seeker has no attorney appointed, the judge hears the applicant *ex officio*. However, there were also cases when the applicants had neither a lawyer nor an interpreter and, thus, the hearing was impossible. As regards the actual hearing of the applicant, some of the judges ask the applicants if they have anything else to add, others allow the applicants to recount

<sup>163</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>164</sup> Regional Court of Giurgiu, Decision 1427/2018, 7 March 2018. Unofficial translation by the author.

<sup>165</sup> Article 63 Asylum Act.



their stories again. There are also judges with no experience in asylum cases, who ask exclusively questions such as: “what countries did he or she transit?; how much did he or she pay to the smuggler?; etc.”, without including any questions about the well-founded fear of being persecuted.

In the Regional Court of **Timișoara**, the hearing of the asylum seeker is requested either by the lawyer or the judge. In **Rădăuți**, some of the hearings consist in asking the asylum seeker if he has something to add, while in other cases all the parties ask questions and, only in few cases, asylum seekers have the opportunity to give full statements.

In the Regional Court of **Bucharest District 4**, the practice witnessed in 2017 of the asylum seekers not been heard in most of the cases, changed in 2018 when some of the judges started hearing the asylum seekers *ex officio*. However, the hearing consists in asking the asylum seeker if he has something else to add or to clarify contradictory aspects. A lawyer reported that in 2018 some of the judges started to exercise an active role, asking questions to the asylum seeker.

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

According to CNRR, the hearing is not compulsory, under the Asylum Act - it is up to the judge if he or she hears the asylum seeker. In general, the Regional Court of Bucharest District 4 and the other regional courts hear the asylum seekers when evidence is to be requested and administered.<sup>166</sup>

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

Hearings in asylum cases are not public.<sup>167</sup> This was respected in practice in all the courts.

Another improvement noticed by a lawyer in the Regional Court of **Bucharest District 4** is that, since October/November 2018, the list of hearings displayed outside the courtroom is anonymised and no longer contains the name of the asylum-seeking appellants.

## Decision

The Regional Courts took 364 decisions in 2019.<sup>168</sup>

At the national level, there is a court's portal available online,<sup>169</sup> but not all the asylum cases are published on it.

The practice regarding the publication of the decisions of the Regional Court varies. For example, the appeals reviewed by the Regional Court of **Rădăuți** and Administrative Country Court of Suceava are all published on the national portal. However, as opposed to 2017, the full name of the applicant is no longer included; only his or her initials, file number and the decision reached by the court in short i.e. acceptance or dismissal of the appeal. On the other hand, practice has not change at the Regional Court and the Administrative Country Court of **Giurgiu**, where all the appeals are published and include full names, file number and the decision in short.

In addition, some of the decisions of the Regional Courts of Rădăuți and Giurgiu are published on a website funded by the Supreme Council of Judges and the National Union of Public Notaries of Romania. Some of the names of the applicants are anonymised while others are not.<sup>170</sup>

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<sup>166</sup> Information provided by CNRR, 9 December 2019.

<sup>167</sup> Article 58 Asylum Act.

<sup>168</sup> Information provided by IGI-DAI, 20February 2020.

<sup>169</sup> Ministry of Justice, *Portalul instanțelor de judecată*, available in Romanian at: <http://bit.ly/2hGMVhM>.

In 2019 asylum seekers could no longer consult the progress and outcome of their cases reviewed by the Regional Court of Baia-Mare and the Tribunal of Maramureş because the files are no longer scanned on the portal of the Court of Appeal, even though the court still communicates a password for the portal. As a consequence, it is now difficult for the asylum seeker and NGO representatives to follow the cases. The JRS representative has to enquire the Bar Association who was appointed as a lawyer in the case, in order to contact him or her for more details regarding the case.

Some of the decisions of the Regional Court of **Timișoara** are published on the national portal. All published appeals, include full names, file number and the decision in short.<sup>171</sup> Even though the court communicates the password, the case files of asylum seekers are not recorded on the Court of Appeal portal. In the past, a register for all the cases submitted to the court, including asylum cases, was available. At present, all the registers are abolished except one, which is used only for the asylum cases. In the register, a clerk is writing the case file, the initials of the asylum seekers' name and the decision of the court. One of the lawyers stated that in order to know the decision of the court, he calls the public information office of the court.

The decisions of the Regional Court and Administrative Country Court of **Galați** are not published on the national portal. In order to obtain the decisions or to receive other documents from the case file, the interested parties may file a request at the court's registry and the documents are sent to them via email. The asylum seeker is informed about the decision of the court either by his or her attorney or by the NGO representatives, who are in contact with the legal department of IGI-DAI.

The decisions of the Regional Court of **Bucharest District 4** are neither published on any portal nor written in the registers. The decisions may only be accessed through the court's archive.

#### 1.4.2. Onward appeal

In 2019, there were 236 onward appeals before the Administrative County Courts.<sup>172</sup>

The law prescribes the possibility to appeal against the decision of the Regional Court.<sup>173</sup> The competent court is the County Tribunal, Administrative Litigation Section (Administrative County Court), which has jurisdiction over the area of the Regional Court whose decision is appealed.<sup>174</sup> The Administrative County Court is made up of three judges.

The onward appeal has to be lodged within 5 days from the day the Regional Court decision was pronounced and has automatic suspensive effect, if it is lodged in due time.<sup>175</sup>

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<sup>170</sup> Romanian Legal Information Institute (Rolii), available in Romanian at: <https://bit.ly/2PKL4Yw>.

<sup>171</sup> Ministry of Justice, *Portalul instanțelor de judecată*, available in Romanian at: <https://bit.ly/32qwkAb>

<sup>172</sup> Information provided by IGI-DAI, 5 March 2019.

<sup>173</sup> Article 66 Asylum Act.

<sup>174</sup> Article 67 Asylum Act.

<sup>175</sup> Article 66(2) and (4) Asylum Act.

The average duration of the onward appeal procedure is 2-3 months.<sup>176</sup> In practice, this varies from one court to another:

Average duration of the onward appeal procedure by Administrative County Court: 2018	
Administrative County Court	Number of days
Bucharest (District 4)	150 - 180
Galați	90
Maramureș	21 - 30
Giurgiu	60 - 90
Suceava	60 - 90
Timișoara	90 - 120

The onward appeal does not look at facts, but examines if the appealed decision is compliant with the applicable rules.<sup>177</sup> As a consequence, the onward appeal has to include the grounds for illegality on which the appeal is based.<sup>178</sup> The decision has to be motivated within 10 days from the day it is communicated by the Regional Court.

**Timișoara:** According to a lawyer, the average duration of the onward appeal is 129 days; another lawyer reported that the average duration is 67 days. According to the director of the Regional Centre Timișoara, the average duration of the onward appeal is 3 months, one of the reasons for this is the fact that it takes a lot of time for the Regional Court to motivate its decision.

**Șomcuta Mare:** If all the procedural formalities are fulfilled, the onward appeal can be finalised in 30 days. 3 onward appeals (a family and 2 single man) have been pending for 1 year. In these cases, the court hearings were postponed several times in order to allow the asylum seekers to produce documentary evidence to substantiate their statements; the court requested original and translated documents. In addition, during the judicial/court holidays the court hearings were postponed for 2 months.

**Rădăuți:** It was reported that in one case the onward appeal of an asylum seeker lasted 9-10 months.

**Bucharest:** According to the JRS representative, the average duration of the onward appeal is 90 days; according to an attorney is between 150-180 days.

In **Timișoara**, it was reported by one of the lawyers that the Administrative County Court of Timișoara sent subpoenas in which it envisaged that grounds for rebuttal have to be lodged. However, the reasoned onward appeal is not communicated to the parties.

One of the lawyers in **Bucharest** stated that some of the judges of the Regional Court of Bucharest District 4 take up to two or three months to draft and communicate the reasoned decision. Therefore, the duration of the onward appeal procedure may reach 6 months.

According to CNRR the average duration of the onward appeal is 90 days. However, at the Administrative County Court of Bucharest District 4, the procedure may reach 180 days.<sup>179</sup>

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

<sup>176</sup> Information provided by IGI-DAI, 20 February 2019.

<sup>177</sup> Article 483(3) Civil Procedure Code.

<sup>178</sup> Article 486(1)(d) Civil Procedure Code.

<sup>179</sup> Information provided by CNRR, 9 December 2019.

On the other hand, CNRR stated that in general CNRR lodges onward appeals if the asylum seeker presents the decision.<sup>180</sup>

According to the Civil Procedure Code, the attorney who represented or assisted the party during the trial may, even without a mandate, take any act for the preservation of rights subject to a term, which would be lost by failing to do so on time and appeal against the judgment. In these cases, only the party will handle all the procedural documents. The supporting of the appeal can only be based on a new power of attorney.<sup>181</sup>

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

### 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

According to Article 17(1)(e) of the Asylum Act, the asylum seeker has the right to counselling and assistance from a representative of a Romanian or foreign NGO, in any phase of the asylum procedure. The asylum seeker has the right to be given, upon request, legal and procedural information, including information on the first instance procedure, in line with the provisions on public judicial assistance in civil matters, taking into account his or her personal situation.<sup>182</sup>

The law sets out the right of the asylum seeker to be provided, upon request, according to the legislation on public judicial assistance in civil matters and taking into account the personal situation of the foreigner, information on the motivation of the rejection of the asylum application, the procedure for challenging the ordinance through which the measure of placement in a specially closed spaces was taken, as well as the possibility of challenge the decision which granted, reduced or withdraw the material reception conditions.<sup>183</sup>

#### 1.5.1. Legal assistance at first instance

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

In the administrative phase of the procedure, free legal counselling and assistance is provided by NGOs through projects funded by the national Asylum, Migration and Integration Fund (AMIF) scheme and UNHCR Romania. The Romanian National Council for Refugees (CNRR) provides specialised legal counselling and assistance to all asylum seekers upon request in the 6 Regional Centres for Accommodation and Procedures for Asylum Seekers, through a project funded by the national Asylum,

<sup>180</sup> Information provided by CNRR, 9 December 2019.

<sup>181</sup> Article 87(2)(3) Civil Procedure Code.

<sup>182</sup> Article 17(1)(s) Asylum Act.

<sup>183</sup> *Ibid.*

Migration and Integration Fund (AMIF) programme. CNRR's legal counsellors have an office in the regional centres where they are available every weekday for 8 hours per day.

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

The Jesuit Refugee Service ([JRS](#)), through the project "Improving the situation of asylum seekers in Romania", also provides legal assistance and information in all the Regional Centres, which is complementary to the assistance afforded by CNRR. The project is funded by UNHCR Romania.

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

Under the project funded by UNHCR, JRS may appoint a lawyer if the asylum seeker is a vulnerable or a person of interest for UNHCR or if it is a case that might lead to a practice altering-decision. According to JRS representative from Timișoara, the conditions for receiving funding for lawyers are even tighter. Legal representation by a lawyer under the Legal Aid Act includes representation in the administrative phase of the procedure.<sup>184</sup> According to Article 35 of Legal Aid Act, legal aid may also be extra-judicial and consist in consultations, filing of applications, petitions, referrals, initiation of other related legal steps, as well as representation before public authorities or institutions other than judicial or with jurisdictional powers, with a view to achieving the individual's legitimate rights or interests. This was confirmed by the National Union of Romanian Bar Associations.<sup>185</sup> However, according to the head of the Judicial Assistance Service at the Bucharest Bar Association no legal aid applications for representation in the administrative phase of the procedure were lodged.

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

### 1.5.2. Legal assistance in appeals

In court proceedings, legal aid may be provided by NGOs (CNRR and JRS), which have limited funds for legal representation. In addition, if the case of the asylum seeker is not eligible for a lawyer contracted through NGOs, legal counsellors may draft a request for legal state aid. According to the answer provided by the Regional Court of **Giurgiu**, out of 51 appeals received by the court in 2019, 26 cases made an application for legal aid, and 8 legal aid applications were rejected.<sup>186</sup> No reviews of the applications for legal aid were lodged in these rejected cases.<sup>187</sup> According to CNRR, the reason for the dismissal of the requests is that the applicants had access to legal counselling from CNRR and, therefore, they do not need the assistance of an attorney.<sup>188</sup>

An attorney reported that the Regional Court of District 4 of Bucharest dismissed the application for legal aid in one case because the applicant failed to prove the lack of income. It was noted that the judge in this case was newly appointed in asylum cases.

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<sup>184</sup> Government Emergency Ordinance 51/2008.

<sup>185</sup> Information provided by the National Union of Romanian Bar Associations, 8 January 2018.

<sup>186</sup> Information provided by the Regional Court Giurgiu, 04 February 2019.

<sup>187</sup> Information provided by the Regional Court Giurgiu, 04 February 2019.

<sup>188</sup> Information provided by CNRR, 9 December 2019.

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

**Bucharest:** According to a lawyer, who is the head of the Judicial Assistance Service of the Bucharest Bar Association, lawyers paid through the state legal aid scheme are becoming more involved, with some of them requesting guidance from the head of the Judicial Assistance Service. However, only a few lawyers requested an adjournment of the hearing in order to prepare the case. The JRS representative reported that the asylum seeker only meets his or her lawyer paid through the state legal aid at the court hearing and, as a consequence, they cannot prepare and discuss the details of the case.

In 2019, the Bar Associations in Romania did not organise any training on asylum law for the lawyers inserted in the legal aid register and other interested lawyers. One of the attorneys interviewed reported that there is a stringent need for trainings for lawyers.

The National Bar Association of Romania (UNBR), in partnership with the Foundation for Legal Resources Centre (CRJ), implemented the project "Education program and legal assistance for improving citizens' access to justice - JUST ACCESS", under which a national campaign was organised on legal information, education and awareness on the citizens' right, including information on the judicial institutions and the services provided by them, with emphasis on the rights of vulnerable groups.<sup>189</sup> According to an attorney training within the project, migrants and asylum seekers were included in the category of vulnerable groups.

JRS Romania organised training for the lawyers registered in the legal aid register in **Galați** and **Giurgiu**. In Giurgiu, at the training organised jointly with UNHCR, only 4-5 lawyers participated. UNHCR Romania organised a seminar for lawyers and legal counsellors on "The European Court of Human Rights mechanisms to protect asylum seekers and refugees while in administrative/immigration detention".

The legal counsellor in **Giurgiu** stated that there are certain aspects that can be improved regarding the legal representation through the state legal aid, especially when it comes to communication between the applicant and lawyer appointed *ex officio*. One of the problems identified is the language barrier. Nonetheless, lawyers paid through the legal aid scheme are not willing to make use of the interpreter, even when one is available. Most of the times, this happened at the first court hearing, when the lawyer meets for the first time the client and the interpreter is also present. Some of the lawyers do not even provide their contact details to their clients. Another aspect that can be improved is that lawyers should request evidence that can substantiate solid arguments before the court.

In the Regional Centre of **Galați**, legal representation through the state legal aid scheme is ensured by lawyers who have participated in seminars and conferences organised by NGOs. Attorneys paid through state legal aid are contacting the NGO representatives (CNRR and JRS) to discuss the case with the asylum seekers and to obtain all the documents from their file. The onward appeal is filed either by the attorneys representing the applicants, including those paid through the state legal aid scheme, or by the legal counsellors from the NGOs.

In **Șomcuta Mare**, legal representation through the state legal aid scheme is ensured by 5 lawyers, out of which 2 are newly appointed in asylum cases; the other 3 lawyers attended CNRR seminars for lawyers. They keep in touch with the asylum seekers through the NGOs present in the centre. However,

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<sup>189</sup> National Bar Association of Romania (UNBR), information available in Romanian at: <https://bit.ly/2SXHeww>.



the legal counsellor of CNRR or JRS drafts the appeal. The JRS representative drafts the request for legal state aid jointly with the appeal. As soon as the asylum seeker receives the subpoena, the JRS representative calls the Bar Association to know who the appointed attorney for the case is. Lawyers meet their client for the first time at the court hearing. The Regional Court does not transmit the request swiftly and in some cases the lawyer was appointed 2 days before the court hearing. There were also cases where the lawyers paid through the legal state aid were appointed just before the court hearing and, at the request of the asylum seekers, the court granted them an hour to discuss with their attorney. The practice noticed in 2018 whereby the Bar Association appointed the same lawyer in the appeal and onward appeal procedures is not in place anymore in 2019.

In **Timișoara**, from a large number of attorneys appointed by the Bar Association through the legal aid scheme, only one or two attorneys are knowledgeable about asylum law, according to the director of the Regional Centre of Timișoara. The rest of the lawyers paid through the legal aid scheme are not specialized or effectively involved, some of them do not even attend the court hearings. According to a lawyer, the lawyers appointed through the state legal aid scheme show lack of interest in the asylum cases and they do not meet with their clients.

In **Rădăuți**, the lawyers paid through the state legal aid scheme are not knowledgeable about asylum law. According to JRS representative the attorneys paid through the state legal aid rarely contact or discuss with the asylum seekers. It was also reported that attorneys paid through the state legal aid are not making any oral arguments during the court hearing, not discussing with their clients and not lodging the onward appeal.

CNRR reported that some of the attorneys paid through state legal aid even requested the rejection of the appeal lodged by his or her client. Some of them have no minimum training in the field; the communication with asylum seekers is deficient.<sup>190</sup>

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

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

The asylum seekers are not aware that they have to lodge the onward appeal within 5 days from the decision of the court, as they are do not know how to be informed of the decision taken by the Region Court on their case. As consequence, an attorney from the Bucharest Bar reported that many onwards appeals are lodged after the deadline and they are dismissed because the Administrative County Court of Bucharest rules that the applicants had access to legal counseling from an NGO.

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<sup>190</sup> Information provided by CNRR, 9 December 2019.

At the same time, CNRR reported that there were no problems in lodging the onward appeals<sup>191</sup>. According to IGI-DAI statistics, in 58 cases the asylum seekers did not lodge an onward appeal against the decision of the Regional Courts.<sup>192</sup>

A lawyer, assisted by an NGO, referred to a case where the onward appeal was not lodged within the deadlines prescribed by law and the request for the deadline extension was rejected on the ground that the asylum seeker had received legal assistance from the NGO.

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

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

## 2. Dublin

### 2.1. General

#### Dublin statistics: 2019

Outgoing procedure			Incoming procedure		
	Requests	Transfers		Requests	Transfers
<b>Total</b>	<b>239</b>	<b>16</b>	<b>Total</b>	<b>1,386</b>	<b>141</b>
Bulgaria	121	3	Germany	565	81
Greece	62	0	France	310	:
Germany	7	7	Austria	182	17
Netherlands	6	2	UK	63	:
UK	4	0	Belgium	58	:
Cyprus	4	0	Italy	11	:

Source: IGI-DAI, 20 February 2020.

<sup>191</sup> Information provided by CNRR, 9 December 2019.

<sup>192</sup> Information provided by IGI-DAI, 20 February 2019.



In 2019, Romania issued 239 and received 1,386 requests under the Dublin Regulation. The following criteria were used:

Outgoing and incoming Dublin requests by criterion: 2019		
Dublin III Regulation criterion	Outgoing	Incoming
Family provisions: Articles 8-11	12	21
Regular entry: Articles 12 and 14	16	89
Irregular entry: Article 13	14	77
Dependent persons and humanitarian clause: Articles 16 and 17(2)	4	11
"Take back": Articles 18 and 20(5)	193	1,188
<b>Total outgoing and incoming requests</b>	<b>239</b>	<b>1,386</b>

Source: IGI-DAI, 20 February 2020 (information requests under article 34 of the Dublin-regulation are not included).

### 2.1.1. Application of the Dublin criteria

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

One case reported in **Timișoara** concerned an unaccompanied child from Afghanistan who lodged the asylum application in September 2017 and was taken under the care of DGASPC in November 2017. IGI-DAI closed his file believing that he had left the centre. The legal counsellor notified IGI-DAI of the error and his case was reopened in December 2017, when the Dublin procedure was also triggered. After four requests sent to the United Kingdom to "take charge" of the child, who has an uncle living there, the UK accepted the request in November 2018.

**Șomcuta Mare:** two brothers, unaccompanied minors, (who were accompanied by their underaged cousins) declared during the personal interview that their dad resides in another Member State. Their asylum procedure was suspended but soon after they left the Regional Centre.

**Galați:** The Dublin procedure was initiated for an unaccompanied child, who had a brother in France, but he left the Regional Centre before he received a decision.

**Rădăuți:** 3-4 unaccompanied children were reunited with their family members in Germany. In 2 months, they were already transferred to Germany. There is still 1 unaccompanied minor who has been waiting for his transfer to Germany for 3 months. Moreover, an asylum seeker was reunited with his spouse and child in Belgium.

The most frequent criteria for outgoing requests were "take back", mainly addressed to Bulgaria. Similarly, the majority of incoming requests to Romania concern "take back" cases.<sup>193</sup>

### 2.1.2. The dependent persons and discretionary clauses

In 2019, Romania issued 1 outgoing request and received 10 incoming requests based on the humanitarian clause. It issued 3 outgoing requests based on the dependent persons clause. The sovereignty clause was not applied in 2019.<sup>194</sup>

<sup>193</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>194</sup> Information provided by IGI-DAI, 20 February 2020.

## 2.2. Procedure

### Indicators: Dublin: Procedure

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

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

All asylum seekers are fingerprinted, photographed and checked against the Eurodac database. In practice, there were cases where asylum seekers refused to be fingerprinted but, after they were explained that this was necessary for the asylum procedure and, in case of refusal, they would have been detained, they agreed to it. In case the applicant does not comply with the obligation to be photographed and fingerprinted,<sup>195</sup> measures of constraint may be applied. The use of these measures must be non-punitive, proportionate and applied only for the necessary period, if there is no other way of determining the asylum seeker to cooperate with the staff of IGI-DAI.<sup>196</sup>

### 2.2.1. Individualised guarantees

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

In a first instance decision of 6 August 2019, concerning an asylum seeker from Iran, IGI-DAI Regional Centre **Șomcuta Mare** denied access to the asylum procedure in Romania and ordered his transfer to Bulgaria. The Bulgarian authorities assumed responsibility to take back the asylum seeker. The decision does not mention any other detail regarding the stage of his procedure or if individualised guarantees were requested. IGI-DAI explained its decision not to examine the application as follows: "The access to the asylum procedure was not restricted; there is no mention that the Bulgarian authorities did not fulfil their obligations undertaken at European and international level related to reception conditions and assessment of asylum claims." No other explanation was given by IGI-DAI in the decision.<sup>197</sup> The asylum seeker challenged the decision, but later he withdrew his appeal and returned to his country of origin.

In another decision taken on 21 November 2019, concerning an asylum seeker from Afghanistan, IGI-DAI Regional Centre **Giurgiu** denied access to the asylum procedure in Romania and ordered his transfer to Bulgaria. The decision only states that the asylum seeker made an asylum application in Bulgaria on 4 September 2019 and that the Bulgarian authorities assumed responsibility to take back the asylum seeker. The decision does not mention any information regarding the stage of his procedure or if individualised guarantees were requested. It does not even mention the paragraph mentioned above, which was widely used in Dublin decisions in 2018.<sup>198</sup>

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

<sup>195</sup> In accordance with Article 19(a) Asylum Act.

<sup>196</sup> Article 18(3) Asylum Decree.

<sup>197</sup> IGI-DAI Șomcuta Mare, Decision of 06 August 2019.

<sup>198</sup> IGI-DAI Giurgiu, Decision of 21 November 2019.

### 2.2.2. Transfers

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

Nevertheless, IGI-DAI may reduce or withdraw the material reception conditions of asylum seekers, including asylum seekers subject to the Dublin procedure. The motivated decision may be challenged in court.<sup>199</sup>

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

- (a) The obligation to report at IGI;<sup>200</sup>
- (b) Designation of his or her residence in a Regional Centre of Procedures for Asylum Seekers;<sup>201</sup>
- (c) Placement or, as the case may be, remaining in public custody (detention).<sup>202</sup>

The only restrictive measure not applicable to asylum seekers subject to Dublin procedure is the placement in specially designated closed places, which are defined as alternatives to detention but in practice consist of detention rooms in the Regional Centres.<sup>203</sup> Reporting duties and residence in a specific place may be imposed in order to ensure the transfer.<sup>204</sup> Detention for the purpose of a transfer is discussed in [Grounds for Detention](#).

If after the asylum seeker is placed in detention, one of the deadlines provided by Article 28(3) of the Dublin Regulation expires, the measure ceases to have effect. IGI draws up a notice on the cessation of the measure, which is communicated to the applicant.<sup>205</sup>

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

According to IGI-DAI, the average duration of the Dublin procedure between the issuance of a request and the transfer is 3 months. The average duration of the process between acceptance of responsibility and transfer takes also approximately 3 months.<sup>206</sup> This is corroborated by information provided by the stakeholders in **Rădăuți**, **Șomcuta Mare** and **Timișoara** interviewed by the author, who indicated that the average duration of the Dublin procedure is around 2-3 months, the only exceptions are in **Bucharest** and **Giurgiu** where, according to the JRS representative, the transfers were carried out in maximum 2 weeks and 6-9 months respectively.

According to the stakeholders interviewed by the author, most asylum seekers decide to continue their journey to other countries, once they are informed about the final decision of their Dublin transfer.

**Timișoara:** According to the director of the Regional Centre, there were only two transfers effectively conducted to Bulgaria out of 40 outgoing requests. The transfers to Bulgaria were carried out within 2 months of the start of the procedure. 3-4 transfers to Germany were carried out within 3-4 months from the start of the procedure. According to JRS representative, the transfers are carried out within 2-3 months.

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<sup>199</sup> Article 19^1(1)-(2) Asylum Act.

<sup>200</sup> Article 19^2(1)(a) Asylum Act.

<sup>201</sup> Article 19^2(1)(b) Asylum Act.

<sup>202</sup> Article 19^2(1)(d) Asylum Act.

<sup>203</sup> Article 19^2(3) Asylum Act.

<sup>204</sup> Articles 19^3 and 19^4 Asylum Act.

<sup>205</sup> Article 19^14(10) Asylum Act.

<sup>206</sup> Information provided by IGI-DAI, 20 February 2020.

**Rădăuți:** According to JRS representative, there was only one outgoing request sent to Bulgaria. The transfer was carried out in 2 weeks after the court reached a decision. The transfers to Germany were carried out within 2 months. One transfer to Belgium was carried out within 2,5 months.

**Bucharest:** Transfers are carried out within a maximum of 2 weeks from the date the Member State accepted its responsibility. According to the JRS representative, only one asylum seeker was transferred to Sweden under the Dublin Regulation in 2019.

**Giurgiu:** The JRS legal counsellor mentioned that it depends on the correspondence with the Member State concerned, the exchange of documents and complexity of the case. On average, the Dublin procedure may take 6-9 months. Transfers to Bulgaria were carried out within approximately 1 month and in some cases even sooner.

**Galați:** According to the legal counsellor, no transfers were carried out because the asylum seekers left before receiving a decision from IGI-DAI.

**Șomcuta Mare:** A transfer to Austria was carried out in 4 weeks from the date of the final decision of the court. The duration of the whole procedure was around 4-5 months since the suspension of the asylum procedure in Romania.

Romania issued 239 requests and implemented 16 transfers in 2019, thereby indicating a transfer rate of 6.6%.<sup>207</sup>

### 2.3. Personal interview

#### Indicators: Dublin: Personal Interview

☐ Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the Dublin procedure? ☒ Yes ☐ No

❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No

2. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

According to the law, if during the preliminary interview the answers of the asylum seeker indicate the necessity to start the Dublin procedure, the preliminary interview is conducted pursuant to Article 5 of the Dublin Regulation.<sup>208</sup>

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

The interview in the Dublin procedure takes place faster than in the regular procedure, even on the same day as the preliminary interview. A copy of the transcript of the interview is not handed over to the

<sup>207</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>208</sup> Article 43(3) Asylum Act.

asylum seeker after the interview. However, he or she may request it under the provisions of the Asylum Act.<sup>209</sup> The modalities are the same as the regular procedure as regards the other aspects.

## 2.4. Appeal

### Indicators: Dublin: Appeal

☐ Same as regular procedure

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

❖ If yes, is it

❖ If yes, is it suspensive

☒ Yes

☒ Judicial

☐ Yes

☐ No

☐ Administrative

☒ No

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

In contrast with the regular procedure, lodging the appeal in the Dublin procedure does not have automatic suspensive effect. When appealing, the applicant may also request the suspension of the implementation of the transfer decision.<sup>210</sup> The request for suspension is decided urgently in the council chamber by final conclusion, and the parties are summoned.<sup>211</sup> The implementation of the transfer decision is suspended until the court decides on the request for suspension.<sup>212</sup>

In situations that could not have been taken into consideration at the moment of issuing the decision, the case officer may, *ex officio*, decide to suspend the transfer decision until the court has ruled on the appeal. The measure is communicated to the applicant, according to the provisions on communication of decisions in the regular procedure.<sup>213</sup>

The court shall settle the case within maximum 30 days.<sup>214</sup> The competent court is the Regional Court (*Judecatoria*) with territorial jurisdiction over the area in which IGI has issued the decision.<sup>215</sup> The decision of the court is final.<sup>216</sup>

If the court admits the appeal and decides that the application for international protection in Romania should be resumed and the applicant has already been transferred to the responsible Member State, IGI shall take the necessary steps to readmit him or her to the territory of Romania.<sup>217</sup>

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

**Galați:** According to the legal counselor, the authorities do not assess the individual guarantees within the Dublin procedure.

<sup>209</sup> Article 17(1)(f<sup>1</sup>) sets out the right to have access, personally or through a representative, to the information contained in the personal file, unless the disclosure of the information or sources, from which it was obtained would jeopardise the national security, the organisations or persons who provided that information, or if it would be prejudicial to the examination of the application for international protection. Access to the information in the personal file is based on a request addressed to the specialised asylum structure of IGI. At the request of the applicant for international protection, copies of documents from the personal file may be issued free of charge, in accordance with the provisions of the present law.

<sup>210</sup> Article 121(3) Asylum Act.

<sup>211</sup> *Ibid.*

<sup>212</sup> Article 121(4) Asylum Act.

<sup>213</sup> Article 121(5) Asylum Act.

<sup>214</sup> Article 121(6) Asylum Act.

<sup>215</sup> Article 121(2) Asylum Act.

<sup>216</sup> Article 121(7) Asylum Act.

<sup>217</sup> Article 121(8) Asylum Act.

**Timișoara:** According to the director of IGI-DAI Timișoara, the two asylum seekers transferred to Bulgaria did not appeal the decision, as they wanted to be transferred back to Bulgaria. However, according to JRS representative and CNRR legal counselor, both asylum seekers appealed the decision rejecting their access to the asylum procedure in Romania and ordering their transfer to Bulgaria.

## 2.5. Legal assistance

### Indicators: Dublin: Legal Assistance

☒ Same as regular procedure

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

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

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

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

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

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

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

## 2.6. Suspension of transfers

### Indicators: Dublin: Suspension of Transfers

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

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
------------------------------	--

  - ❖ If yes, to which country or countries?

**Greece:** Romania has resumed Dublin procedures to Greece as of 1 October 2018.<sup>218</sup>

**Timișoara:** According to the director of IGI-DAI Timișoara, there were 2-3 outgoing requests sent to Greece. The transfers were not implemented as the asylum seekers left before they received the decision.

**Șomcuta Mare:** 1 family from Iraq (parents and 2 children) and 1 single parent family from Syria (father and son), 1 Somali single man, 2 Afghani single men and 3 Syrian single men were found to have an Eurodac 'hit' with Greece. The single parent family was granted access to the asylum procedure in Romania and was granted subsidiary protection. The Somali asylum seeker was granted access to the asylum procedure in Romania, but his claim was rejected under the accelerated procedure. The rest of the asylum seekers left the centre.

**Bucharest:** 1 family (husband and wife) had an Eurodac 'hit' with Greece. They were granted access to the asylum procedure in Romania, as Greece did not accept them.

<sup>218</sup> Information provided by IGI-DAI, 5 March 2019.



**Bulgaria:** There are no reported cases in which the transfer to Bulgaria was suspended by IGI-DAI or Regional Courts.

**Galați:** 4 asylum seekers from Iraq were found to have a Eurodac hit with Bulgaria. They appealed the transfer decision of IGI-DAI, but they left before receiving a final decision from the court.

**Timișoara:** According to the director of the Regional Centre, there were only two transfers effectively conducted to Bulgaria out of 40 outgoing requests.

The Regional Court of **Rădăuți**, in a case concerning an asylum seeker from Iraq, dismissed the appeal against a transfer to Bulgaria based on the reiteration of the arguments of the IGI-DAI's first instance decision. These referred mainly to the EASO Special Support Plan to Bulgaria of December 2014, more specifically to the first two paragraphs, which were copied. IGI-DAI and the Court, respectively, referred to Council Decision (EU) 2015/1601 of 22 September 2015 establishing relocation from Italy and Greece and held that, as long as no measure of this kind was adopted vis-à-vis Bulgaria, the situation in Bulgaria should not fall under Article 3(2) of the Dublin Regulation. The Court also dismissed the country reports provided by the applicant in relation to the situation in Bulgaria, as the information dating back to 2016 were outdated. In addition, the Court also made a reference to the applicant's health status, which does not impede a transfer to Bulgaria.<sup>219</sup>

**Giurgiu:** In 2019 there were 3 'Dublin'-appeals, out of which 2 cases concerned the suspension of transfer to Bulgaria and one to the Netherlands. The Regional Court of Giurgiu dismissed both appeals against the transfer to Bulgaria.<sup>220</sup>

## 2.7. The situation of Dublin returnees

The Asylum Act includes provisions concerning cases of express and tacit withdrawal of an asylum application.<sup>221</sup> An implicit or tacit withdrawal of an asylum application occurs when the applicant is not present on the scheduled time for the preliminary interview or personal interview, without presenting good reasons for his or her absence.<sup>222</sup> In case of tacit withdrawal, IGI-DAI writes a report regarding the absence of the asylum seeker from the interview.<sup>223</sup> In these cases, the decision to close the file shall be issued after the expiration of a period of 30 days from the date of the aforementioned report.<sup>224</sup>

When the asylum seeker expressly withdraws his or her asylum claim, this is considered an explicit withdrawal of the asylum application.<sup>225</sup> The asylum seeker shall be informed of the consequences of his or her withdrawal in a language he or she understands or is reasonably supposed to understand.<sup>226</sup>

When an asylum application was tacitly withdrawn and the asylum procedure was discontinued (i.e. the case of a person who have left Romania and moved to another EU Member State), if the person makes an asylum claim within 9 months of the decision to close the file issued for implicit withdrawal, the asylum procedure may be continued.<sup>227</sup> If the time limit has expired, the asylum claim is considered a **Subsequent Application**.

The legal framework is different when a person had left the territory for at least 3 months or had been removed to a third country or to the country of origin under Articles 19(2) and (3) of the Dublin Regulation and, consequently, the asylum procedure was discontinued by a decision closing the file. In this case, a new claim lodged successively in Romania is not considered a subsequent application.<sup>228</sup>

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<sup>219</sup> Regional Court of Rădăuți, Decision 1015/2019, 8 April 2019.

<sup>220</sup> Information provided by Regional Court of Giurgiu, 4 February 2019.

<sup>221</sup> Article 51 Asylum Act.

<sup>222</sup> Article 51(1)(b) Asylum Act.

<sup>223</sup> Article 51(3) Asylum Act.

<sup>224</sup> Article 51(5) Asylum Act.

<sup>225</sup> Article 51(1)(a) Asylum Act.

<sup>226</sup> Article 51(2) Asylum Act.

<sup>227</sup> Article 94<sup>1</sup> Asylum Act.

<sup>228</sup> Article 94<sup>1</sup>(1)(a) Asylum Act.

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

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

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

**Timișoara:** According to the director of IGI-DAI Timișoara, there were 6 requests of incoming transfers, but only one asylum seeker was effectively transferred from Germany to the Regional Centre Timișoara. The asylum seeker returned continued his asylum procedure.

**Galați:** According to the legal counsellor at least one asylum seeker was transferred from Germany. He or she continued the asylum procedure.

**Rădăuți:** According to JRS representative, approximately 4 asylum seekers were transferred from Austria, Sweden, Belgium and Germany.

**Bucharest:** According to JRS representative, asylum seekers were transferred mainly from Germany. They all continued their procedure and most of the asylum applications in these cases were dismissed.

**Giurgiu:** According to JRS representative, they all continued their asylum procedure. However, there was a case where IGI-DAI did not conduct the interview. Only after the request from JRS to reassess the case, the interview was conducted.

They all continued their asylum procedure in Romania.

Romania received 141 incoming transfers in 2019.<sup>229</sup>

### 3. Admissibility procedure

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

An application is inadmissible where the applicant:

- a. Has been granted international protection by another Member State;<sup>230</sup>
- b. Comes from a [First Country of Asylum](#);<sup>231</sup>
- c. Comes from a European safe third country which has agreed to his or her readmission;<sup>232</sup>
- d. Comes from a [Safe Third Country](#);<sup>233</sup>
- e. Makes a subsequent application without new elements.<sup>234</sup>

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

According to IGI-DAI, Romania has no list of safe country of origin, European safe third country or safe third country.<sup>235</sup>

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<sup>229</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>230</sup> Article 50<sup>1</sup> Asylum Act.

<sup>231</sup> Article 95 Asylum Act.

<sup>232</sup> Article 96 Asylum Act.

<sup>233</sup> Article 97 Asylum Act.

<sup>234</sup> Article 91(b) Asylum Act, in conjunction with Article 88(2)(a)-(b).

<sup>235</sup> Information provided by IGI-DAI, 20 February 2020.



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

In **Rădăuți** an inadmissibility decision was issued on the basis of the “first country of asylum”. The asylum seeker was granted a form of protection in Germany. He arrived in Romania in January and in March he was already transferred to Germany.

According to IGI-DAI, in 2019, 3 applications (2 from Germany and 1 from the Netherlands) were dismissed as inadmissible because the applicant came from a **First Country of Asylum**.<sup>236</sup>

### 3.2. Personal interview

#### Indicators: Admissibility Procedure: Personal Interview

☐ Same as regular procedure

Is a personal interview of the asylum seeker in most cases conducted in practice in the admissibility procedure? ☒ Yes ☐ No

If so, are questions limited to nationality, identity, travel route? ☐ Yes ☐ No

If so, are interpreters available in practice, for interviews? ☐ Yes ☐ No

Are interviews conducted through video conferencing? ☐ Frequently ☒ Rarely ☐ Never

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

An inadmissibility decision on first country of asylum, European safe third country or safe third country is issued without a substantive examination of the applicant's request and shall be communicated under the general provisions of the law.<sup>237</sup> After communicating the decision, IGI-DAI informs the authorities of the European safe third country or, as the case may be, of the safe third country, in the language of that country, that the applicant's application has not been assessed on the merits.<sup>238</sup>

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

### 3.3. Appeal

#### Indicators: Admissibility Procedure: Appeal

☐ Same as regular procedure

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

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

The appeal in case of the first country of asylum, European safe third country and safe third country is the same as in the **Accelerated Procedure**.<sup>239</sup> The deadline for submitting the appeal is 7 days from the notification of the decision. The appeal has suspensive effect if it is filed within the deadline.

There were no reported cases of appeals against first country of asylum, European safe third country and safe third country decisions in 2019.

<sup>236</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>237</sup> Article 97<sup>1</sup>(2) Asylum Act.

<sup>238</sup> Article 97<sup>1</sup>(4) Asylum Act.

<sup>239</sup> Article 97<sup>1</sup>(3) Asylum Act.

### 3.4. Legal assistance

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

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

### 4.1. General (scope, time limits)

#### Indicators: Border Procedure: General

1. Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities? ☐ Yes ☒ No
2. Can an application made at the border be examined in substance during a border procedure? ☒ Yes ☐ No
3. Is there a maximum time limit for a first instance laid down in the law? ☒ Yes ☐ No  
❖ If yes, what is the maximum time limit? 20 days

According to the law, the border procedure applies to asylum applications and subsequent applications made at a border-crossing point. The asylum application made at the territorial border offices of the Romanian Border Police at a border crossing point is immediately submitted or forwarded to the competent structure of IGI-DAI, which examines it and issues a decision within 3 days.<sup>240</sup> In addition, foreigners are also subject to the border procedure when after a first asylum procedure in Romania, they have made a subsequent application at a border crossing point.<sup>241</sup>

The substance of the application is assessed during the border procedure, if the case officer decides to do so, based on the statements of the asylum seeker during the interview. According to the law, after the interview and the assessment of the reasons invoked for granting international protection and country of origin information, IGI-DAI may: (a) grant a form of protection; (b) grant access to the territory and the regular procedure if the application is not manifestly unfounded or if there are indications that [Dublin](#) or [Admissibility](#) grounds apply; or (c) reject the application as manifestly unfounded and not grant access to the territory.<sup>242</sup>

According to Article 87 of the Asylum Act, an asylum seeker shall remain in the transit area of the border-crossing point until a decision granting access to the territory or a final decision rejecting the asylum application is issued. This period cannot exceed 20 days.<sup>243</sup> However, if the asylum application is still pending after the 20-day deadline, the asylum seeker is granted access to the territory.<sup>244</sup>

The asylum seeker may be accommodated in special reception and accommodation centres near the border-crossing points, established by order of the Minister of Internal Affairs and having the legal status of a transit area.<sup>245</sup> Asylum seekers accommodated in these centres receive 3 meals a day free of charge, under conditions established by a Government Decision.<sup>246</sup> The asylum seeker subject to border procedure is not entitled to receive the material reception conditions for meals.<sup>247</sup>

A new provision was included in 2015, which relates to the obligation to inform the asylum seeker. The asylum seeker shall be immediately informed in writing, in a language that he or she understands or is reasonably supposed to understand, on the border procedure, granting or not granting access to the territory, his or her rights and obligations during the procedure, the possibility to challenge the decision

<sup>240</sup> Article 82 Asylum Act.

<sup>241</sup> Article 83(3) Asylum Act.

<sup>242</sup> Article 83(1)(a), (b) and (c) Asylum Act.

<sup>243</sup> Article 87(1) Asylum Act.

<sup>244</sup> Article 87(5) Asylum Act.

<sup>245</sup> Article 87(2) Asylum Act.

<sup>246</sup> Article 87(3) Asylum Act.

<sup>247</sup> Article 87(4) Asylum Act.

issued by the case officer, as well as the possibility to request legal aid according to the law.<sup>248</sup> Leaflets have been updated as of 2019.

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

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

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

According to the director of the Regional Centre of **Timișoara**, in 2019 there were no asylum applications made at a border-crossing point of **Moravița**, in the south-western part of Romania.

There was only 1 asylum application (from Turkey) processed under the border procedure and it was rejected.<sup>249</sup>

## 4.2. Personal interview

### Indicators: Border Procedure: Personal Interview

☐ Same as regular procedure

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

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

As a general rule, a decision is taken by the case officer of IGI-DAI after an interview and assessment of the reasons invoked by the asylum seeker against the country of origin information.<sup>250</sup> However, the law also establishes the possibility to deliver a decision without conducting an interview, if it is possible to issue a decision to grant access to the regular procedure on the basis of the personal file.<sup>251</sup> In case of subsequent applications, there is no interview. The decision is issued on the basis of a written application.

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

<sup>248</sup> Article 87(7) Asylum Act.

<sup>249</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>250</sup> Article 83(1) Asylum Act.

<sup>251</sup> Article 83(4) Asylum Act.

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

### 4.3. Appeal

#### Indicators: Border Procedure: Appeal

☐ Same as regular procedure

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

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

The asylum seeker has the possibility to challenge the decision issued by IGI-DAI within 7 days from the day the decision was communicated.<sup>252</sup> The competent court to decide on the appeal is the territorially competent Regional Court.<sup>253</sup> The provisions on submission of the appeal in the regular procedure apply accordingly.<sup>254</sup>

The court shall take a decision on the appeal within 5 days.<sup>255</sup> The decision has to be motivated and it is irrevocable. The court may decide: (a) to grant access to the territory and the regular procedure; or (b) to uphold the decision of IGI-DAI.<sup>256</sup>

If the court rejects the appeal, the General Inspectorate of the Romanian Border Police (IGPF) will take the necessary measures to remove the foreigner from the territory,<sup>257</sup> as the foreigner subject to the border procedure must leave Romania as soon as the asylum procedure has finished.<sup>258</sup> The border procedure is considered completed on the date when the decision of the court is delivered.

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

### 4.4. Legal assistance

#### Indicators: Border Procedure: Legal Assistance

☐ Same as regular procedure

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

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

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

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

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

What is particularly problematic for asylum seekers in the border procedure is the swiftness of the procedure and access to legal counselling. As the deadline for delivering a decision is only 3 days, it is hard to get access to legal assistance; it depends on the willingness of IGI-DAI and the Border Police to

<sup>252</sup> Article 85(1) Asylum Act.

<sup>253</sup> Article 85(2) Asylum Act.

<sup>254</sup> *Ibid.*

<sup>255</sup> Article 86(1) Asylum Act.

<sup>256</sup> *Ibid.*

<sup>257</sup> Article 86(3) Asylum Act.

<sup>258</sup> Article 17(1)(a) Asylum Act.

inform the NGOs about these cases. Also, an examination of applications cannot be effectively conducted within such a short time limit.

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

## 5. Accelerated procedure

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

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

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

An asylum application is considered manifestly unfounded if the applicant:<sup>259</sup>

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

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

**Șomcuta Mare:** The asylum applications of 3 Somali asylum seekers were assessed in accelerated procedure; they invoked economic reasons, but also argued that if they return to their country of origin they will be persecuted by al-Shabab groups. According to the JRS representative, there were also 3 cases of Bengali asylum seekers assessed in accelerated procedure.

**Timișoara:** According to the director of Regional Centre Timișoara, 10 asylum applications made by Serbians and Kosovars with entry bans in the EU were assessed in accelerated procedure. In addition,

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<sup>259</sup> Article 76 Asylum Act.

there were also approximately 15 asylum applications made in detention in the Arad Public Custody Centre, out of which 5 were assessed in regular procedure and the rest in accelerated procedure.

**Rădăuți:** Around 21 asylum applications were assessed in accelerated procedure; the asylum seekers invoked economic reasons. The asylum seekers were Iraqi, 6 Bangladeshis, Indian, Guinean, Turkish, Ethiopian, Somali, Algerian, Tunisian and Pakistan nationals.

**Galați:** 13 asylum applications were made by 4 Algerians, 1 Uzbek, 1 Iraqi, 4 Turkish (family- the parents and 2 underaged children), 1 Sri Lanka, 1 Sinhalese, 1 Nigerian, 1 Pakistani.

**Bucharest:** According to JRS representative, most of the asylum applications assessed in accelerated procedure were made by Indian and Bangladeshi nationals. The asylum applications were manifestly unfounded. The same was reported in **Giurgiu**.

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

The accelerated procedure may be triggered during the regular procedure at the date when the case officer determines the existence of one of the grounds for applying an accelerated procedure.<sup>260</sup> Article 79 of the Asylum Act provides that after the interview and the assessment of the reasons invoked in support of the asylum application, a decision should be issued within 3 days from the start of the accelerated procedure. Therefore, the trigger of the accelerated procedure may not coincide with the date of the personal interview. However, the cases where the accelerated procedure is triggered after the interview are very rare.

IGI-DAI reported 315 applications processed under the accelerated procedure in 2019, up from 167 in 2018 and down from 382 in 2017.<sup>261</sup>

## 5.2. Personal interview

### Indicators: Accelerated Procedure: Personal Interview

☒ Same as regular procedure

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

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

  - ❖ If so, are questions limited to nationality, identity, travel route?
  - ❖ If so, are interpreters available in practice, for interviews?
2. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

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

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

<sup>260</sup> Article 78 Asylum Act.

<sup>261</sup> Information provided by IGI-DAI, 14 February 2018, 5 March 2019, 20 February 2020.

### 5.3. Appeal

#### Indicators: Accelerated Procedure: Appeal

☐ Same as regular procedure

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

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

☒ Yes  
☒ Judicial  
☒ Yes

☐ No  
☐ Administrative  
☐ Some grounds ☐ No

The law provides for the appeal against a negative decision in the accelerated procedure, which must be submitted within 7 days from the notification of the decision. If the appeal is filed within the deadline, it has automatic suspensive effect.<sup>262</sup>

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

### 5.4. Legal assistance

#### Indicators: Accelerated Procedure: Legal Assistance

☒ Same as regular procedure

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

- ❖ Does free legal assistance cover:

☒ Yes  
☒ Representation in interview  
☒ Legal advice

☐ With difficulty  
☐ No
2. Do asylum seekers have access to free legal assistance on appeal against a decision in practice?  

- ❖ Does free legal assistance cover

☒ Yes  
☐ Representation in courts  
☒ Legal advice

☐ With difficulty  
☐ No

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

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

For the asylum seekers accommodated in the detention centre in **Arad**, legal advice is provided by the legal counsellor of the Regional Centre of Timișoara. In most of the cases, the legal counsellor provides legal counselling based on contact and information provided by the legal department of IGI-DAI when the decision was already communicated to them. According to CNRR, in general, the legal counselling is provided after the decision is communicated, if there is a decision to reject the asylum application in an accelerated procedure.<sup>263</sup> When asked if the asylum seekers in the detention centres benefit from legal counselling before the personal interview, CNRR reported that this depends on the moment they learn about the asylum applications and on the promptness of IGI-DAI in conducting the interview.<sup>264</sup>

In 2018 CNRR stated that there was a protocol concluded between CNRR and IGI on the communication/ information on the submission of asylum applications at border-crossing points,

<sup>262</sup> Article 80(1) Asylum Act.

<sup>263</sup> Information provided by CNRR, 9 December 2019.

<sup>264</sup> Information provided by CNRR, 9 December 2019.



integrated centres, police custody, prisons or Public Custody Centres. The communication is made after the application is registered at IGI-DAI.<sup>265</sup>

According to the director of Regional Centre of **Timișoara**, they verbally inform the legal counsellor when an asylum application is made in the Public Custody Centre of Arad. According to the director of Regional Centre Timișoara, the legal counsellor of CNRR of the Regional Centre of Timișoara generally drafts the appeal against the negative decision of IGI-DAI.

## D. Guarantees for vulnerable groups

### 1. Identification

#### Indicators: Special Procedural Guarantees

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

The law defines an applicant in need of special procedural guarantees as an applicant whose ability to benefit from the rights and fulfil his or her obligations is limited as a result of individual circumstances that may be due, *inter alia*, to age, sex, sexual orientation, gender identity, disability, serious illness, mental illness or disorder, or torture, rape or other serious forms of psychological, physical or sexual violence etc.<sup>266</sup> This clause may be interpreted as a non-exhaustive list of persons which may be considered in need of special procedural guarantees.

Article 5<sup>1</sup>(2) of the Asylum Act lists the following categories of vulnerable persons: minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons suffering from serious illnesses, people with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, or persons in other special circumstances.

#### 1.1. Screening of vulnerability

Romanian law provides that the assessment of who belongs to a category of vulnerable people is done after an asylum application has been lodged, as soon as possible, by specialists of IGI, based on an individual assessment. In order to carry out the individual assessment and take appropriate measures to ensure the rights and guarantees provided by this law, the competent authorities shall provide special support at the request of IGI.<sup>267</sup>

The Asylum Decree completes this provision by stating that the specialised personnel of IGI cooperates with UNHCR and relevant NGOs to identify asylum seekers who may be included in the category of vulnerable persons referred to in Article 5<sup>1</sup>(2) of the Act.<sup>268</sup> In order to assess the vulnerability of asylum seekers, specialists within IGI, in cooperation, where appropriate, with experts from other institutions and authorities competent in the field, make an assessment of the special needs of foreigners.<sup>269</sup>

<sup>265</sup> Information provided by CNRR, 3 December 2018.

<sup>266</sup> Article 2(1)(b<sup>1</sup>) Asylum Act.

<sup>267</sup> Article 5<sup>1</sup>(3) Asylum Act.

<sup>268</sup> Article 5(1) Asylum Decree.

<sup>269</sup> Article 5(2) Asylum Decree.



Depending on the specific needs of each asylum seeker identified as a vulnerable person, IGI-DAI notifies and cooperates with authorities and specialised agencies in order to provide necessary assistance.<sup>270</sup> IGI-DAI may collaborate with NGOs to assist asylum seekers identified as vulnerable.<sup>271</sup>

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

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

The Director of the Regional Centre of **Timișoara** stated that the identification mechanism in place to systematically identify vulnerable asylum seekers consists of six annexes, of which three are mandatory: one filled when the asylum application is registered; one filled at the preliminary interview; and one filled at the personal interview. The other three annexes may be filled in, if necessary, by the medical, integration or legal department.

The director of the Regional Centre of **Timișoara** mentioned that in 2019 they identified pregnant women as vulnerable. He also stated that when the psychologist of ICAR Foundation identified asylum seekers suffering from trauma, IGI-DAI did not identify them as such, as there were cases in which there were differences in the statements made by the asylum seeker at ICAR Foundation and the ones made at the personal interview.

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

In **Timișoara**, the JRS representative did not see the identification mechanism; what they know is that ICAR Foundation identifies the vulnerable person and this information is further communicated to IGI-DAI. IGI-DAI and the NGOs agreed to inform each other of cases of vulnerability. Until now, IGI-DAI has not referred any vulnerable asylum seeker to the NGOs. The NGO representatives are bringing up the issues or the existence of vulnerable persons accommodated in the centre during the monthly coordination meetings with IGI-DAI. According to the JRS representative, ICAR Foundation has a mechanism in place to identify victims of torture, i.e. specialised personnel drafts medical reports which are attached to the applicant's case file. ICAR Foundation also has an interpreter when the assessment is made.

In **Bucharest**, according to the medical doctor of the centre, the doctor identifies the vulnerable persons and the psychologist of ICAR Foundation identifies the asylum seekers with psychological problems. The NGOs are informed by IGI-DAI if vulnerable persons are identified. The JRS representative from Bucharest mentioned that the mechanism consists of medical and psychological examination. It was also reported that the screening of vulnerability is made by IGI-DAI and NGOs present in the centre

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<sup>270</sup> Article 5(3) Asylum Decree.

<sup>271</sup> Article 5(4) Asylum Decree.

(JRS, CNRR, Save the Children and ICAR Foundation). As regards the methods used, the JRS representative mentioned direct counselling and the EASO Tool for Identification of Persons with Special Needs.

The JRS representative in **Timișoara** stated that vulnerable persons are identified by the NGOs who then immediately inform IGI-DAI. According to the director of the Regional Centre of Timișoara, all the asylum seekers are screened for vulnerability, nevertheless he stated that the screening of vulnerability is done in detail by ICAR Foundation, with an interpreter. If IGI-DAI observes something, the case is referred to the medical staff, which is also informing ICAR Foundation.

The legal counsellor in **Giurgiu** stated that the identification mechanism is a multidisciplinary mechanism involving both IGI-DAI staff (case officers, doctor, officers who are collaborating with the NGOs) and NGOs' representatives. The mechanism is applied from the asylum seeker's arrival in the centre, when the doctor examines him or her. Vulnerability may also be identified during the following stages of the procedure.

On the other hand, the legal counsellor in **Șomcuta Mare** said that she had to inform IGI-DAI only once about a vulnerable person, as the rest were already identified by IGI-DAI. The case concerned an asylum seeker who informed the JRS representative that he was under medicated treatment prescribed in Greece. The JRS representative referred him to the medical staff of the centre and the next day he was taken to a specialised physician. The vulnerabilities of the asylum seekers identified as such by IGI-DAI were visible: pregnant women, elderly, single parent families. The asylum seekers transferred from Timișoara are already screened; their medical situation is only confirmed upon their arrival Șomcuta Mare Regional Centre. According to JRS representative, IGI-DAI identifies 95% of the vulnerable asylum seekers; they even identified a person suffering from sleeping disorders, as the asylum seeker requested medication from the medical staff. The NGOs may also identify vulnerable asylum seekers during their counselling sessions.

According to the legal counsellor in **Galați**, all asylum seekers are screened, as the annexes to which the legal counsellor and the director of the Regional Centre of Timișoara referred to are filled in for every person lodging an asylum application. According to the legal counsellor in Galați there were no asylum seekers with psychological problems in the centre in 2019. Nonetheless, there were several asylum seekers who stated during the personal interview that they were victims of sexual violence. The psychologist was subsequently informed about these cases.

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

The legal counsellor in **Rădăuți** said that theoretically asylum seekers are screened but has no knowledge as to whether this is done in practice. According to the JRS representative, the psychologist of ICAR Foundation identifies vulnerable asylum seekers and not IGI-DAI. It is worth mentioning that, since November-December 2019, IGI-DAI has signed a contract with a psychologist. At the time of the author's interview with the stakeholders, December 2019, the psychologist did not start to work yet. Nonetheless, there were several victims of FGM asylum seekers from Somalia, who reported this to the medical staff of the centre and they were all identified as vulnerable asylum seekers.

Article 12<sup>1</sup> of the Asylum Act prescribes that staff training programmes shall include, *inter alia*, methodology on assessment of asylum applications made by vulnerable persons and identification mechanisms and assistance for vulnerable persons.

Between 1 January 2019 and 31 September 2019, IGI-DAI identified 213 asylum seekers as vulnerable according to article 5<sup>1</sup>(2) of the Asylum Act.<sup>272</sup> Out of the total number of vulnerable asylum seekers, 63 were minors, 96 unaccompanied minors, 5 persons with disabilities, 1 pregnant woman, 36 single

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<sup>272</sup> Information provided by IGI-DAI, 20 February 2020.

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

## 1.2. Age assessment of unaccompanied children

The Asylum Act foresees that an age assessment can be carried out in case there are doubts as to the alleged age of the applicant or if the unaccompanied minor cannot prove his or her age.<sup>273</sup> In these cases, before a decision is delivered at first instance, IGI-DAI requests forensic expertise to assess the applicant's age, with the prior written consent of the minor and his or her legal representative.<sup>274</sup>

If the asylum seeker and/or the legal representative refuse to carry out the age assessment examination and no conclusive evidence regarding age is provided, the applicant shall be considered adult.<sup>275</sup> The person shall be deemed to have reached the age of 18 at the time of lodging the asylum application.<sup>276</sup> However, if a psychologist of IGI-DAI determines, after an evaluation, that the grounds for refusal to carry out the age assessments examination are well-founded, the asylum seeker will not be considered an adult.<sup>277</sup>

The law provides that the interpretation of the examination results shall be carried out taking into account the principle of the best interests of the child.<sup>278</sup>

The asylum application cannot be refused on the sole ground that the person did not consent to the age assessment and cannot prevent IGI-DAI from granting international protection to the respective asylum seeker.<sup>279</sup>

According to the law, IGI-DAI informs the legal representative and the asylum seeker unaccompanied minor in writing, in a language that the latter understands or is reasonably supposed to understand, about the possibility of carrying out an age assessment. This information should also include details of the medical examination methods, the possible consequences of the outcome of the examination and the effects of any refusal to undergo medical examination.<sup>280</sup> The law also prescribes that the medical examination shall be carried out in full respect of the minor's dignity, using the least invasive methods allowing, as far as possible, a reliable result.<sup>281</sup>

The Asylum Act does not, however, prescribe for a method on how the age assessment should be carried out. When age assessment is ordered by IGI-DAI, this is carried out by the National Network of Legal Medicine, which comprises of the National Institute of Legal Medicine "Mina Minovici" in **Bucharest** (NIML), 5 Institutes of Legal Medicine (IML) in **Iași, Cluj-Napoca, Craiova, Târgu Mureș** and **Timișoara**, 36 County Legal Medicine Services and 11 Forensic Offices.<sup>282</sup>

According to the Procedural Rules on expert assessments and findings and other forensic work for establishing the age of a person, the forensic findings and forensic expertise related to living persons, at the request of the judicial bodies, consist of clinical and complementary radiological, haematological, serological, bacteriological, anthropological, dermatological, genetic exams and other.<sup>283</sup> The Procedural Rules also prescribe that minors are examined in the presence of one of the parents, or their legal representative or, in their absence, in the presence of an adult family member of the same sex.<sup>284</sup>

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<sup>273</sup> Article 41(2) Asylum Act.

<sup>274</sup> *Ibid.*

<sup>275</sup> Article 41(3) Asylum Act.

<sup>276</sup> Article 41(4) Asylum Act.

<sup>277</sup> Article 41(5) Asylum Act.

<sup>278</sup> Article 41(6) Asylum Act.

<sup>279</sup> Article 41(7) Asylum Act.

<sup>280</sup> Article 16(4)(c) Asylum Act, in conjunction with Article 22 Asylum Decree.

<sup>281</sup> Article 16(4^1) Asylum Act.

<sup>282</sup> National Network of Legal Medicine, *Tipuri de expertize medico-legale*, available in Romanian at: <http://bit.ly/2ETRT4A>.

<sup>283</sup> Article 26(a) Procedural Rules of 25 May 2000 on expert assessments and findings and other forensic work.

<sup>284</sup> Article 14(2) Procedural Rules of 25 May 2000 on expert assessments and findings and other forensic work.

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

According to the legal counsellor in **Galați**, in case an age assessment is requested by IGI-DAI, in most of the cases, the results of the examinations carried out by IML state that the age of the asylum seeker is between 17-19 years. In these cases, IGI-DAI always affords the benefit of the doubt to the asylum seeker and he or she is registered with the lowest age. The legal counsellor also mentioned that in one case the court considered an asylum seeker to be a minor based on his statements regarding the issuance of an Afghan identity card called “*tazkiras*” [taskera], even though the age assessment decision of IML stated that he was 20-22 years old.

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

**Galați:** 2 asylum seekers from Bangladesh claimed to be underaged. Although there were doubts about their age, no age assessment was requested in their case as they left before the preliminary interview. For the other children no age assessment was ordered, as it was beyond any doubt that they were underaged.

**Rădăuți:** 1 asylum seeker from Algeria claimed to be underaged and no age assessment was ordered in his case, even though he looked more mature.

In 2019, IGI-DAI requested no age assessments for children. However, IGI-DAI requested 1 age assessment for an asylum seeker.<sup>285</sup>

According to available information, no requests for age assessments were made in 2019 in **Timișoara, Rădăuți, Galați, Șomcuta Mare, Bucharest and Giurgiu**.

## 2. Special procedural guarantees

### Indicators: Special Procedural Guarantees

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

☒ Yes

☐ For certain categories

☐ No

❖ If for certain categories, specify which:

### 2.1. Adequate support during the interview

Pursuant to Article 5<sup>1</sup>(4) of the Asylum Act, in cases where vulnerable persons with special needs are identified, specialised staff of IGI-DAI carry out assessments to identify specific needs and decide on appropriate steps to ensure the rights and guarantees provided by the law during the asylum procedure.

Romanian law provides an important safeguard in respect of procedural guarantees for vulnerable persons: in the administrative phase of the asylum procedure, documents drafted before the identification of special needs will be amended and/or supplemented only where it is necessary to adequately examine the asylum application.<sup>286</sup>

The law also foresees a specific monitoring obligation throughout the entire asylum procedure in line with Article 22(1) of the recast Reception Conditions Directive.<sup>287</sup>

<sup>285</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>286</sup> Article 5<sup>1</sup>(5) Asylum Act.

<sup>287</sup> Article 5<sup>1</sup>(6) Asylum Act. IGI-DAI monitors the situation of applicants with special needs upon reception and, together with the competent authorities, will ensure that assistance is given throughout the entire asylum procedure.

The interview of vulnerable asylum seekers shall be carried out by case officers specialised in this respect, taking into account the special situation of these persons.<sup>288</sup>

The director of the Regional Centre **Timișoara** mentioned that they read the psychological report drafted by ICAR Foundation and prepare accordingly for the interview, in the sense that they are more careful during the interview. However, the report of ICAR Foundation has no legal power; it is only the opinion of a psychologist. The decision issued by IGI-DAI mentions that a psychological report was attached to the case file. In **Timișoara**, an asylum seeker who claimed to be a victim of domestic violence was assisted at the interview by the legal counsellor and psychologist.

The legal counsellor in **Giurgiu** stated that the case officers handle each case with diligence. For instance, if the asylum seeker is not feeling well, they will stop the interview. In another case, an LGBTI asylum seeker was assisted at the interview by a psychologist.

In **Rădăuți** there were a blind and a malnourished asylum seeker, but they left before the personal interview. As a consequence, there is no information on how their special situation was taken into account.

## 2.2. Exemption from special procedures

According to Article 75(2) of the Asylum Act, applicants in need of special procedural guarantees or with **Special Reception Needs** may be subjected to the **Accelerated Procedure** or the **Border Procedure** only if they represent a threat to national security or public order, due to their activity or membership to a certain group.<sup>289</sup> In practice, according to IGI-DAI, unaccompanied children or persons in need of special procedural guarantees are not channelled to the accelerated procedure or the border procedure.<sup>290</sup>

In one case, however, a mother and her 2-year-old daughter who arrived in Romania on 6 September 2017 by boat were detained in the detention centre of **Arad** for the purpose of return. While in detention, they made an asylum application on 18 September 2017 and received a negative decision under the accelerated procedure, rejecting their claim as manifestly unfounded even though they are considered vulnerable persons under Romanian law. During the personal interview the mother stated that she wanted to get to any European country because she had heard that women there have more rights. The case officer chose not to ask any question regarding this statement and as a consequence did not explore a lead, which could have indicated past persecution. Furthermore, when the applicant said she had claimed asylum due to the problems she had with her husband's creditors, the case officer did not go into details. The same situation was noted when the mother declared that her in-laws threatened to take her daughter away from her. The asylum application was wrongfully assessed in an accelerated procedure, as the applicants were vulnerable persons and according to the Asylum Act vulnerable persons may only be subjected to an accelerated procedure if they represent a threat to national security or public order, due to their activity or membership to a certain group. The decision of IGI-DAI does not mention the applicants as being vulnerable persons.<sup>291</sup> The asylum seekers were represented by a specialised attorney and the Regional Court of **Timișoara** granted them access to the regular procedure. They were granted refugee status.

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<sup>288</sup> Article 46 Asylum Act.

<sup>289</sup> Articles 75(2) and 84 Asylum Act.

<sup>290</sup> Information provided by IGI-DAI, 14 February 2018.

<sup>291</sup> IGI-DAI, Decision No 2768610/h/MA.

### 3. Use of medical reports

#### Indicators: Use of Medical Reports

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

Romanian legislation explicitly refers to the use of medical reports in asylum procedures. Article 49<sup>1</sup> of the Asylum Act provides that, when IGI-DAI deems it relevant for the assessment of an asylum application, the asylum seeker will be subject with his consent to medical examination concerning signs that might indicate past persecution or serious harm.<sup>292</sup> The applicant's refusal to undergo such a medical examination shall not prevent IGI-DAI from taking a decision on the application for international protection.<sup>293</sup>

Medical examinations shall be carried out by the legal medicine institutions and the result shall be transmitted immediately to IGI-DAI. The coverage of the expenses is ensured by the Ministry of Internal Affairs through the budget allocated to IGI in this respect.<sup>294</sup> If the medical examination is requested by IGI-DAI, it is therefore paid by IGI-DAI.

When no medical examination is carried out, IGI-DAI informs applicants that they may, on their own initiative and at their own cost, arrange for a medical examination concerning signs that might indicate past persecution or serious harm.<sup>295</sup> The results of the medical examination are assessed by IGI-DAI in corroboration with other elements of the application for international protection.<sup>296</sup>

Moreover, as a general rule, an applicant is not expected to provide written evidence but he or she is obliged to hand over to the authorities all the documents at his/her disposal which are relevant to his or her personal situation.<sup>297</sup> The Asylum Decree provides that the examination of the asylum application must be carried out individually and taking into account, *inter alia*, the relevant documents submitted by the applicant, including information on whether he or she has been subjected to persecution or the possibility of being persecuted or of being exposed to a risk of serious harm.<sup>298</sup> This means that the asylum seeker may submit relevant documents with regard to past persecution but also with a view to the possible future persecution and serious harm.

According to the legal counsellor in **Giurgiu**, if an asylum seeker claims to be a victim of torture, he or she is requested to bring documents proving this allegation. If the asylum seeker presents physical signs of torture, he or she is referred to the medical doctor. If he or she presents mental health issues, he or she is referred to ICAR Foundation.

In addition, the Asylum Act foresees that when there are serious doubts regarding the adult's asylum seeker legal capacity, specialised staff at IGI-DAI request a medical examination in this regard.<sup>299</sup> If the medical examination reveals lack of legal capacity of the asylum seeker, the case officer in charge of the case, requests the appointment of a counsellor, under the same conditions as for Romanian citizens.<sup>300</sup> The asylum procedure is suspended until the appointment with the counsellor. During this period of suspension, the applicant benefits from the rights set out in the law.<sup>301</sup> The asylum application

<sup>292</sup> Article 49<sup>1</sup>(1) Asylum Act.

<sup>293</sup> Article 49<sup>1</sup>(2) Asylum Act.

<sup>294</sup> Article 49<sup>1</sup>(3) Asylum Act.

<sup>295</sup> Article 49<sup>1</sup>(4) Asylum Act.

<sup>296</sup> *Ibid.*

<sup>297</sup> Article 19(c) Asylum Act.

<sup>298</sup> Article 16(1)(b) Asylum Decree.

<sup>299</sup> Article 42(1) Asylum Act.

<sup>300</sup> Article 42(2) Asylum Act.

<sup>301</sup> Article 42(3) Asylum Act.

of an asylum seeker who has no capacity is filed by the counsellor after his or her appointment.<sup>302</sup> When conducting the personal interview, the counsellor will inform the asylum seeker of the purpose and possible consequences of this interview and will take the necessary steps to prepare the applicant for the interview.<sup>303</sup> The interview of an asylum seeker without capacity shall be carried out in the presence of the counsellor.<sup>304</sup>

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

According to the NGO personnel, in **Galați, Rădăuți, Șomcuta Mare, Bucharest** and **Timișoara** there were no cases in which a medical examination under Article 49<sup>1</sup> was requested by IGI-DAI in 2019. In **Giurgiu**, an asylum seeker was diagnosed with schizophrenia after he was hospitalized at the Clinical Hospital of Psychiatry in Bucharest. He was appointed a counsellor, who would have assisted him during the asylum procedure, but he left the regional centre.

IGI-DAI accepts medico-legal expert opinions issued by officially recognised experts enrolled on the lists drawn up by the Ministry of Health and the Ministry of Justice, with the approval of the Board of Forensics.<sup>305</sup> ICAR Foundation is the NGO that currently provides psycho-social services to asylum seekers, through the project “Health services accessible to the asylum seekers needs – SANSa” in partnership with AIDRom, funded through the AMIF national programme. According to the project description, psycho-social specialists identify vulnerable asylum seekers such as families in need, the elderly, persons with chronic illnesses, unaccompanied minors, victims of physical or psychological violence, and their needs. “Consequently, tests will be conducted to evaluate the general state of health of newly arrived asylum seekers, and general practitioners will provide medical examinations weekly”.<sup>306</sup> Through this project additional tests and medical investigations will be provided, as well as drug and non-drug treatments, as recommended by collaborating doctors, in order to accurately respond to the medical needs of asylum seekers in Romania and also specialised medical consultations.

According to AIDRom representative of Timișoara: the new element that the project brings this year is a scheme of free blood tests for infectious diseases, for which all the asylum seekers are eligible, once they are registered in the reception centres. The blood specimen collection is performed at the regional centre by a phlebotomist from a private laboratory, with whom the NGO is collaborating. The blood collection chair arrived in the Regional Centre Timișoara on 18 October 2019 and the following week they started performing the blood tests. Before this, the blood tests were made at the private laboratory at the doctor’s recommendation. The basic tests also include: hemolithogram, glucose, creatinine, urinalysis, TGO, TGP. If the asylum seeker refuses the blood test, he or she cannot be assisted by AIDRom during the asylum procedure. The project provides for blood test for 600 asylum seekers and 600 treatments and medical investigations.

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<sup>302</sup> Article 42(4) Asylum Act.

<sup>303</sup> Article 42(5) Asylum Act.

<sup>304</sup> Article 42(6) Asylum Act.

<sup>305</sup> According to Article 34 Regulation implementing Government Ordinance 1/2000 approved by Government Decree 774/2000 as last amended by Government Decree 1204/2002, a medico-legal expert: (a) is a Romanian citizen and is fluent in Romanian; (b) has full legal capacity; (c) is a graduate of a medical university; (d) has a postgraduate specialisation courses in forensics; (e) practices this specialisation; (f) has not been convicted of an offence committed in circumstances related to his or her profession; and (g) is certified as an medico-legal expert at the Board of Forensics, available in Romanian at: <http://bit.ly/2B34lah>.

<sup>306</sup> ICAR Foundation, *Health services for the improvement of reception and residence conditions for asylum seekers in Romania*, available at: <http://bit.ly/2jtR4Xw>.



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

In general, asylum seekers submit either to IGI-DAI or the court medical reports from the country of origin. Practice in 2019 in relation to these reports is reported as follows:

**Timișoara:** According to the Director of the Regional Centre of Timișoara, medical reports are read by the case officers, but they have to be corroborated by further evidence. Two lawyers from Timișoara reported that they had no cases where medical reports drafted by ICAR Foundation were submitted to IGI-DAI or the court. According to JRS representative, the psychological reports prepared by ICAR are not mentioned in the decision issued by IGI-DAI. On the contrary, the director stated the opposite.

**Șomcuta Mare:** Medical reports prepared by ICAR Foundation were submitted to IGI-DAI and the court.

**Galați:** According to the legal counsellor, the medical reports are taken into account when assessing the credibility of the asylum seeker but have to be corroborated by other evidence. In practice, the psychological reports of ICAR Foundation were never taken into consideration. IGI-DAI and the court have never ordered a medical examination. The legal counselor was not aware of medical reports drafted by ICAR Foundation in 2019.

**Rădăuți:** According to one of the stakeholders interviewed there were no medical reports drafted by ICAR Foundation in 2019. Another stakeholder stated that 2 reports of ICAR Foundation were submitted to IGI-DAI. IGI-DAI takes these reports into account by adapting the personal interview.

**Bucharest:** the JRS representative was not aware whether medical reports drafted by ICAR Foundation or from the country of origin were submitted to IGI-DAI or the court.

**Giurgiu:** No medical reports prepared by ICAR Foundation were lodged in the cases assisted by the JRS representative.

#### 4. Legal representation of unaccompanied children

##### Indicators: Unaccompanied Children

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

The law provides for the appointment of a legal representative to an unaccompanied child.<sup>307</sup> IGI-DAI shall take the necessary steps, as soon as possible, to appoint a legal representative to assist the unaccompanied minor applying for asylum during the procedure, including during the admissibility and Dublin procedure as the case may be.<sup>308</sup>

The law prescribes it is not necessary to appoint a legal representative for the unaccompanied minor asylum seeker if he or she is to reach the age of the majority within 15 days of the filing of the asylum application.<sup>309</sup>

The law also foresees that IGI shall:

- a. Ensure that the legal representative is given the opportunity to inform the unaccompanied child about the significance and possible consequences of the personal interview and, as the case may be, about the preparation for the personal interview;

<sup>307</sup> Articles 16 and 40 Asylum Act.

<sup>308</sup> Article 16(2) Asylum Act.

<sup>309</sup> Article 16(3) Asylum Act.



- b. Provide procedural legal information, including information on the withdrawing of international protection, both to the child and to his or her legal representative;
- c. Inform the legal representative and the unaccompanied child, in a language that the latter understands or is reasonably supposed to understand, about the possibility of carrying out an age assessment. This information should also include details of the medical examination methods, the possible consequences of its outcome and the consequences of any refusal to undergo this examination.<sup>310</sup>

#### 4.1. Timing of appointment

Neither the Asylum Act nor the Child Protection Act prescribes an exact time limit for the appointment of the legal representative. However, the Asylum Act prescribes that after registering the asylum claim of the unaccompanied child, IGI-DAI shall immediately notify the competent authority, the Directorate General for Social Assistance and Child Protection (DGASPC) territorially competent for the area in which the Regional Centres located, in order to start the appointment procedure of a legal representative. The Asylum Decree complements these provisions, stating that the officer in charge with the registration of the asylum claim of the unaccompanied child shall immediately notify the relevant DGASPC branch office in order to initiate the procedure of appointment of a legal representative.<sup>311</sup> Once established, the legal representation of the unaccompanied asylum-seeking child continues to operate for as long as the child benefits from international protection in Romania.<sup>312</sup>

In the case of an unaccompanied child who has expressed the intention to apply for asylum, in writing or orally, he or she shall be registered as an asylum seeker and the asylum application will be lodged at the moment of appointment of the legal representative.<sup>313</sup> The asylum procedure is suspended until the appointment of a legal representative. During the period of suspension of the asylum procedure, the child benefits from the rights provided by law.<sup>314</sup>

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

**Timișoara:** The notification is sent as soon as possible to DGASPC and the legal representative is appointed within 2-3 weeks; they present themselves within a few days or even on the same day of the notification being sent. DGASPC appoints the same person, who is a legal counsellor, as the legal representative for all the unaccompanied minors.

**Șomcuta Mare:** IGI-DAI sends out the notification to DGASPC the second day after the unaccompanied child is accommodated in the Regional Centre. In general, the legal representative is appointed as soon as possible; no delays in its appointment have been reported. Since May 2019, the legal representative is appointed by DGASPC, but only to legally represent unaccompanied asylum-seeking children. NGO representatives prepare the appeals against negative decisions.

**Galați:** IGI-DAI sends a notification to DGASPC for the appointment of a legal representative within a maximum of 3 days or even on the day of registration of the asylum claim of the unaccompanied child, if possible. The legal representative presents him or herself immediately. In 2019, DGASPC started to appoint a new legal representative for unaccompanied children. He works at the Day Centre for Children in Situations of Risk of Separation from Parents within DGASPC. According to the legal counsellor, none of the unaccompanied children stayed long enough in the reception centre to meet with the new appointed legal representative.

**Rădăuți:** IGI-DAI sends a notification to DGASPC for the appointment of a legal representative. The procedure of appointment is burdensome and delayed. There are 2 legal representatives appointed for unaccompanied children and one of them is a psychologist. According to the stakeholders interviewed,

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<sup>310</sup> Article 16(4) Asylum Act.

<sup>311</sup> Article 21(3) Asylum Decree.

<sup>312</sup> Article 40(1) Asylum Act.

<sup>313</sup> Article 39(3) Asylum Act.

<sup>314</sup> Article 40(2) Asylum Act.

the legal representative does not meet or discuss with the unaccompanied minors before the interview, they only attend the interviews.

**Giurgiu:** DGASPC appoints a legal counsellor to act as legal representatives.

**Bucharest:** The notification for the appointment of the legal representative is made in 5 days, but there are delays in appointing the legal representative. It was reported by the JRS representative that there were 3-week delays, and even longer if the child arrives in the centre during bank holidays. DGASPC Bucharest appoints only one legal representative for all the unaccompanied minors. The legal representative has no legal studies. The legal representative assists the minor only in the asylum procedure.

According to Save the Children Romania, practice varies from case to case. There have been cases where DGASPC appointed the legal representative in 1-2 months. It was reported that in case of a number of unaccompanied children accommodated in the Regional Centre of **Bucharest**, some of whom were accommodated in the centre for months, IGI-DAI and NGOs were unaware of whether a legal representative was appointed, as they were not receiving the state financial allowance for children. For the unaccompanied minors that live in the child protection facilities, the legal representative is the director of the respective centre/facility.

The Ombudsman also reported that during their visit in September 2019 they were informed by the IGI-DAI staff that DGASPC has difficulties in appointing a legal representative for the unaccompanied children as well as in accommodating the minors in their centres, therefore IGI-DAI has to accommodate unaccompanied minors under 16 years of age in the reception centre.<sup>315</sup>

#### 4.2. Qualifications and duties of the legal representative

According to the Child Protection Act the legal representative is either the parent or person designated, according to the law, to exercise the rights and to fulfil the parental obligations towards the child.<sup>316</sup> This means that the legal representative substitutes the absent parents.

According to the Asylum Act, the interests of a child are defended by his or her legal representative.<sup>317</sup> The unaccompanied child is immediately informed of the appointment of the legal representative. The legal representative performs his or her duties in accordance with the principle of the best interests of the child and has the necessary expertise for this purpose.<sup>318</sup>

The Child Protection Act provides that, in order to adequately support the interests of the child, DGASPC designates a person with legal or social assistance background from its staff or an authorised private body, to support the rights of the child and to participate, together with the child to the entire refugee status determination procedure.<sup>319</sup>

The legal representative has to be present at the interview with the unaccompanied child,<sup>320</sup> and may intervene at the end of the interview.<sup>321</sup> The legal representative informs the unaccompanied child asylum seeker of the purpose and possible consequences of the personal interview and takes the necessary steps to prepare the child for it.<sup>322</sup> In the case of a child, the appeal is filed by his or her legal representative. A child who has reached the age of 16 may file the complaint in his or her own name.<sup>323</sup>

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<sup>315</sup> Ombudsman, Report 75/2019, p.4-5.

<sup>316</sup> Article 4(g) Child Protection Act.

<sup>317</sup> Article 39(1) Asylum Act.

<sup>318</sup> Article 16(2^1) Asylum Act.

<sup>319</sup> Article 77(3) Child Protection Act.

<sup>320</sup> Article 47(1) Asylum Act.

<sup>321</sup> Article 23(1) Asylum Decree.

<sup>322</sup> Article 47(2) Asylum Act.

<sup>323</sup> Articles 56(2) and 66(2) Asylum Act.

The legal representative also has to submit the request of enrolment of the unaccompanied child to preparatory courses.<sup>324</sup>

In **Bucharest**, it has been reported that a male beneficiary of international protection is appointed as a legal representative for several asylum-seeking children. This practice has been in place for 2-3 years. According to Save the Children, this did not occur in 2018, or in 2019. The JRS representative stated that this was a good practice.

With the exceptions of the legal representative in **Galați** (which was replaced by another legal representative during 2019) and **Șomcuta Mare**, legal representatives consider their mandate limited only to assist the child in administrative and judicial procedures related to the asylum claim, i.e. to attend interviews and court hearings. As a consequence, this mandate ends when the asylum procedure is completed. Legal representatives consider that is not their mandate to ensure the well-being of the unaccompanied child.

In **Șomcuta Mare**, it was reported that if the unaccompanied minor wishes to discuss with the legal representative, IGI-DAI notifies the legal representative and it also provides an interpreter. The legal representative also fills in the request for the state social aid for children.

According to the legal counsellor in **Giurgiu** the situation of legal representatives improved in 2018 and 2019. The new legal representatives collaborate with the NGOs and ask for guidance and advice from NGO representatives. However, the appeals against negative decisions are prepared by JRS.

Several issues regarding legal representatives have been reported by NGO workers.

The legal representative who was appointed by DGASPC to represent unaccompanied children in **Rădăuți** was substituted by 2 male representatives. The legal representatives only attend the interviews and court hearings and do not file appeals against negative decisions.

In **Bucharest**, it was reported by the JRS representative that the unaccompanied minors are not receiving the state social allowance for children because the legal representative is not applying for it. This is a persistent issue, which affects the social rights of unaccompanied children. Another issue reported is that one legal representative represents all the children accommodated in the Regional Centre Vasile Stolicu (Bucharest). Thus, there is not enough time for the legal representative to develop a relationship with the minors and to learn about their individual situation. In most of the cases, the unaccompanied children are meeting their legal representative at the preliminary interview.

On the other hand, in **Timișoara**, the legal representative only assists the unaccompanied child during the interviews; he appeals the negative decision of IGI-DAI and assists the child in the court proceedings but does not fulfil any other task.

According to Save the Children Romania, the unaccompanied child usually meets for the first time his or her legal representative at the interview and not beforehand. The legal representative only shows up at interviews and court hearings, usually without establishing any relation with the minor. DGASPC considers that the legal representative does not need to replace the absent parent and does not fulfil the duties of a guardian. It was also mentioned that the duties of the legal representative end when the procedure is finalised. When a form of protection is granted to the unaccompanied child, a different legal representative is appointed, but with a gap as the child's best interests are not represented by anyone. The legal representative is often unaware of the situation of the unaccompanied minors that live in the reception centre and they don't facilitate their access to goods and services offered by NGO's. Several cases were reported when the legal representatives either refused or did not come to sign for the unattended minor to receive financial or material assistance.

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<sup>324</sup> Article 6(4) Asylum Decree.

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

The same was echoed in the special report of the Romanian Ombudsman on Respecting Children's Rights in Romania of 2019. It was stated that there are major legislative gaps regarding the legal representation of unaccompanied children and that there is a need for clear legal provisions on the appointment, duties and especially the scope of the duties of the legal representative of unaccompanied minors.<sup>325</sup>

Save the Children noted that legal representatives have attended several conferences organised by the NGOs active in the field of asylum. They are therefore very much aware of all the concerns regarding the best interests of the child. Still, they motivate their shortcomings by the many other responsibilities they receive from the Child Protection Directorate and the limits of their mandate – as given by their superiors.

The issue of the inefficient collaboration with DGASPC in the protection of unaccompanied children was discussed during a meeting between the Ombudsman's representatives and IGI. IGI stated that they are drafting a Protocol that will establish different points regarding the collaboration of the Regional Centres with DGASPC in order to remedy this situation.<sup>326</sup>

## E. Subsequent applications

### Indicators: Subsequent Applications

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

A subsequent application is considered as an application following a final termination or rejection decision on the former application, subsequent application or in case of a decision on cessation or withdrawal of the international protection granted.<sup>327</sup> New elements or circumstances have to be submitted in order for a subsequent application to be admissible.<sup>328</sup>

Therefore, the Asylum Act prescribes that access to a new asylum procedure shall be granted if one of the following conditions is met:<sup>329</sup>

- a. The applicant relies on new elements which could not be presented for reasons beyond his or her control and which occurred during or after the completion of the previous procedure. The applicant is obliged to prove the existence of new elements invoked and impossibility of their submission until the date of application for access to a new asylum procedure. The new elements invoked cannot be the result of actions brought by the applicant in order to obtain a form of international protection from the Romanian State;

<sup>325</sup> Ombudsman, Special Report on Respecting the Children's Rights in Romania, 2019, 198, available in Romanian at: <https://bit.ly/362ZDef>.

<sup>326</sup> Ombudsman, *Annual Report 2018*, 601-602.

<sup>327</sup> Article 88(1) b) Asylum Act.

<sup>328</sup> Article 88(2)(a)-(b) Asylum Act.

<sup>329</sup> *Ibid.*

- b. From the date of completion of the previous asylum procedure, there have been political, social, military or legislative changes in the country of origin, likely to have serious consequences for the applicant.

For persons whose applications are considered to have been tacitly withdrawn, i.e. persons who have left Romania and moved on to another EU Member State, and the asylum procedure has been terminated, the asylum procedure may be continued if the person makes an asylum claim within 9 months of the decision to close the file, issued in case of implicit withdrawal.<sup>330</sup> If the time limit has expired, the asylum claim is considered a subsequent application.

If the persons have left the territory of the EU or have been removed to a third country or the country of origin, as set out in Articles 19(2) and (3) of the Dublin Regulation, and their asylum procedure has been terminated by a decision closing the file, a new claim lodged in Romania is not deemed a subsequent application.<sup>331</sup>

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

The subsequent application should be submitted personally, with the exception of cases where the foreigner is in detention, is in pre-trial detention or serving a sentence.<sup>332</sup>

When a subsequent application is registered, IGI-DAI shall inform the IGI-Migration Directorate regarding the granting to the applicant of the permission to remain on the Romanian territory.<sup>333</sup> The law foresees that if the subsequent application is personally submitted by the foreigner and the previous asylum application is finalised, the foreigner is allowed to remain on the territory of Romania for a period of 5 days from the date of the registration of the application for granting access to a new asylum procedure.<sup>334</sup> The law does not impose a time limit on submitting a subsequent application or explicit limitation on the number of asylum applications that may be lodged. However, the right to remain does not apply in the case of a second subsequent claim, thus the applicant is not granted access to territory.<sup>335</sup> The same applies where the documents from the file show that the application is made abusively in order to prevent the removal of the foreigner from the territory of Romania.<sup>336</sup>

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

In these cases, a decision is issued as soon as possible justifying the non-granting of the permission to remain on the Romanian territory. This decision shall be communicated directly to the applicant, who is previously informed of the date on which he or she must present him or herself at IGI-DAI or by post.<sup>337</sup> This decision may be appealed within 2 days from the day it is communicated.<sup>338</sup> The competent court is the Regional Court territorially competent for the area in which IGI-DAI issued the decision.<sup>339</sup>

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<sup>330</sup> Article 94<sup>1</sup>(1)(b) Asylum Act.

<sup>331</sup> Article 94<sup>1</sup>(1)(a) Asylum Act.

<sup>332</sup> Article 88(1)(a) and (3) Asylum Act.

<sup>333</sup> Article 40(1) Asylum Decree.

<sup>334</sup> Article 89(1) Asylum Act.

<sup>335</sup> Article 89(2)(b) Asylum Act. A foreigner submits a subsequent application after a previous application of this type has been rejected as inadmissible or if, after granting access to a new asylum procedure, his or her application has been rejected as manifestly unfounded.

<sup>336</sup> Article 89(2)(a) Asylum Act.

<sup>337</sup> Article 89(3) Asylum Act.

<sup>338</sup> Article 89(4) Asylum Act.

<sup>339</sup> Article 89(5) Asylum Act.

The assessment of the subsequent application is done solely on the basis of a written submission. The law does not provide for a preliminary interview. IGI-DAI delivers a decision within 5 days from the date when the application was registered, on the basis of the reasoned application, the documentation submitted by the foreigner and the elements existing in his or her personal file.<sup>340</sup> The case officer may issue a decision by which: (a) grants access to a new asylum procedure; or (b) dismisses the application as inadmissible.

The decision is communicated to the foreigner immediately, in writing, by a direct communication of the IGI-DAI's representatives or by post, to the last declared residence thereof. The decision communicated shall be accompanied by written information in Romanian language and in a language that the applicant understands or is reasonably supposed to understand, of the admission or rejection solution of his or her application and the conditions under which the decision can be challenged.<sup>341</sup> The decision may also be communicated to the lawyer or representative of the NGO who legally represents the applicant, to the extent that the applicant has expressly stated this.<sup>342</sup>

Rejected subsequent applications may be appealed before the territorially competent Regional Court within 10 days of communication.<sup>343</sup> Judicial review of rejected subsequent applications has no automatic suspensive effect.<sup>344</sup> The foreigner may ask for permission to stay on the territory of Romania. The application for permission to remain on the territory of Romania is solved as a matter of urgency by the competent court, which shall pronounce a final decision, in the council chamber, with the parties being summoned.<sup>345</sup> In this case the foreigner has the right to remain on the territory of Romania until the court has ruled on this request.<sup>346</sup> The permission to remain on the territory of Romania shall be granted until the moment of the court's pronouncement on the appeal.<sup>347</sup>

Under Article 94(1) of the Asylum Act the court assesses the appeal without hearing the foreigner, within 30 days, and delivers a reasoned decision, by which it either (a) rejects the complaint, or (b) admits the complaint, granting access to a new asylum procedure and ordering IGI-DAI to examine the application in the regular procedure. The decision of the court is irrevocable.<sup>348</sup>

In **Galați**, in some cases the court heard the applicants. In **Giurgiu**, according to the legal counsellor, in most of the cases the applicant does not submit new elements and practically the application is the same as the previous ones.

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

**Timișoara:** According to the JRS representative, there were no subsequent asylum applications. However, according to the Director of the Regional Centre Timișoara there were 11-12 applications and they were all dismissed. One case was still pending at the time of the author's visit and interview (October 2019).

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<sup>340</sup> Article 91(1) Asylum Act.  
<sup>341</sup> Article 91(3) Asylum Act.  
<sup>342</sup> Article 91(4) Asylum Act.  
<sup>343</sup> Article 93(1) and (2) Asylum Act.  
<sup>344</sup> Article 93(3) Asylum Act.  
<sup>345</sup> Article 93(4) Asylum Act.  
<sup>346</sup> Article 93(5) Asylum Act.  
<sup>347</sup> Article 93(6) Asylum Act.  
<sup>348</sup> Article 94(2) Asylum Act.

**Șomcuta Mare and Rădăuți:** According to the JRS representatives there were no subsequent asylum application in 2019.

**Galați:** There was only one subsequent application, which was dismissed.

**Bucharest:** There were subsequent asylum applications. In some cases, the applications were admitted.

**Giurgiu:** All of the subsequent applications were dismissed.

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

Subsequent applicants: 2019- top 5 countries of origin	
Country	Number
Iraq	40
India	19
Bangladesh	18
Iran	14
Turkey	11
<b>Total</b>	<b>165</b>

Source: IGI-DAI, 20 February 2020.

## F. The safe country concepts

### Indicators: Safe Country Concepts

- 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
- 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
- Does national legislation allow for the use of “first country of asylum” concept? ☒ Yes ☐ No

### 1. Safe country of origin

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

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

When designating safe countries of origin, the government has to consider information sources from other Member States, EASO, UNHCR, the Council of Europe and other international organisations.<sup>349</sup> IGI shall periodically review the situation in third countries designated as safe countries of origin and, on the basis of the resulting information, update the list.<sup>350</sup> The asylum application of a person who comes from a safe country of origin is rejected as manifestly unfounded, unless the factual situation or the evidence presented by the applicant shows the existence of a well-founded fear of persecution or a risk of serious harm. In this case, the applicant shall be given access to the regular procedure.<sup>351</sup>

According to IGI-DAI, Romania has no list of safe country of origin, European safe third country or safe third country.<sup>352</sup>

No applications were rejected on the basis of the safe country of origin concept in 2019.<sup>353</sup>

## 2. Safe third country

Article 96 of the Asylum Act states that a European safe third country is a European country which is not a Member State of the European Union and:

- a. Has ratified and respected the provisions of the Refugee Convention without any geographical limitation;
- b. Has an asylum procedure provided for by domestic legislation;
- c. Has ratified the ECHR and complies with its provisions, including standards on effective remedies.

The concept of European safe third country may be applied only if the applicant has attempted to enter or has illegally entered Romania from the referring country and this country agreed to his or her readmission.<sup>354</sup>

Under Article 97(1) of the Asylum Act, a safe third country is considered to be a country in respect of which there are sufficient guarantees that the rights of an applicant for international protection are respected on its territory in accordance with the following principles:

- a. Life and freedom are not threatened for reasons of race, religion, citizenship, membership of a particular social group or political opinion;
- b. There is no serious risk for the purposes of this law;
- c. The principle of *non-refoulement* in accordance with the Refugee Convention is respected;
- d. The prohibition of expulsion to a State where the person may be subjected to torture or cruel, inhuman or degrading treatment is respected;
- e. There is a possibility to request refugee status and, if this status is granted, to benefit from protection in accordance with the Refugee Convention.

Pursuant to Article 97(2), IGI-DAI rejects an asylum application as inadmissible when these criteria are applicable, the third country has agreed to readmit the applicant and there is a link between the applicant and the third country, on the basis of which it may reasonably be expected that the country is safe in his or her personal situation.

Although the law prescribes that a list of the safe third countries shall be published in the Official Gazette,<sup>355</sup> there is no such list available therein. NGO practitioners are also unaware of the existence of such a list. The Director of the Regional Centre of Timișoara thought that a list is published by the Ministry of Foreign Affairs. UNHCR stated that there is no list of safe third countries and the concept has not been applied in practice according to information available to them.

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<sup>349</sup> Article 77(2) Asylum Act.

<sup>350</sup> Article 77(3) Asylum Act.

<sup>351</sup> Article 77(4) Asylum Act.

<sup>352</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>353</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>354</sup> Article 96(2) Asylum Act.

<sup>355</sup> Article 97^2 Asylum Act.



According to the law, ratification and respect for the provisions of the Refugee Convention without any geographical limitation is one of the criteria which has to be fulfilled by the country in order to be considered a European safe third country. This criterion does not figure in the conditions for a “safe third country”.

When claims are rejected as inadmissible on the ground of European safe third country, safe third country or first country of asylum, IGI-DAI must inform the authorities in the respective country in the language of the safe third country, stating that the claim of the applicant was not examined on the merits.<sup>356</sup>

One application was dismissed on the basis of the safe third country concept in 2018.<sup>357</sup>  
In 2019, no applications were dismissed on the basis of the safe third country concept.<sup>358</sup>

### 3. First country of asylum

Article 95 of the Asylum Act provides that if the applicant has previously crossed a third country which has granted him or her protection, this country is considered a first country of asylum on the basis of the following criteria:

- ❖ Life and freedom are not threatened for reasons of race, religion, citizenship, membership of a particular social group or political opinion;
- ❖ There is no serious risk of harm;
- ❖ The principle of *non-refoulement* in accordance with the Refugee Convention is respected;
- ❖ The prohibition of expulsion to a State where the applicant is at risk of torture or cruel, inhuman or degrading treatment is respected;
- ❖ The protection granted subsists.

The law only refers to “protection”, without specifying whether the applicant must be granted refugee status or enjoy sufficient protection as per Article 35 of the recast Asylum Procedures Directive.

The criteria listed under Article 38(1) of the recast Asylum Procedures Directive with regard to “safe third country” also apply to the concept of “first country of asylum”.

In 2019, 3 applications (2 coming from Germany and 1 from the Netherlands) were dismissed on the basis of the first country of asylum concept.<sup>359</sup>

## 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

#### 1.1. General information on rights, obligations and the procedure

The Asylum Act provides that the asylum seeker has the right to be informed, at the time of submission of the asylum application or later, within 15 days from the filing of the application, in a language which he or she understands or is reasonably supposed to understand, regarding the procedure, his or her

<sup>356</sup> Article 97^1(4) Asylum Act.

<sup>357</sup> Information provided by IGI-DAI, 5 March 2019.

<sup>358</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>359</sup> Information provided by IGI-DAI, 20 February 2020.

rights and obligations during the asylum procedure, the consequences of non-compliance with these obligations and the lack of cooperation with the competent authorities, as well as the consequences of an explicit or implicit withdrawal of the asylum application.<sup>360</sup>

Competent officials are also obliged to inform asylum seekers about how they can contact non-governmental organisations and UNHCR, and how to obtain legal assistance and representation.<sup>361</sup>

The information has to be provided in writing by the official responsible for receiving the asylum application, according to a template established by order of the Director-General of IGI.<sup>362</sup> Where necessary for the proper understanding of the information, this may also be communicated orally at the preliminary interview.<sup>363</sup>

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

**Timișoara:** IGI-DAI provides information when the asylum application is filed and when the asylum seekers are fingerprinted and photographed. Unfortunately, there is no interpreter at this stage and, if the asylum seeker does not speak English, the whole interaction is limited to sign language and direction on where to sign different documents drafted in Romanian. The director of the Regional Centre stated that the information is provided orally in Romanian and in writing when the asylum application is registered and in their language through the leaflets. IGI-DAI has leaflets in 10 languages and posters are displayed in the building where they are accommodated. The director also mentioned that there is no interpreter at this stage as there is no need for it because they receive the leaflet in their language. He also mentioned that in case of larger groups of new arrivals, integration officers hold an information session with the newly arrived applicants, without an interpreter. However, according to the JRS representative, as far as she knows there was no information sessions of this kind in 2019. She mentioned that the NGOs are providing the information and that the asylum seekers are not using the information leaflets provided by IGI-DAI.

With regard to children, the JRS representative reported that she has not seen any difference in interactions with IGI-DAI compared to adults. The director stated that children receive the same leaflets as the adult asylum seekers.

On the other hand, the NGO representatives stated that they are not aware of information sessions being held by the integration officers for new arrivals. They only know of a weekly meeting with all the residents and the NGO. During this meeting the integration officers inform the asylum seekers of the rules of the centre and their obligation to clean their rooms and common spaces.

CNRR also distributes leaflets on the asylum procedure, including rights and obligations. It also developed leaflets on the specially designed closed spaces of the centre (see [Place of Detention](#)).

**Șomcuta Mare:** Asylum seekers receive leaflets with their rights and obligations in the centre. The leaflets are available in Romanian, English, French and Arabic, but not in Kurdish, which concerns the majority of asylum seekers in the current period. In 2019 no information sessions were held with asylum seekers. Unaccompanied children are counselled by an IGI-DAI officer together with the legal representative and with the help of an interpreter at the preliminary interview and, as far as she knows, children receive the same leaflets as adults. Counselling is used to explain to children the fact that they will benefit a legal representative and the scope of the representative's mandate. However, the legal representatives do not provide detailed counselling on the asylum procedure, as they are social assistants and not legal counsellors.

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<sup>360</sup> Article 17(1)(f) Asylum Act.

<sup>361</sup> Article 2(2) Asylum Decree.

<sup>362</sup> Article 2(1) Asylum Decree.

<sup>363</sup> *Ibid.*

**Rădăuți:** In the previous years, once asylum seekers arrive at the centre, they received leaflets on their rights and obligations together with the house rules (ROI). The stakeholder was not aware whether asylum seekers received leaflets. In general, asylum seekers are referred to NGOs by IGI-DAI staff. In 2019, 2 information sessions took place according to the JRS representative. Subsequently, the information about asylum seekers' rights and obligations and the procedure is provided by the NGOs individually or during a group counselling session, as the case may be.

**Galați:** Asylum seekers received leaflets on the procedure, including their rights and obligations upon registration. These leaflets are user-friendly and easy to read. In previous years, in cases of groups of asylum seekers arriving in the centre, the director of the Regional Centre or other officers gave general information on the procedure, rights and obligations, with the assistance of an interpreter. In 2019 this was not done. In case of asylum seekers who are not arriving in groups, the general information is provided with the help of a person accommodated in the centre who speaks English. In 2018, the IGI-DAI still informed NGO representatives of new arrivals. In 2019 they did not inform them. However, within 3-4 days of their arrival at the centre, the NGOs are holding an information session where they present each NGO and the services provided, the rights and obligations and ROI.

**Bucharest:** In 2019 as it was in 2017, in the Regional Centre **Stolnicu**, the JRS representative reported that the obligation of IGI-DAI to inform the asylum seekers is not respected in practice, as asylum seekers state that the information they receive is minimal and not necessarily related to the procedure. Due to an explicit lack of interpreters, IGI-DAI cannot provide information to each beneficiary, especially when asylum seekers speak different dialects. Therefore the information provided after lodging an asylum application is limited to: the obligation on the individual to present him or herself at the interview or to extend their visa, the fact that he or she will be accommodated in the Bucharest Regional Centre or that he or she must go through the medical check-up, which often does not take place. Whenever this information is provided, it is given orally and often with the help of other asylum seekers present in the centre who are available to help out or with interpreters who are there for the interview and have free time.

JRS Romania developed a platform on the asylum procedure in Romania, with general and specific information on seeking asylum in Romania, the different procedures (e.g. Dublin, border procedure, etc.) and information for minors. The platform is available in several languages: English, French, Arabic, Pashtu and Kurdish. In 2020 information will be added in Turkish, Farsi and Somali.<sup>364</sup> Practitioners mainly use the platform, but it might also be helpful for literate asylum seekers.

In 2019, unaccompanied children were counselled by the integration officer regarding the fact that they will have a legal representative, that a social investigation will be conducted, and that they may or may not be moved to a DGASPC centre. In addition, NGOs provided them with more information and monitored them as vulnerable persons in need of more attention.

IGI-DAI previously had leaflets, which were prepared by UNHCR or CNRR. However, these have not been distributed for more than two years. There are also posters with rights and obligations related to the asylum procedure, translated into several languages, but in most of the cases asylum seekers did not seem to read them.

NGOs provide information through counselling sessions, posters and sometimes leaflets. However, due to the fact that the asylum seekers in most of the cases are not reading the leaflets, NGOs are focusing on individual or group counselling.

**Giurgiu:** According to the legal counsellor, during the sessions in which she participated, asylum seekers receive leaflets on their rights and obligations in English or Arabic after going through medical check-up. During the preliminary interview, asylum seekers are offered general information regarding the asylum procedure, including their rights and obligations. According to the legal counsellor, JRS brought a monitor that plays the rights and obligations in different languages; this is placed in the

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<sup>364</sup> Asylum Procedure Platform, available at: <https://bit.ly/3d2dZQK>.

hallway. JRS, ICAR Foundation and AIDRom representatives organise collective information sessions when a new group of asylum seekers arrives in the centre and a few times integration officers or logistics personnel attended these meetings.

The majority of respondents pointed out that the written information they receive from IGI-DAI or NGOs is not very effective as most asylum seekers are illiterate or have difficulty reading through information which is lengthy, complex and, consequently, difficult to comprehend. Thus, asylum seekers prefer face-to-face counselling with an NGO representative in order to understand the steps of the asylum procedure. The information leaflets are not adapted to the asylum seekers' level of education or knowledge. Usually the leaflets reiterate the provisions of the Asylum Act.

In contrast, the JRS representative of **Bucharest** considers that the leaflets are useful because they are written in a specific language and some asylum seekers only know their mother tongue, therefore these leaflets provide a minimum of information before the counseling provided by the NGOs and IGI-DAI.

In practice, respondents reported that there is no specifically tailored information provided to unaccompanied asylum-seeking children. In most of the cases they are informed in the same way as adults, while they are also informed that they will have a legal representative. In general, unaccompanied children do not understand what this means. UNHCR also stated that there is a lack of accessible and adequate information materials for asylum-seeking children. The JRS representative confirmed that this problem persists as of 2018.

## 2.2. Information on the Dublin procedure

IGI-DAI has the obligation to inform the asylum seeker of the content of the common leaflet drawn up by the European Commission.<sup>365</sup> The competent officer of IGI-DAI communicates the information contained in the common leaflet, drawn up according to Article 4(3) of the Dublin Regulation.<sup>366</sup> If the applicant is an unaccompanied minor, the designated officer shall provide him or her, in a manner appropriate to his or her level of understanding, with the information contained in the special information leaflet drawn up by the European Commission, supplemented with additional specific information for Romania.

**Bucharest:** The information provided on the [Dublin Procedure](#) is basic, as IGI-DAI lacks staff, time and interpreters. The information is provided by the integration officer. In 2019, asylum seekers received more detailed information about the Dublin procedure from NGOs.

**Giurgiu:** Asylum seekers receive the common leaflet at the preliminary interview and, if they have questions regarding the Dublin procedure, the officer answers them. They are briefly informed on the way the responsible Member State is determined and are told that they have to wait for a period of 1-3 months for a final answer. However, asylum seekers request more information about this procedure from NGOs.

**Șomcuta Mare:** Asylum seekers are informed at the beginning of the asylum procedure about the Dublin procedure, what it entails. Generally, information is provided when a specific issue arises. Information is provided orally as the legal counsellor did not receive any written documents from the asylum seekers. Asylum seekers are informed about the Member State to which a request was sent.

**Rădăuți:** Asylum seekers receive the common leaflet and an information note in Romanian stating that the Dublin procedure was triggered and the Member State to which a request was sent.

**Galați:** The JRS representative reported that the majority of the asylum seekers are well informed about the Dublin procedure. They receive general information about the Dublin procedure and the common leaflet upon registration. Asylum seekers subject to the Dublin procedure are provided with the common brochure. In addition, information about the Dublin procedure is also provided by the NGOs. Where

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<sup>365</sup> Article 118 Asylum Act.

<sup>366</sup> Article 118(1) Asylum Act.

family unity criteria are applicable, asylum seekers are informed by IGI-DAI of the documents they have to present. If they require more information, they are referred to NGOs.

In practice, asylum seekers in most of the Regional Centres are informed orally and in writing of the fact that the Dublin procedure has started, and they are handed the common leaflet. The information is provided with the help of an interpreter in all the centres. In **Bucharest** asylum seekers are informed about the country to which a Dublin request was addressed in this regard. The JRS representative in Bucharest stated that for this kind of procedure IGI-DAI usually use an interpreter from the NGOs.

In **Timișoara**, if after checking the fingerprints in Eurodac, IGI-DAI finds a match with the data introduced by another Member State, the asylum seeker is informed orally that he or she is subject to the Dublin procedure. IGI-DAI mentions which country has been contacted. They also receive leaflets, which according to the Director of the centre often end up in the bin. They are also informed by the NGOs and receive leaflets from CNRR. As regards the unaccompanied children IGI-DAI always takes the responsibility to assess their asylum claim, according to the director of the Regional Centre Timișoara.

In **Șomcuta Mare**, asylum seekers are also informed orally of the beginning of the Dublin procedure and the State contacted. In **Rădăuți**, during the preliminary interview IGI-DAI informs asylum seekers in writing that they are subject to the Dublin procedure, provides them the common leaflet, and specifies the Member State which has been contacted, with the assistance of an interpreter. In **Giurgiu**, they are also informed orally of the fact that a Dublin procedure has been initiated, while the authorities also mention the country contacted. In **Galați**, however, asylum seekers are informed orally and in writing about the time frame of the procedure, the possibility to appeal the decision and about the country what has been contacted.

If the applicant is an unaccompanied child, the appointed official shall apprise him or her, in a manner appropriate to his or her level of understanding, of the information contained in the special information brochure drawn up by the European Commission according to Article 4(3) of the Dublin Regulation, supplemented with additional specific information for Romania. The legal representative of the unaccompanied child confirms by signature that the information has been provided.<sup>367</sup>

**Șomcuta Mare:** The JRS representative reported the case of 2 brothers from Afghanistan, who only declared that their father lives in another Member State at the personal interview. The case officer asked them additional questions at this point. The JRS representative was not aware if they were informed about the Dublin procedure before the interview, as they did not declare that they have a relative living in another Member State.

In **Galați**, in one of the most recent case, IGI-DAI, the JRS representative and legal representative were all present when the information about the Dublin procedure was provided to an unaccompanied child. The child was informed about the necessary documents. The JRS legal counsellor also discussed in advance with the legal representative. The legal representative also explained to the child what the Dublin procedure entails and what documents he or she has to present to the authorities.

**Rădăuți:** The information is provided in the presence of the legal representative, because he has to sign the notification. The legal representative does not explain to the child what the procedure entails. The case officer explains some of the aspects of the procedure with the help of an interpreter. The legal representative is only present when this information is provided, without giving any other information. Subsequently, the unaccompanied minor turns to the legal counsellor for further information. At the preliminary interview, the unaccompanied children are informed about the fact that they will be transferred to the responsible Member State.

Save the Children mentioned that information on the Dublin Regulation is mainly provided to children by the NGOs in the Regional Centres. NGOs are trying to support the unaccompanied minors to better

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<sup>367</sup> Article 118(2) Asylum Act.

understand the consequences of the Dublin regulation as well as their rights (e.g. family reunification is the primary right granted to them based on the Dublin regulation).

## 2. Access to NGOs and UNHCR

### Indicators: Access to NGOs and UNHCR

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

According to the Asylum Act, asylum seekers located at the border or in detention centres have the right to be counselled and assisted by a representative from non-governmental Romanian or foreign organisations and to contact and receive assistance from an official of UNHCR at any stage of the asylum procedure.

In practice, asylum seekers located at the border have difficulties in accessing NGO services and assistance. Access depends on whether the Border Police or IGI-DAI inform the NGOs of the presence of asylum seekers at the border-crossing check points. In relation to asylum seekers detained in detention centres, access to such services is not systematically ensured as NGOs, namely CNRR, do not have regular office hours in these centres.

In cases of asylum seekers accommodated outside the reception centres, access to NGOs is determined by the information, which was provided to them by the authorities and NGOs, if they exchanged contact details.

UNHCR Romania is contacted by the asylum seekers accommodated in one of the Regional Centres through their implementing partner JRS or directly via email, phone or walk-in interviews at its office.

## H. Differential treatment of specific nationalities in the procedure

### Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? ☒ Yes ☐ No  
❖ If yes, specify which: Syria
2. Are applications from specific nationalities considered manifestly unfounded?<sup>368</sup> ☐ Yes ☒ No  
❖ If yes, specify which:

Romania mainly awards refugee status and subsidiary protection to applicants from countries such as **Syria** and **Iraq**, who made up for the majority of positive decisions in 2017. However, the trend with regard to Iraqi nationals changed during 2017 and IGI-DAI also started rejecting applicants from this country. The recognition rate for Iraqi nationals was 66.4% in 2017, dropped to 35% in 2018 and in 2019 dropped further to 10.9%. In **Timișoara** it was reported that all Syrian nationals are granted a form of protection. The legal counsellor from Șomcuta Mare echoed the same. This practice was also reported in **Rădăuți**, Galați and Șomcuta Mare.

In **Rădăuți**, it was also noticed that asylum applications made by Iraqi nationals are being rejected and even assessed in accelerated procedure. As for Indian and Bangladeshi nationals their asylum applications are assessed swiftly.

<sup>368</sup> Whether under the “safe country of origin” concept or otherwise.



## Reception Conditions

### A. Access and forms of reception conditions

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

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

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

❖ Regular procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Dublin procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Admissibility procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Border procedure	<input type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Accelerated procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ First appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Onward appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Subsequent application	<input type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input checked="" type="checkbox"/> No
  
2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions?
 

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
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Asylum seekers who do not have means of subsistence are entitled to reception conditions from the moment they have expressed their intention to apply for asylum until the completion of the asylum procedure and the expiry of their right to stay in Romania.<sup>369</sup> Asylum seekers have the right to stay in Romania until the expiration of a period of 15 days after the end of the asylum procedure, except when the asylum application was rejected after being examined in the accelerated procedure or in the border procedure, in this case the person is ordered to leave Romania as soon as the asylum procedure has been completed. Accelerated and border procedures are concluded from the date of delivery of the court's decision if an appeal has been lodged, or from the expiration of the deadline for filing the appeal.<sup>370</sup> In the Dublin procedure the right to remain on the territory of Romania ceases on the date of the transfer.<sup>371</sup>

Subsequent applicants do not have the right to material reception conditions.<sup>372</sup>

At the time of submission of an application for material reception conditions and whenever necessary, IGI-DAI shall analyse the provision of material reception conditions on a case-by-case basis, taking into account the material and financial means possessed by the applicant.<sup>373</sup> If IGI-DAI finds that the applicant has the means to ensure an adequate standard of living and can contribute to the costs of material reception conditions and health care, it may suspend the granting of material reception conditions and may require reimbursement and impose future contribution to those costs.<sup>374</sup>

Although, according to the law, applicants are entitled to reception conditions from the moment they express the intention to seek asylum, in practice they are not accommodated in the reception centres until the asylum claim is registered.

In **Timișoara**, it occurred that asylum seekers were allocated to receive the financial allowance 7 days after their asylum application had been registered. In practical terms this means that IGI-DAI draws up a list of beneficiaries of the financial allowance twice a month: at the beginning of the month and in the middle. When this list is drawn, integration officers inform the asylum seekers 3 days before the payment that in 3 days they would receive the money and the consequences of not collecting them. IGI-DAI also informs accordingly the NGOs. Within 3 days, eligible asylum seekers may obtain their

<sup>369</sup> Article 56(6) Asylum Decree.

<sup>370</sup> Article 17(7) Asylum Act.

<sup>371</sup> Article 17(1)(a) Asylum Act.

<sup>372</sup> Article 88<sup>1</sup> Asylum Act.

<sup>373</sup> Article 55(8) Asylum Decree.

<sup>374</sup> *Ibid.*

financial allowance from IGI-DAI. If they have not obtained it within that period, asylum seekers have to make a request duly explaining the reasons for their delay. Furthermore, some of the asylum seekers could not obtain their financial allowance due to the fact that they were not issued temporary identity documents or their visas expired (see [Registration](#)), but– this occurs when groups of 30 persons arrive in the centre or if they arrive during the weekend – or their visas expired. The asylum seekers who are transferred to other centres receive the financial allowance one day before they are transferred.

According to the JRS representative, asylum seekers who have money with them are informed in writing, in Romanian, that they will not receive the financial allowance. Due to the fact that they do not understand what is written on the information note, they request the NGO representatives to explain the contents of the document.

## 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 single adult asylum seekers as of 31 December 2019 (in original currency and in €): 480 RON / €104

Reception conditions consist of: accommodation in one of the reception centres; financial allowance for food and clothing; and pocket money.

### 2.1. Allowance for food / clothing and pocket money

Asylum seekers are entitled to receive, upon request, the following allowances:<sup>375</sup>

- Food daily allowance of 10 RON / €2.16 per person;
- Clothing one-off allowance of 67 RON / €14.48 per person during summer and 100 RON / €21.60 per person during winter;
- Pocket money of 6 RON / €1.30 per day per person for other expenses such as local transport expenses, cultural services, press, repair and maintenance services and personal hygiene products expenses.

Monthly amounts of financial allowances for different categories of applicants are as follows:

Monthly amount of financial allowances for asylum seekers	
Category	Amount of allowances
Single adults	480 RON / €104
Pregnant women in months 1-4 Ill persons upon admission to infirmary	570 RON / €123
Pregnant women in months 5-9 Women giving birth who do not breastfeed	600 RON / €130
Women giving birth who breastfeed Children aged 0-5 months	630 RON / €136
Children aged 6-12 months	690 RON / €150

Before the 2015 reform, asylum seekers were granted a financial allowance of 3.6 RON per day, amounting to a monthly total of 108 RON/€23. In general, the financial allowance is sufficient to ensure a decent living. In cases of families, all the members are entitled to receive the financial allowance. The only persons who have complained about the amount of the financial allowance are single men.

In comparison, Romanian nationals with low income benefit from social assistance,<sup>376</sup> heating assistance<sup>377</sup> and a family allowance.<sup>378</sup> Romanian nationals – families and single persons – are entitled

<sup>375</sup> Article 55(1) Asylum Decree.

<sup>376</sup> Act 416/2001 on Minimum Guaranteed Income, available at: <http://bit.ly/2AWyH00>.



to a minimum guaranteed income as a form of social assistance.<sup>379</sup> The monthly minimum guaranteed income is determined based on the social reference indicator (*indicator social de referinta*, ISR) set by law at 500 RON / €108. The minimum guaranteed income level is as follows:

Monthly amount of minimum guaranteed income		
Category	Percentage ISR	Amount
Single adults	28.3%	142 RON / €30
Family of two	51%	255 RON / €55
Family of three	71.4%	357 RON / €77
Family of four	88.4%	442 RON/ €96
Family of five	105.4%	527 RON / €114
Family of six or more, for each family member	7.3%	36.5 RON / €7

In addition, the State affords an allowance for all children, including nationals and non-nationals, up to the age of 18.<sup>380</sup> This type of financial allowance is complementary to other forms of material support afforded by the State. The level of the state child allowance is determined by the ISR and amounts to:<sup>381</sup>

- 200 RON / €43 for children up to the age of 2, or 3 in case of a disabled child;
- 84 RON / €18 for children between the age 2 and 18;
- 200 RON / €43 for disabled children between the age of 3 and 18.

Even though a comparison between financial assistance granted to nationals and asylum seekers is difficult to make due to the diversity of available allowances and the applicable calculation modes, asylum seekers are not treated less favourably than nationals as far as material support is concerned. They also benefit from other financial allowances than the ones provided by the Asylum Act, such as the allowance for children and they are also entitled to receive social assistance under the conditions provided by Act 292/2011 on Social Assistance, as amended.<sup>382</sup>

## 2.2. Accommodation allowance where reception capacity is exceeded

A new form of reception conditions was included by the 2015 reform. When the capacity in the reception centres for asylum seekers is exceeded, IGI-DAI may grant asylum seekers an accommodation allowance for the purpose of renting a house or contracting specialised services for the reception and accommodation of asylum seekers in individual or collective locations, within the limits of the available funds.<sup>383</sup> This form of reception conditions has never been applied to date.

In these situations, IGI-DAI may provide, upon request, material assistance amounting to the following monthly sums per person: rental assistance of 450 RON; and maintenance assistance of 120 RON during the summer season and 155 RON during the winter season. In the case of a two-member household, the monthly amount paid to a person for rental decreases by 30%. In the case of households consisting of three or more members, the amount granted monthly to a person for rental decreases by 40%.<sup>384</sup>

This material assistance shall be granted in the first month after the filing of the application, without the need for the submission of supporting documents for the rental. However, for the second month the submission of these documents is mandatory. If the requested documents are not submitted by the second month, the grant is suspended.

<sup>377</sup> Emergency Government Ordinance 70/2011 on social protection measures during the cold season, available at: <http://bit.ly/2mtUk2t>.

<sup>378</sup> Act 277/2010 on Family Allowance, available at: <http://bit.ly/2FvzrN3>.

<sup>379</sup> Article 1(1)-(2) Act 416/2001 on Minimum Guaranteed Income.

<sup>380</sup> Article 1 Act 61/1993 on the State Child Allowance.

<sup>381</sup> Article 3 Act 61/1993 on the State Child Allowance.

<sup>382</sup> Article 17(1)(n<sup>1</sup>) Asylum Act.

<sup>383</sup> Article 17(8) Asylum Act.

<sup>384</sup> Article 55(4) Asylum Decree.

### 2.3. Reimbursement of expenses related to travel

Asylum seekers also have the right to reimbursement, upon request, of transport costs associated with their court proceedings, if the judicial process takes place in a different area than the one where they are residing, and if transport is carried out by road, rail or ferry.<sup>385</sup>

The reimbursement of transport expenses is made on the basis of a request filed by the asylum seeker, together with travel tickets, filed within 5 working days from the date of the court hearing at the Regional Centre where the asylum seeker is accommodated. The reimbursement is made after checks have been carried out in order to certify the presence of the asylum seeker in court.<sup>386</sup>

The Asylum Decree refers particularly to asylum seekers accommodated in **Șomcuta Mare** and **Rădăuți**, since the competent courts for onward appeals (see [Regular Procedure: Appeal](#)) are located in a different city than the one where the Regional Centres are located; respectively **Baia-Mare** and **Suceava**. The policy of reimbursement is applied in practice. No requests for reimbursement of transport costs were made in Șomcuta Mare in 2019, however, as there is only one transport operator per day, asylum seekers prefer carpooling.

In **Rădăuți** one request was lodged, but the asylum seeker did not receive any answer. According to another stakeholder interviewed there were several requests that were reimbursed.

IGI-DAI may also involve asylum seekers in activities related to the maintenance or redevelopment of the interior and exterior spaces of Regional Centres, or support to the centre staff in information and counselling activities.<sup>387</sup> Asylum seekers who perform this kind of activity benefit from an additional allowance for food of 5 RON / €1.08 per day.<sup>388</sup>

**Timișoara:** There were asylum seekers who received the additional allowance because they helped cleaning the centre. In **Somcuta, Rădăuți, Giurgiu** and **Galați** no cases were reported.

### 2.4. Material and financial assistance from NGOs

In addition to the material reception conditions afforded by IGI-DAI, asylum seekers also benefit from material assistance provided by AIDRom through the project “Assistance and services for asylum seekers in Romania” funded by the AMIF national programme.<sup>389</sup> AIDRom provides material assistance to asylum seekers accommodated in all Regional Centres, in the 2 Accommodation and Counselling Centres run by AIDRom in **Bucharest** and **Timișoara**, and also for asylum seekers detained in public custody.

The number of social vouchers granted by AIDRom to asylum seekers continued to decrease in 2019 compared to 2018 and 2017. Within the project Assistance and integrated services for asylum seekers in Romania –ASIST.RO, the assistance offered by AIDRom consists of:

1. Financial assistance for translation of civil status documents and/or diplomas, as well as legalisation / authentication / apostilles of approximately 50 (instead of 60 in 2018) pages of documents
2. 600 packages of food for asylum seekers transferred between Regional Centres or transferred from the place where the asylum application was made to the Regional Centre;
3. 100 social vouchers for vulnerable asylum seekers;

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<sup>385</sup> Article 17(1)(q) Asylum Act.

<sup>386</sup> Article 56(2<sup>^</sup>1) Asylum Decree.

<sup>387</sup> Article 55(9) Asylum Decree.

<sup>388</sup> Article 55(10) Asylum Decree.

<sup>389</sup> The project, currently in its second phase, is implemented by AIDRom in partnership with CNRR, from 7 July 2017 to 6 July 2018. For more details, see: <http://www.aidrom.ro/proiecte/asistent-a-solicitan-ti-de-azil/>.

4. 300 food packages / social vouchers for asylum seekers accommodated in Regional Centres and AIDRom Centres, or detained in specially designed closed spaces or in detention centres. In 2019 this was no longer provided.
5. 300 installation packages for persons accommodated in AIDRom Centres and in Regional Centres at the time of filing the asylum application.

Under the same project, AIDRom also provides school supplies for children attending school and cleaning products, encouraging asylum seekers to clean their rooms and common spaces, with different incentives.

### 3. Reduction or withdrawal of reception conditions

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

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

IGI-DAI may limit or withdraw the material reception conditions granted to asylum seekers by a reasoned decision communicated to the applicant. The Asylum Act provides that the grounds for which material reception conditions may be limited or withdrawn are to be determined by a Government decision.<sup>390</sup> Accordingly, these are laid down in the Asylum Decree.

IGI-DAI may limit or withdraw the material reception conditions where the applicant:<sup>391</sup>

1. Leaves the place of residence established for 72 hours without having previously informed the Regional Centre;
2. Does not comply with the obligation to present him or herself at the request of IGI-DAI in order to provide information or does not attend interviews notified to him or her;
3. Repeatedly violates the house rules of the Regional Centres.

The law does not foresee any limitation on reception conditions due to large numbers of arrival. Where reception capacity is exhausted, IGI-DAI grants a specific allowance to asylum seekers to secure accommodation (see [Forms and Levels of Material Reception Conditions](#)).

More particularly as regards violations of house rules, Article 47 of the Regulation of Internal Order (ROI) prescribes the applicable sanctions in cases of disciplinary deviations, with the exception of applicants held in the specially designed closed spaces. The Director of the centre or his or her legal substitute shall apply individually, gradually and proportionally with the seriousness of the act, one of the following sanctions:

1. Oral warning;
2. Written warning;
3. Suspension of the daily amount of 6 RON for local transport expenses, cultural services, press, repair and maintenance services and expenses for personal hygiene products, for a period of 1-3 months;
4. Temporary suspension from the centre for 24 hours;
5. Temporary suspension from the centre for 7 days;
6. Final eviction from the centre.

Decisions reducing or withdrawing material reception conditions must be reasoned and taken on an individual basis, impartially and objectively.<sup>392</sup> The decision is signed by the Director of the Regional Centre. However, potential risks of destitution following the withdrawal of reception conditions are not assessed.

<sup>390</sup> Article 19^1(1) Asylum Act.

<sup>391</sup> Article 55^1 Asylum Decree.

<sup>392</sup> Article 55^1(3) Asylum Decree.

Practice as regards the reduction or withdrawal of reception conditions in the different Regional Centres is as follows:

Main grounds and forms of withdrawal of reception conditions by Regional Centre: 2019		
Regional Centre	Main applicable grounds	Main sanctions imposed
Galați	ROI	Oral and written warning
Rădăuți	ROI, departure from centre	Allowance suspension
Șomcuta Mare	ROI	Oral warning
Timișoara	ROI, departure from the centre	Allowance suspension
Giurgiu	ROI, departure from the centre	-
Bucharest	Departure from the centre	Allowance suspension

According to the director of the Regional Centre **Bucharest**, in case the asylum seeker is re-accommodated in the centre, the daily allowance is suspended for one month.

**Timișoara:** According to AIDRom and the director of the Regional Centre Timișoara, an asylum seeker that leaves the centre without a formal request several times, will be reaccommodated in the centre upon return.

**Șomcuta Mare:** In case of repeated misconducts, IGI-DAI applies the allowance suspension sanction.

**Rădăuți:** It was reported that in some cases, even if it was the first misconduct, IGI-DAI applied the allowance suspension sanction for 3 months. There was also a case in which an asylum seeker was evacuated for 5 days from the centre. IGI-DAI informed the asylum seekers that if they leave the centre without an approved request, their 6 RON allowance will be suspended upon return and a restrictive measure will be imposed (they are not allowed to leave the centre after 4 PM).

**Giurgiu:** It was reported that 2 asylum seekers were evacuated after they were involved in a fight. This means that they had to leave the centre and find accommodation on their own.

According to IGI-DAI, 639 withdrawal of reception conditions decisions were taken in 2019:<sup>393</sup>

Bucharest	Giurgiu	Galati	Radauti	Somcuta Mare	Timisoara	Total
196	201	64	43	111	24	639

Source: IGI-DAI, 20 February 2020.

Out of the total number of withdrawals of reception conditions, 557 decisions were taken because the asylum seekers departed from the reception centre without prior notification and 82 decisions were taken because the asylum seekers did not respect the provisions of ROI.<sup>394</sup>

The sanction imposed was suspension of the daily amount of 6 RON for local transport expenses, cultural services, press, repair and maintenance services and expenses for personal hygiene products, for a period of 1-3 months.<sup>395</sup>

The decision on reduction or withdrawal of reception conditions may be challenged, subject to the rules applicable in the [Accelerated Procedure: Appeal](#).<sup>396</sup> In 2019, the first and only appeal was drafted, but the applicant did not lodge it.

<sup>393</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>394</sup> *Ibid.*

<sup>395</sup> *Ibid.*

<sup>396</sup> Article 19^1(1) Asylum Act.

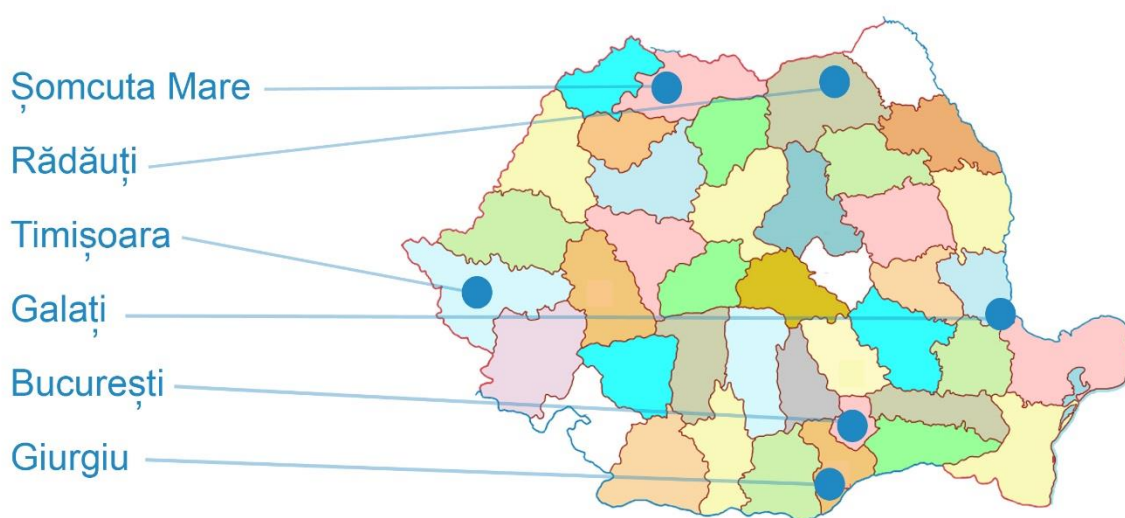
In practice, reception conditions may be reinstated after having been withdrawn or reduced, upon a request, which in most of the cases is drafted by NGO representatives.

#### 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 are allocated to a specific reception facility through a dispersal scheme operated by IGI-DAI. The Regional Centres for Accommodation and Procedures for Asylum Seekers are located in the following areas:



Source: AIDRom, Support for asylum seekers in Romania: <http://bit.ly/2mAeokN>.

According to the Asylum Act, asylum seekers are not allowed to leave their place of residence without authorisation from IGI-DAI.<sup>397</sup> The request to leave the residence has to include the address, the full name of the person with whom the applicant will be staying and the period of time and reasons for his or her request to leave.<sup>398</sup> Authorisation is issued following an individual, objective and impartial assessment. In case IGI-DAI refuses to grant authorisation, its decision shall be motivated.<sup>399</sup>

The provision of material conditions is subject to the applicant's actual residence in the assigned centre. This is monitored by IGI-DAI through its database. If an applicant leaves the Regional Centre without permission and does not return in 72 hours, IGI-DAI may apply [Reduction or Withdrawal of Reception Conditions](#).

Applicants may also be transferred to different reception facilities for reasons of capacity. In practice, asylum seekers are transferred most often from **Timișoara** to other Regional Centres. This occurs due to the fact that, even though the number of arrivals in 2019 decreased in comparison to 2017, most of the asylum seekers arrive from Serbia and the Regional Centre of Timișoara has a limited capacity. Asylum seekers cannot appeal against the transfer decision. According to the Director of the Regional Centre of Timișoara, asylum seekers are transferred within 2 weeks from their arrival. But it really

<sup>397</sup> Article 19(g) Asylum Act.

<sup>398</sup> Article 7 Asylum Decree.

<sup>399</sup> Article 19(g) Asylum Act.

depends on how many asylum seekers are accommodated in the centre. If a larger group arrives, the transfer is done even sooner. The integration officer informs them orally, in addition to written communication in Arabic or Kurdish. According to the JRS representative, asylum seekers are not informed beforehand about the transfers. IGI-DAI officers jointly with the special police forces wake them up on the morning of the transfer.

According to the AIDRom representative, asylum seekers are informed only a few hours before the transfer. When the transfer is conducted, special police forces / riot police / rapid intervention police forces are attending. According to AIDRom, they are attending only to supervise the transfer process. An information note, written in Romanian and English, is given to the asylum seekers on the day of the transfer. In general, transfers are conducted once a week. AIDRom assists to the transfer procedure and provides them with packages.

However, the Ombudsman reported that during the transfers from Timișoara to Rădăuți no food was provided to asylum seekers taking into account that the distance between the two cities is 622km, which means 8-9 hours of travel.<sup>400</sup>

According to IGI-DAI, in 2019, 39 decisions assigning a specific residence, reception centres, for the asylum seekers, were taken, in line with article 19^4 of the Asylum Act.<sup>401</sup>

## B. Housing

### 1. Types of accommodation

Indicators: Types of Accommodation	
1. Number of reception centres:	6
2. Total number of places in the reception system:	900
3. Total number of places in private accommodation:	Not available
4. Type of accommodation most frequently used in a regular procedure:	
<input checked="" type="checkbox"/> Reception centre <input type="checkbox"/> Hotel or hostel <input type="checkbox"/> Emergency shelter <input type="checkbox"/> Private housing <input type="checkbox"/> Other	
5. Type of accommodation most frequently used in an accelerated procedure:	
<input checked="" type="checkbox"/> Reception centre <input type="checkbox"/> Hotel or hostel <input type="checkbox"/> Emergency shelter <input type="checkbox"/> Private housing <input type="checkbox"/> Other	

Most asylum seekers are accommodated in Regional Centres for Accommodation and Procedures for Asylum Seekers, managed by IGI-DAI. The management of reception is decentralised to the level of counties.

<sup>400</sup> Ombudsman, Report 46, 2019, 13.

<sup>401</sup> Information provided by IGI-DAI, 20 February 2020.



The capacity of the different Regional Centres operating across the country (see [Freedom of Movement](#)) is as follows:

Capacity and occupancy of the reception system: 2019		
Centre	Capacity	Occupancy at 31 Dec 2019
Timișoara	50	73
Șomcuta Mare	100	122
Rădăuți	130	88
Galați	200	66
Bucharest	320	174
Giurgiu	100	52
<b>Total</b>	<b>900</b>	<b>575</b>

Source: IGI-DAI, 20 February 2020.

The total capacity of the Regional Centres is 900 places, with the possibility of extension to a total of 1,090 places. At the end of 2019, the number of persons staying in the centres was 575, of which 461 asylum seekers and 114 beneficiaries of international protection.<sup>402</sup> Until now, it has not happened that asylum seekers were left without accommodation due to a shortage of places in the reception centres.

In addition to the Regional Centres, AIDRom, one of the NGOs implementing the AMIF national programme, runs two Accommodation Centres for vulnerable groups (see [Special Reception Needs](#)).

Asylum seekers may also request to stay in private accommodation at their own cost. In this case, they have to present to IGI-DAI a lease agreement registered with the tax authorities or a commodity contract concluded in authentic form.

## 2. Conditions in reception facilities

### Indicators: Conditions in Reception Facilities

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

Conditions in Regional Centres are monitored, *inter alia*, by the Ombudsman, who visits the centres on a regular basis.

### 2.1. State of the facilities

#### The Regional Centre Timișoara

The Regional Centre is located in the same premises as the Emergency Transit Centre (ETC) operated by UNHCR, where refugees evacuated from other countries stay before they are resettled to another country.<sup>403</sup> The facility is located 20 minutes by bus from the city centre. The facility was repainted and the doors and windows were repaired in December 2017.

The entire facility is split into four buildings, of which two are designed for accommodation. Each of these two buildings contains 12 rooms with 12 beds per room. One building ("Building B") is separated into two parts through a built-in wall: six rooms are dedicated to asylum seekers and another six to ETC

<sup>402</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>403</sup> UNHCR, *ETC Timisoara*, 14 December 2016, available at: <http://bit.ly/2DuZqDN>; *Operations in Romania*, 16 December 2016, available at: <http://bit.ly/2D0Ojko>.

refugees. The second building (“Building C”) only accommodates families. Therefore, while the ETC has a total capacity of 200 places, the Regional Centre has a capacity of 50 places. Since May 2018, the available places for asylum seekers have been reduced to the initial capacity of 50 places, down from 150 places available in 2017. The director of the Regional Centre Timisoara mentioned that maybe in 2020 the ETC will move to other premises.

At the time of the author’s visit on 17-18 October 2019, there were 20 asylum seekers and 16 asylum seekers were transferred.

Each building where persons are accommodated has a kitchen. However, “Building B” dedicated to families only has 2 refrigerators. “Building B” has two bathrooms, each equipped with two squat toilets, two urinals, three sinks and three showers.

### **The Regional Centre Șomcuta Mare**

The Regional Centre is located not far from the city centre and 25km away from Baia Mare. The centre consists of a three-storey building. Rooms are located on the second and third floor, each floor containing 22 rooms with two, four or six beds. There are two bathrooms on each floor, separated by gender. On the hallway of the first floor, there are 6 refrigerators, while the ground floor has two isolation rooms for medical purposes. The basement has a kitchen with ten stoves, a dining room and a laundry room with four washing machines but only two are functional. The basement also contains a specially designed closed space (see [Place of Detention](#)).<sup>404</sup>

In 2018 the bathrooms were renovated; tiles and doors were changed. Save the Children Romania has set up a playground and a room dedicated to mothers and children. According to the Ombudsman’s report, repairs and paintings were made in 2019. The Ombudsman also reported that the centre does not accommodate the needs of small children, as there is no adequate toilet or furniture for them.<sup>405</sup>

### **The Regional Centre Rădăuți**

The Regional Centre is located at the entrance of the city, not far from the city centre. There are rooms with eight and ten beds. There are two bathrooms, one for women and one for men, each with three toilets and showers. There is a common kitchen, which lacked refrigerators and dishes at the time of the Ombudsman’s visit.<sup>406</sup> The gym room has been converted into an accommodation facility in order to increase reception capacity.<sup>407</sup>

### **The Regional Centre Galați**

The Regional Centre is located in the city, with easy access to public transport. The centre has three buildings: two for administrative purposes and one two-storey building for accommodation. On each floor of the accommodation building, there is one bathroom for men and one for women: each comprising of three showers and seven sinks. There is only one normal toilet for women per floor; the rest are ‘squat toilets’.

The rooms have a maximum capacity of 12 beds. Generally, asylum seekers are accommodated depending on nationality. Families are accommodated in the same room, separately from single men. There are two kitchens on each floor with three stoves and three sinks each, as well as one refrigerator for 12 people.

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<sup>404</sup> Ombudsman, *Report of the visit to the Regional Centre for Procedures and Reception for Asylum Seekers Șomcuta Mare*, 36/2017, available in Romanian at: <http://bit.ly/2E7EANw>, 4-5.

<sup>405</sup> Ombudsman, Report 44/2019, 4.

<sup>406</sup> Ombudsman, *Report of the visit to the Regional Centre for Procedures and Reception for Asylum Seekers Rădăuți*, 34/2017, available in Romanian at: <http://bit.ly/2nEuqcO>, 5.

<sup>407</sup> *Ibid*, 3-4.



## The Regional Centre Bucharest

The Regional Centre is located 20 minutes by bus from the city centre. The building accommodating asylum seekers has four floors. It contains a total of 80 rooms, each with four beds, a toilet and a shower. On each floor there are two kitchens, each with two refrigerators, two stoves and two sinks. When assigning asylum seekers to different rooms, IGI-DAI takes into consideration their religion, nationality and gender. Families are accommodated together. At the time of the author's visit on 18-19 June 2018, it was noted that toys were thrown all over the playground in the courtyard. Old bed frames made of steel were deposited near the playground, representing a risk for the children. It seemed that the bed frames had been left there for a long time as grass had grown on them.

In 2019 it was reported by the JRS representative that the situation inside the centre is the same, the playground in the courtyard was refurbished by Save the Children and most of furniture stored in the courtyard has been collected.

## The Regional Centre Giurgiu

The Regional Centre is a former barracks located in the outskirts of the city and repurposed in 2011, without any refurbishment beyond repaint. As a result, technical problems often occur. The capacity of the centre is 100 places arranged in seven rooms. At the time of the Ombudsman's visit in June 2017, the capacity of the centre had been increased by 70 places, as the gym and prayer room had been converted into bedrooms.<sup>408</sup> Each room has 20 beds equipped with one refrigerator each, and there are two kitchens with stoves and sinks. There are two bathrooms, one for men and one for women, with five 'squat toilets' and five showers. The centre has a small courtyard but is not accessible as it is surrounded by a fence.

### 2.2. Food and hygiene

The Asylum Decree prescribes the necessary daily amount of nutritional value based on which the daily allowance for food is calculated in the Regional Centres.<sup>409</sup> Asylum seekers may cook for themselves, using the kitchens available in every centre.

In all regional centres asylum seekers are obliged to clean their rooms, kitchen and bathrooms on a rotation basis. The number of toilets and showers are sufficient in all facilities during regular occupancy.

In 2018 and 2019, AIDRom implemented a project providing asylum seekers with cleaning products and they were also encouraged to clean their rooms and common spaces every week. All the interviewed stakeholders observed an improvement of hygienic conditions in the centres throughout 2018.

Hygienic conditions are relatively good in **Galați** and **Șomcuta Mare**, although the former Ombudsman expressed concerns about the state of the toilets, lack of cleanliness and water flowing on the floor.<sup>410</sup> According to the JRS representative, the centre is cleaner since the project implemented by AIDRom. If the asylum seekers are urged by the NGO staff to clean, they do so. In **Galați** it was reported that the centre was painted, and repairs and disinfection were made.

In **Bucharest**, residents complain about the cleanliness and state of mattresses and bed sheets, as well as the lack of beds for children and the shortage in refrigerators. During the author's visit to the centre in 2018, a female Iraqi beneficiary of international protection, who was accommodated together with her husband and three children in two rooms of the centre, shared some of their experiences. The family had to buy a crib for their baby born in Romania, as there was none in the centre. They also bought in a fan in order to help her husband, who has a health condition, during the hot summer days. She also

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<sup>408</sup> Ombudsman, *Report of the visit to the Regional Centre for Procedures and Reception for Asylum Seekers Giurgiu*, 29/2017, available in Romanian at: <http://bit.ly/2EvCLrn>, 2.

<sup>409</sup> Article 55(1) Asylum Decree.

<sup>410</sup> Ombudsman, *Report 44/2019*, 5.

complained about bed bugs. According to the JRS representative, the situation did not change in 2019. The hygienic conditions are not satisfactory. There are bedbugs in the rooms, even if disinfections were periodically done; the gym room is closed, there is a prayer room and a room where a TV was installed. There is an approved budget for the rehabilitation of the accommodation centre, however there is no information when this will start. The poor hygienic conditions of the reception centre were also pointed out by the Ombudsman. During the visit, the Ombudsman's team did not see any modifications compared to the situation witnessed in 2018: the doors of some rooms were damaged, the floor surface was in an advanced stage of usage, similar to bed mattresses; broken windows in kitchen spaces and staircases were not fixed; some bathrooms were damaged and did not ensure necessary privacy; faulty electrical installations were also observed as well as unsecured sockets (in a room where a single mother and her two children were staying, these were ripped out of the wall, the monitoring team requested that this should be fixed urgently), deteriorated electrical panels; in some hallways metal beds were stored (which constituted a safety hazard for children) etc. Some rooms were repainted, but at the date of the visit there were clear signs of water infiltration in the walls, probably from a recent malfunction of the piping system. The prayer rooms and the club were up and running, but the spaces were not refurbished and the chairs were broken.<sup>411</sup>

In **Giurgiu**, during the author's visit on 21 of June 2018, poor conditions were noted in the showers, even though the integration officer mentioned that the centre had been sanitised two weeks prior to the visit. In the men's showers, the wall between the sinks and showers had a big hole, the curtains were black from mould and/or dirt, and it was noticed from the hall that the men's toilets were not clean. According to the legal counsellor in Giurgiu, after the author's visit the conditions of the centre improved. It was sanitized and the toilets have also been disinfected, as far as possible. There is also a plan to entirely renovate the centre. In 2019, repair works were done in the bathrooms and in some rooms. There were issues with bedbugs and fleas, even though one disinfection had been carried out in 2019. Save the Children renovated and furnished accordingly a room for children, where the video explaining the rights and obligations of asylum seekers, is broadcasted. Efforts were made in 2019 to improve the reception conditions in the centre.

In **Rădăuți**, at the time of the Ombudsman's visit in the centre on 13 September 2019, it was noticed that the bathrooms were heavily worn out; the tiles were damaged and broken. The stoves were also heavily worn out, even though according to the IGI-DAI staff they were 2-3 years old. The cleanliness in the kitchen was lacking, there was no place where asylum seekers could deposit their food and the tiles and pavement in the kitchen was old, broken, and not sanitized. According to the Ombudsman the building did not provide adequate conditions for accommodation, cooking and storage of food.<sup>412</sup> At the time of the author's interview with the stakeholders from the centre, the doors were changed and the tiles in the bathrooms were replaced. According to them the renovation started in November 2019. The courtyard was also cleaned. The problem of the mattresses still persists; there are still bed bugs, even though disinfections were made.

In **Timișoara**, residents still complain about bed bugs, fleas, the poor condition of mattresses and plumbing in the showers and toilets. For a while the door of the women's bathroom could not be locked and they were complaining that people were entering the bathroom while they were inside. AIDRom representatives bought a new lock. The JRS representative reported that asylum seekers who were re-accommodated in the centre did not receive bed linen, while new arrivals did. If the asylum seekers are transferred within 1-2 days from their arrival in the centre, they do not receive bed linen; nobody informs them that they can receive bed linen. The flux of new asylum seekers arriving in the centre is also a reason for the lack of cleanliness in the centre, according to AIDRom representative. Even though IGI-DAI carried out 8 disinfection operations in 2019, asylum seekers still complained about insects. The issue of bugs and insects is a major problem in the Regional Centre of Timișoara. The Ombudsman also noticed this problem in 2018 and reported the existence of cockroaches in the kitchen.<sup>413</sup> The residents still complain about the existence of the cockroaches. The director of the centre mentioned

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<sup>411</sup> Ombudsman, *Report 75/2019*, 10.

<sup>412</sup> Ombudsman, *Report 46/2019*, 5.

<sup>413</sup> *Ibid.*

that no repairs or renovations were made in 2019 in the building where asylum seekers are accommodated, while the building that accommodates the refugees from ETC has new windows.

There have not been any protests related to the conditions in the centres.

### 2.3. Activities in the centres

Asylum seekers are allowed to go outside whenever they want, until 22:00. All Regional Centres except **Timișoara** have a prayer room where residents can practice their religion.<sup>414</sup>

Social and community workers in the centres organise different activities for both adults and children.

Save the Children Romania is running the project “Integrated services for asylum seeking and refugee children”, self-funded, in 5 Regional Centres, with the exception of Giurgiu, where the number of children (accompanied or unaccompanied) is low. In 2018 Save the Children renovated and furnished accordingly a room for children in Giurgiu, where Romanian classes are held.

The project foresees the following activities:

- social services, counselling, support to access different social services and benefits (state child allowance);
- material assistance for children and vulnerable adults, which is meant to cover food, hygiene products, medicine, medical services, school supplies for children, instalment packages. The material assistance is obtained through private donations. In comparison with 2018,<sup>415</sup> when Save the Children only used donations to top up the needs for clothes.
- recreational and educational activities in regional centres, both in the Children’s Room and outside the centres;
- psychological assistance in the Regional Centre from Bucharest.

In **Timișoara**, **Galați**, **Rădăuți** and **Șomcuta Mare**, AIDRom organises cultural, educational and sports activities for adults and children such as football and table tennis, visits to the museum, zoo, city walks. They also organise Romanian language courses for children, which are also attended by adults.

In **Timișoara**: AIDRom has a social educator, who organises educational and recreational activities and teaches Romanian language to children and adults. In addition, he organises the cleaning program. The same is done in **Șomcuta Mare**.

In **Bucharest**, Save the Children organises activities for children in the centre and there are also Romanian language courses for adults.

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<sup>414</sup> Although the Ombudsman states that there is a confession room in Timișoara where Romanian classes are held, this is a hallway leading to the NGO offices rather than an actual room.

<sup>415</sup> Situation in 2018: Save the Children Romania is running a project entitled “Integrated services for asylum seeking and refugee children”, funded by Save the Children UK, in all Regional Centres except Giurgiu, where the number of children is low. However, Save the Children renovated and furnished a room for children in Giurgiu accordingly, where Romanian classes are held. The project foresees the following activities:

- Social services, counselling, support for having access to different social services and social benefits e.g. state child allowance;
- Financial assistance for children and vulnerable adults, which is meant to cover food, hygiene products, medicine, medical services, school supplies for children, instalment packages, kindergarten and afterschool fees if where. For each of these categories the allowances are as follows:
  - o 250 RON / 54 € for food and clothes; Save the Children uses donations to top up the needs for clothes;
  - o 100 RON/ 21 € for medical assistance;
  - o 200 RON/ 43 € for school supplies for children;
- Recreational and educational activities in the children’s room and outside the centres;
- Psychological assistance in the Regional Centre of Bucharest.

The financial allowances may be supplemented where necessary.

In **Giurgiu**, AIDRom and ICAR Foundation provide activities for adults and children, even though the centre has no interior or exterior recreational spaces where such activities may be organised. The lack of playgrounds for children and places for sports activities has been highlighted by JRS and by the Ombudsman.<sup>416</sup>

According to the stakeholders interviewed by the author in **Șomcuta Mare** and **Rădăuți**, the staff shortage was no longer an issue in 2019 as the number of the asylum seekers accommodated in the centres decreased considerably from last year. Recruitments also took place in Șomcuta Mare, Timișoara and Rădăuți, Galați. In **Galați**, no shortage of staff was reported. A psychologist was hired in 2019. In **Șomcuta Mare**: 3 case officers were hired. IGI-DAI also organised a recruitment process for a psychologist. In **Rădăuți**, IGI-DAI recruited a psychologist, officers within the procedures department and within the logistics office. In **Timișoara**, the Ombudsman reported that 12 positions were vacant (3 officers, 2 agents and 7 contract staff).

However, the JRS representative of Bucharest mentioned that even though a few months ago (end of 2019) IGI-DAI supplemented its staff, there is still staff shortage.

According to JRS, IGI-DAI staff is trained internally and externally by NGOs and UNHCR Romania on different topics.

## 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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No             |

Asylum seekers have access to the labour market following 3 months from the lodging of the application, if no decision has been taken by IGI-DAI due to no fault of the applicant, or during the appeal stage.<sup>417</sup> This means that if a decision was made in the administrative phase of the procedure, the asylum seeker is allowed access to labour market even sooner than 3 months. Persons who, at the time of filing an application for asylum, have a right of residence on the territory of Romania and are working legally, may continue to work.<sup>418</sup>

Access to the labour market is granted under the same conditions set out by law for Romanian citizens.<sup>419</sup> Accordingly, there is no labour market test, sectoral limitation or other restriction laid down in the law.

<sup>416</sup> Ombudsman, *Report of the visit to the Regional Centre Giurgiu*, 29/2017, 6.

<sup>417</sup> Article 17(1)(o) Asylum Act.

<sup>418</sup> *Ibid.*

<sup>419</sup> *Ibid.*

The Asylum Decree prescribes that asylum seekers may benefit, upon request, from mediation services, professional information and counselling services provided to persons seeking employment by the County Employment Agencies (AJOFM).<sup>420</sup>

In order to be registered as a job seeker by the AJOFM and to benefit from the aforementioned services, asylum seekers must present the documents requested by law, except for the civil status documents issued by the country of origin, together with their temporary identity document issued by IGI-DAI and a certificate which confirms their right to work. The same conditions apply for asylum seekers' participation in a vocational training programme or the evaluation of professional competences acquired through non-formal means.

Diplomas or certificates of education or graduation, as well as certificates of professional competence, qualification or other relevant documents, are accepted only if they are recognised on the territory of Romania according to the applicable legal provisions.

According to the law, asylum seekers who have access to the labour market have the right to benefit from measures promoting employment, as well as protection within the unemployment insurance system, under the conditions provided by the law for the Romanian citizens.<sup>421</sup> Moreover, the provisions of the Asylum Decree on access to employment for asylum seekers also refer to the possibility to participate in vocational training programmes.<sup>422</sup>

From the discussions held with the stakeholders, it appears that in 2019, so like in 2018, asylum seekers have not faced obstacles in finding a job, as information about available jobs were provided to them. The jobs advertised by stakeholders were in the unskilled labour sector. As a result, asylum seekers did not encounter problems related to the lack of Romanian language knowledge, diplomas or other documents that would prove their qualifications. The majority of asylum seekers were reportedly unskilled workers in their country of origin.

**Bucharest:** According to the JRS representative, very few asylum seekers are interested in accessing employment. However, there were some asylum seekers legally employed. There is still a reluctance of employers to hire asylum seekers because of their nationality or because their lack of knowledge of the asylum law; thus, they are not aware of asylum seekers' right to be legally employed.

**Rădăuți:** It was reported that asylum seekers prefer leaving to obtaining employment. There were a few asylum seekers legally employed, but the number of asylum seekers working without a contract is higher. It was also mentioned by the stakeholders that employers are reluctant to hire asylum seekers because they fear controls from Labor Inspection (ITM) or IGI- Migration Directorate.

**Șomcuta Mare:** Asylum seekers have not faced obstacles in finding a job as they are informed by IGI-DAI and NGOs about the available jobs in the area. The persons accommodated in the Regional Centre are also periodically informed of available jobs by AIDRom. They usually work in the unskilled sector.

**Galați:** It was reported that IGI-DAI received several job offers for asylum seekers in the unskilled labour sector and that information thereon was disseminated to the asylum seekers together with the NGOs. The County Agency for Employment Galați (AJOFM) held an information session regarding the available jobs in the county. AIDRom also informs asylum-seekers about the available jobs in the area. The NGOs are also drafting the request for the issuance of the certificate from IGI-DAI, which attests that the asylum seeker has the right to work. Since most of the asylum seekers in 2018 and 2019 were unskilled workers, they did not face obstacles in the labour market, except, for some jobs where knowledge of Romanian language at an intermediate level was required.

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<sup>420</sup> Article 6<sup>^</sup>1(1)-(5) Asylum Decree.

<sup>421</sup> Article 17(1)(o<sup>^</sup>1) Asylum Act.

<sup>422</sup> Article 6<sup>^</sup>1(4) Asylum Decree.

**Timișoara:** 2-3 asylum seekers were legally employed. They found these jobs in the community of foreigners from Timișoara. One of the obstacles faced by asylum seekers in finding a job is the reluctance of employers to hire asylum seekers due to their precarious legal status. They prefer to hire beneficiaries of international protection in order to have legal certainty for a longer period. Most of the employment opportunities offered to asylum seekers came from the community of foreigners or refugees from Timișoara. The AIDRom representative reported that they receive a list of the available jobs from AJOFM on a weekly basis and they inform the asylum seekers accordingly. She also reported the fact that the asylum seekers cannot legally work during the first 3 months and that the majority do not stay in Timișoara for that long.

Information sessions related to employment were held in different Regional Centres in 2019.

In **Rădăuți**, an employee from the Territorial Inspectorate of Labour (*Inspectoratul Teritorial de Munca*, ITM) held an information session on the right to work and illegal employment. ITM and the IGI Migration Directorate for asylum seekers and beneficiaries of international protection held the same information session in Galați. NGO representatives were also present.

The number of applicants who were employed as of the end of 2019 was 26.<sup>423</sup>

## 2. Access to education

### Indicators: Access to Education

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

The Asylum Act prescribes for the right of minor asylum seekers to have access to before pre-school (0-3 years), pre-school (3-6 years) and compulsory education (6-18 years) under the same conditions as minor Romanian citizens, as long as no measure is taken to remove them or their parents from Romania.<sup>424</sup> Access to education is therefore free and unconditional.<sup>425</sup>

Compulsory general education consists of 10 grades and includes primary and lower secondary education. Compulsory education ends at the age of 18.<sup>426</sup>

Education is provided in regular schools. In general, children are enrolled at local schools whose territorial jurisdiction covers the respective Regional Centres. Asylum-seeking children are enrolled in normal classes together with Romanian children as observers for the first year. Being an observer means that the child is not listed in the class book and he or she does not receive grades.

In **Bucharest, Giurgiu and Șomcuta Mare**, the NGO representatives together with IGI-DAI draft the enrolment request.

According to Save the Children, the representatives of NGOs provide support for the enrolment of children at schools and kindergartens. However, some delays may occur, as the legal representatives of unaccompanied children have to sign the application. The main obstacles faced by children in practice to access education include shortage of places rendering enrolment at the beginning of the school year difficult, direct or indirect refusal by many schools to enrol asylum-seeking children, as well as several registered cases of discrimination by teachers or peers.

In **Galați**, where the enrolment procedure may take up to 2 weeks, parents or the legal representative have to lodge a request to IGI-DAI in this regard, in order for IGI-DAI to notify the County School Inspectorate (*Inspectoratul Școlar Județean*, ISJ). By the time the inspectorate sends its answer, the

<sup>423</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>424</sup> Article 17(1)(p) Asylum Act.

<sup>425</sup> Article 6(1) Asylum Decree.

<sup>426</sup> Article 16(1) and (2) Public Education Act.

asylum procedure is usually completed, and the persons have left the country, or the parents did not take the children to the school.

In **Rădăuți**, the enrolment procedure takes 2 months. For high school students the enrolment took up to 1 year. For a girl the enrolment request was submitted more than 2 months ago and it was still pending by the time of the author's interview with the stakeholder in December 2019. In 2018 none of the minors were enrolled in high school, because the ISJ did not appoint the high school where they may attend the classes. As of September 2019, there were 3 children attending high school classes. However, it was reported that they had attended the classes for 2 months, but then they stopped as the teaching staff ignored them, and they were not integrated in the school activities. 2 sisters were enrolled at school the second day after their mother insisted before IGI-DAI that her children have to go to school.

**Șomcuta Mare**, 11 asylum seeking children were enrolled at school and attend classes. The enrolment procedure took around 1 month.

In **Giurgiu**, all the children were enrolled at school by JRS jointly with IGI-DAI. Even though ICAR Foundation representatives accompanied the children to school, they move to another city or refuse to attend, because they find difficult to adjust to the new school as it is very challenging to follow what is taught in class and they do not receive sufficient guidance by the teachers.

In **Galați**, on the other hand, according to JRS, children above the age of 16 attend courses of the "Second Chance" programme,<sup>427</sup> as they feel uncomfortable at high school due to their lower level of Romanian and underprepared in the subjects, comparing with Romanian students. They can continue their studies under the "Second Chance" programme after reaching the age of 18. However, there were no children above the age of 16 in the centre in 2019.

**Bucharest**: the enrolment request for kindergarten and school is drafted by NGOs. At school, they are enrolled as students only after completing the Romanian language course and passing the exam. In 2019, the school no longer accepted to enrol children as observers, because children have to complete the preparatory classes and pass the exam first. 10 children accommodated in the Regional Centre Vasile Stolnicu were enrolled at school and attend classes. At kindergarten, children are enrolled upon availability. It was also reported that enrolment of children during the school year is almost impossible.

The Ombudsman also reported that there are difficulties in enrolling children at the 145-School. Children were accepted with reluctance in school and often they were seated in the last rows because they are foreigners and do not speak Romanian language.<sup>428</sup>

Children accommodated at the DGASPC centre of **Timișoara** are enrolled at school. At the time of the author's visit on 17-18 October 2019, there were no asylum-seeking children accommodated in this centre. There were only 2 children with tolerated status and 5 Afghan nationals who did not make asylum applications. The 2 children are enrolled at school and attend classes. AIDRom accommodated a child who was also attending school. AIDRom is the only entity providing Romanian language classes to asylum-seeking children and adults inside the different Regional Centres.

### **Preparatory classes**

Following the 2015 reform, the Asylum Act foresees a free intensive preparatory course for asylum-seeking children in view of easing their access to education before the enrolment at the national education system.<sup>429</sup> The training course is organised by the Ministry of National Education and Scientific Research, in collaboration with IGI-DAI. Children should be enrolled at the preparatory course

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<sup>427</sup> The "Second Chance" programme is aimed at adolescents, young people and adults from different social backgrounds and ages, who have not attended or have not completed primary and secondary education. The programme offers these categories of people the opportunity to continue and complete compulsory education without having to interrupt any professional or family activities they are engaged in.

<sup>428</sup> Ombudsman, Report 75/2015, 4.

<sup>429</sup> Article 18(1)-(4) Asylum Act.



within 3 months from the date their asylum application was made. At the same time, the child may be enrolled as an observer in the relevant year of study.

At the end of the preparatory course, an Evaluation Commission, whose composition and functioning are established by order of the Minister of National Education and Scientific Research assesses the level of knowledge of the Romanian language and establishes the registration of asylum seekers in the corresponding year of study.

As of 2019, the preparatory courses were provided in most of the regional centres, except Timișoara and Giurgiu.

In **Galați**, according to JRS, an ISJ professor offers courses for child asylum seekers and beneficiaries of international protection. The course for asylum-seeking children takes place twice a week and lasts 2 hours. Children learn Romanian language but also mathematics.

In **Rădăuți**, as of October 2019, the preparatory classes are held for the asylum seeking children and beneficiaries of international protection. Two age groups were formed, one for 6 to 10 years of age and the other from 10 to 18 years of age. The classes are held separately by a professor from ISJ twice a week for each group of children. Children learn Romanian language, colour and play.

In **Șomcuta Mare**, a representative of ISJ is teaching Romanian language to asylum seekers and beneficiaries of international protection, adults and children.

In **Bucharest**, preparatory courses are held at the 145-School. During the preparatory classes, children learn Romanian language.

Asylum-seeking children with special needs enjoy the same alternative arrangements as those provided for Romanian children. Throughout 2019, there were no children with special needs in the Regional Centres of **Timișoara**, **Galați**, **Rădăuți**, **Giurgiu** and **Șomcuta Mare**, except Bucharest. 4 children (brothers) with special needs were accommodated in the Regional Centre of Bucharest. 3 of them were enrolled at special schools, while the fourth was not able to attend school because of his medical condition (he was in a wheelchair and had severe mental disabilities).

## D. Health care

### Indicators: Health Care

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

Access to health care for asylum seekers covers the right to receive free primary care and appropriate treatment, emergency hospital care and free health care and treatment in cases of acute or chronic illnesses considered imminently life threatening, through the national emergency health care system and qualified first aid. These services shall be provided, as the case may be, through the medical service of the Regional Centres and/or other health care facilities accredited and authorised by law.<sup>430</sup>

In addition, asylum seekers have the right to be included in national public health programmes aimed at preventing, monitoring and controlling contagious diseases in epidemiological risk situations.<sup>431</sup>

<sup>430</sup> Article 17(1)(m) Asylum Act.

<sup>431</sup> Article 17(1)(m<sup>^</sup>1) Asylum Act.



Asylum seekers are assigned a personal identification number which figures on their temporary identity documents in order for them to enjoy all the rights provided by the law.<sup>432</sup> After receiving the personal identification number, asylum seekers may register in the public health insurance system and, if they pay healthcare contributions and register at a general practitioner's office, they have the status of an insured person with the same rights and benefits as nationals.

As of 2019, asylum seekers have access to a general practitioner within all Regional Centres. In **Giurgiu**, according to the director of the centre, there are a medical doctor, a nurse and a psychologist since August 2018.

In **Rădăuți**, a medical doctor was hired in the summer of 2018, but his contract terminated in December 2018. In February 2019 a new medical doctor was hired.

In **Timișoara**, a medical doctor is present in the centre only part time (11-3) and two nurses are provided by IGI-DAI as of spring of 2018. The nurses are working on 8h shifts. According to JRS, the medical screening conducted by the medical persons in Timișoara was done without an interpreter and it is only a bureaucratic action. However, the AIDRom representative reported that, in general, the medical screening is done the next day if the asylum seekers arrive during the night or in the same day if they arrive during the day, with an interpreter or someone from the community. The screening includes a visual check-up, weighing and measuring.

**Bucharest** had a psychologist contracted by IGI-DAI until September 2017. The Ombudsman has stressed that the provision of a psychologist by IGI-DAI is "imperiously needed" and that psychological assistance and services provided by NGOs should be complementary thereto.<sup>433</sup> According to the Ombudsman the psychologist resumed its activity in October 2018. During its visit, the Ombudsman observed a scarce number of psychological counselling provided to vulnerable persons. Also a number of 3 nurse positions were still vacant.<sup>434</sup>

**Galați**: There are medical doctor, one nurse and a full-time psychologist as of 15 October 2019. The medical screening is done by the doctor and nurse, in general with an interpreter.

**Rădăuți**: The medical screening includes the medical history of the asylum seeker. The interpreter is not used at this stage all the time.

**Șomcuta Mare**: The medical screening is done by the medical doctor of IGI-DAI. It is basically a general consult which includes the medical history, taking the pulse, heart rate and visual check-up if the person present any scars. If the interpreter of IGI-DAI is not in the centre at this stage, someone from the community will translate.

In **Bucharest**, according to the medical doctor, the medical screening is conducted by her and the nurse when the asylum seekers are accommodated in the centre. They are visible checked if they present any signs of eczema, rabies, lice and a medical record is drawn up. In case of medical issues, the asylum seekers are referred to the Ministry of Internal Affairs hospitals. Most of the time the screening is conducted with the assistance of an interpreter, but applicants do not have access to an interpreter all the time; they often require the services of the IOM Arabic interpreter.

ICAR Foundation, in partnership with AIDRom, also provides medical services to asylum seekers under the project "Health Protection Services for Asylum Seekers S.O.S. SA", funded through the AMIF national programme. They provide psycho-social specialists and collaborate with general practitioners in

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<sup>432</sup> Article 17(1<sup>st</sup>) Asylum Act.

<sup>433</sup> Ombudsman, *2017 Reports*, available in Romanian at: <http://bit.ly/2Expec>.

<sup>434</sup> Ombudsman, Report 75/2019,7.

all the Regional Centres.<sup>435</sup> Under this project, “at least 600 asylum seekers will benefit from medical consultations, investigations, analyses and treatments and will participate in information and counselling sessions on the healthcare system in Romania, their rights and obligations, the hygiene and public health rules. At the same time, at least 200 asylum seekers will receive specialist psychological assistance and counselling in the accommodation centres.”<sup>436</sup>

“The psychosocial specialists who will carry out activities in the centres will firstly identify the asylum seekers, especially those belonging to vulnerable groups (families in difficulty, elderly people, people with chronic diseases, unaccompanied minors, and victims of physical and mental violence) as well as their needs. Subsequent tests will be conducted to assess the general health status of newly arrived asylum seekers, and general practitioners will provide weekly medical consultations.”<sup>437</sup>

According to the AIDRom programme coordinator, the tests are basic blood tests and not epidemiology tests. However, if there are signs or indications that such tests are needed, they will be conducted.

Through the project, other medical tests and investigations recommended by collaborating general practitioners, as well as medical and non-medical treatments prescribed by them, are provided in order to respond as much as possible to the medical needs of asylum seekers.<sup>438</sup>

### Specialised treatment

The Asylum Act provides for the right of asylum seekers with special needs to receive adequate health care.<sup>439</sup> In practice, ICAR Foundation is the only organisation with the necessary experience in providing psychological assistance to torture survivors and traumatised asylum seekers in all the reception centres.

In **Timișoara**, ICAR personnel conduct the medical screening. IGI-DAI is notified if there are asylum seekers suffering from mental health issues and they are referred to specialised hospitals, if necessary. The doctor of ICAR Foundation is present in the centre once a week. According to the JRS representative, AIDRom representatives carry out a more detailed screening.

## E. Special reception needs of vulnerable groups

### Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?  
☒ Yes ☐ No

An applicant with special reception needs is a vulnerable person according to Article 5<sup>41</sup> of the Asylum Act, who needs special guarantees to enjoy his or her rights and fulfil his or her obligations under the law.<sup>440</sup> Article 5<sup>41</sup>(2) lists the following categories of vulnerable persons: minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons suffering from serious illnesses, people with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, or persons in other special circumstances.

The law does not prescribe actual mechanisms or methods for the identification of vulnerable persons. The Asylum Decree only states that specialised personnel of IGI-DAI cooperate with UNHCR and relevant NGOs to identify asylum seekers who may fall within in the category of vulnerable persons

<sup>435</sup> AIDRom, *Health Protection Services for Asylum Seekers* S.O.S. SA, available at: <https://bit.ly/2Dz3v9U>. The project started on 24 July 2018 and is implemented for two years.

<sup>436</sup> *Ibid.*

<sup>437</sup> *Ibid.*

<sup>438</sup> *Ibid.*

<sup>439</sup> Article 17(1)(n) Asylum Act.

<sup>440</sup> Article 2(1)(b<sup>42</sup>) Asylum Act.

referred. In order to assess the vulnerability of asylum seekers, specialists within IGI-DAI, where appropriate together with experts from other institutions and authorities competent in the field, to make an assessment of the special needs of foreigners. Depending on the specific need of each asylum seeker identified as vulnerable person, IGI-DAI notifies and cooperates with authorities and specialised agencies in order to provide necessary assistance. IGI-DAI may collaborate with NGOs to assist asylum seekers identified as vulnerable.<sup>441</sup>

Psycho-social specialists of the ICAR Foundation who carry out activities in the Regional Centres first seek to identify asylum seekers, especially those belonging to vulnerable groups (families in difficulty, elderly people, people with chronic illness, unaccompanied children, victims of physical and mental violence) and their needs. Subsequent tests are conducted to assess the general health status of newly arrived asylum seekers, while general practitioners provide weekly medical consultations (see [Health Care](#)).<sup>442</sup>

According to the Asylum Act, asylum seekers with special needs have the right to benefit from adapted accommodation and assistance conditions in the Regional Centres.<sup>443</sup> However, not all centres are adapted to such needs: **Bucharest** and **Timișoara**, for example, are not equipped with ramps for persons with disabilities, even though in Bucharest there is a person who uses a motorised wheelchair.<sup>444</sup>

The house rules of the Regional Centres stipulate that, in order to deal with situations of sexual or gender-based violence, the Director of the Centre shall:<sup>445</sup>

- a. Inform the persons accommodated in the centre about sexual or gender-based violence and the consequences of such acts;
- b. In case of such situations occurring during the period of accommodation in the centre, notify the competent public authorities and institutions and, depending on the seriousness of the deed, gradually apply one of the sanctions provided in Article 47 ROI (see [Reduction or Withdrawal of Reception Conditions](#));
- c. Cooperate with national and international NGOs, as well as with public authorities and institutions competent in this field to assist victims while they are accommodated in the Regional Centre.

In **Galați** and **Rădăuți** different institutions held information session on human trafficking.

## 1. Reception of unaccompanied children

### 1.1. Unaccompanied children below the age of 16

Unaccompanied children below the age of 16 are accommodated in a centre managed by DGASPC or an authorised private body.<sup>446</sup> If they have relatives residing in a Regional Centre, DGASPC decides where they will be accommodated, taking into consideration their best interests. In case of unaccompanied children who have siblings under or above the age of 16, when taking a decision regarding their accommodation, IGI-DAI shall consult their legal representative, observe the principle of family unity and take into account the age and maturity of the older sibling.<sup>447</sup> The opinion of the

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<sup>441</sup> Article 5(1)-(4) Asylum Decree.

<sup>442</sup> AIDRom, *Adapted and accessible health services for asylum seekers in Romania*, available at: <http://bit.ly/2Dz3v9U>.

<sup>443</sup> Article 17(1)(l) Asylum Act.

<sup>444</sup> IGI-DAI takes into consideration any special needs of asylum seekers. Groups such as elderly persons are accommodated on the first floor of the building so as to avoid many flights of stairs. Moreover, in one case, a person suffering from epilepsy was accommodated alone.

<sup>445</sup> Article 60 ROI.

<sup>446</sup> Article 58(3) Asylum Decree, in conjunction with Article 78(1) Child Protection Act.

<sup>447</sup> Article 58(3<sup>^</sup>1) Asylum Decree.

unaccompanied child regarding the place where he or she will be accommodated is considered and given due importance, taking into account his or her age and degree of maturity.<sup>448</sup>

Based on information provided by Save the Children Romania, there have been cases where unaccompanied children below the age of 16 were left in the Regional Centres for months before being accommodated in a DGASPC centre. One of the reasons for this is likely the fact that DGASPC is facing a shortage of accommodation places. As regards the conditions in DGASPC facilities, Save the Children stated that the facilities are decent but there are no interpreters; thus, interaction with these children is limited until they learn Romanian. In most cases the staff is not trained to work with foreign children, the services provided are not adapted to their needs.

**Timișoara:** Unaccompanied children are accommodated in the DGASPC Emergency Accommodation Centre for Homeless Children and have described living conditions as good. However, the director of the Regional Centre of Timișoara pointed out several issues regarding the centre and the assistance provided by the DGASPC social assistance, such as the lack of interpreters and specialised personnel. It was also mentioned that DGASPC does not assume responsibility for unaccompanied children under the age of 16. The social examination conducted by an employee of DGASPC, without an interpreter, always concludes that it is in the best interests of the child to remain with his or her so called “relatives” in the Regional Centre. According to the JRS representative, DGASPC has no training, skills, and experience in working with asylum-seeking children. It was emphasized that they are accommodated with homeless children. In 2019, UNHCR organised trainings for DGASPC staff.

**Somcuta Mare:** Unaccompanied children are accommodated in family houses in **Baia Mare**, managed by the NGO **Somaschi Foundation**. JRS has reported that conditions in the facilities are good. There was an unaccompanied child who was granted a form of protection living in this centre. He did not complain about the living conditions.

**Galați:** Unaccompanied children are accommodated in the day and night shelter for homeless children, under the authority of DGASPC. They are housed in rooms with other children who are beneficiaries of international protection. Children have reported that they are generally treated well and have not complained about conditions. They have only stated that they would prefer to stay in the Regional Centre with their peers. There were no children accommodated in this centre in 2019.

**Rădăuți:** Unaccompanied children are no longer accommodated in the **Solca Placement Centre** as it was closed. As of 2019 children were accommodated in the Children's Univers from Rădăuți. The centre is a family house located 200 m from the Regional Centre. The living conditions are satisfactory and hygienic conditions are good. Only 3 unaccompanied minors were accommodated in this centre: one was under 16 years of age; one was over 16 years of age and specially requested to be accommodated here and one was an unaccompanied minor whose asylum application had been rejected. It was reported that there is no qualified staff, trained or equipped to deal with asylum seeking children. There is no interpreter. The activities organised in the centre are not adapted to the needs of the unaccompanied minors. However, they participate to the activities organised in the Regional Centre.

**Bucharest:** Unaccompanied children are accommodated in two centres: **Pinocchio Day Centre** within DGASPC District 1 and **Gavroche Day Centre** within DGASPC District 2. Conditions in the centres are good and children have a legal representative who keeps in touch with the NGOs and attends to their needs. There have been reported situations of children stayed in the Stolnicu reception centre for up to 2-3 months due to lack of available places at the DGASPC centre or delays in the coordination between the authorities. This issue is still present in 2019. In 2019 only one child was moved from the Regional Centre Vasile Stolnicu to Gavroche Day Centre, 3 months after IGI-DAI's request. There is another 15-year-old child accommodated in the Regional Centre Vasile Stolnicu since November 2019; on 17 January 2020 he was still not taken over by DGASPC.

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<sup>448</sup> Article 58(4) Asylum Decree.

**Giurgiu:** Unaccompanied children are accommodated in DGASPC family houses, where living conditions are decent. In 2019 there were no unaccompanied children below the age of 16.

According to IGI-DAI, 15 unaccompanied children were accommodated in DGASPC centres in 2019:<sup>449</sup>

	Occupancy in 2019	Occupancy at the end of 2019
<b>Bucharest</b>	3	3
<b>Giurgiu</b>	2	2
<b>Galati</b>	1	1
<b>Radauti</b>	2	1
<b>Somcuta Mare</b>	:	:
<b>Timisoara</b>	7	3
<b>Total</b>	<b>15</b>	<b>10</b>

Source: IGI-DAI, 20 February 2020.

## 1.2. Unaccompanied children aged 16 or more

Unaccompanied children, who have reached the age of 16 and do not have the necessary material resources to ensure their subsistence, are accommodated in the Regional Centres. They are accommodated separately from adults in **Bucharest** and **Somcuta Mare**; if there is a relative in the centre, they are accommodated with him or her. On the other hand, they are not separated from adults in **Timișoara**, **Rădăuți**, **Galăț** and **Giurgiu**.

During 2019, a total of 230 unaccompanied children were accommodated in Regional Centres.<sup>450</sup>

	Occupancy in 2019	Occupancy at the end of 2019
<b>Bucharest</b>	32	15
<b>Giurgiu</b>	20	1
<b>Galati</b>	17	5
<b>Radauti</b>	23	8
<b>Somcuta Mare</b>	45	9
<b>Timisoara</b>	93	7
<b>Total</b>	<b>230</b>	<b>45</b>

Source: IGI-DAI, 20 February 2020.

## 2. Reception of families

Efforts are made to ensure that nuclear families can stay together during the asylum procedure. Families are accommodated in a different building in **Timișoara**, and in separate rooms in **Bucharest**, **Rădăuți**, **Giurgiu**, **Somcuta Mare** and **Galăț**.

**Timișoara:** If there are available places, families are transferred to AIDRom Centre, if not they are transferred to other centres.

In **Rădăuți** families are not always accommodated separately. There were cases where one family with children had to share a room with another family without children or 2 single parent families had to share the room with an unaccompanied child and with a single woman and her boyfriend.

Beyond the Regional Centres managed by IGI-DAI, AIDRom runs two Accommodation Centres:

<sup>449</sup> Information provided by IGI-DAI, 5 March 2019.

<sup>450</sup> Information provided by IGI-DAI, 5 March 2019.

- One Accommodation Centre in **Timișoara**, which operates uninterruptedly since August 2012 with a capacity of 15 places; and
- One Accommodation Centre in **Bucharest**, which operates since 2015 with 18 places.

These centres accommodate vulnerable persons, especially single parents with children (mothers with children). The AIDRom centres are located within these cities, funded partially by AMIF and partially by external donors. Asylum seekers housed in these centres have access to social assistance, cultural activities and cultural orientation.

According to IGI-DAI, a total of 69 asylum seekers were accommodated in the two AIDRom centres. At the time of the author's visit on 17-18 October 2019, 5 asylum seekers were accommodated in the AIDRom Centre Timișoara. At the end of December 2019 there were 21 asylum seekers accommodated in these centres.<sup>451</sup>

## F. Information for asylum seekers and access to reception centres

### 1. Provision of information on reception

Asylum seekers are informed of their rights and obligations pursuant to Article 17(1)(f) of the Asylum Act. IGI-DAI shall provide written information to asylum seekers in a language they understand or are reasonably supposed to understand, within a maximum of 15 days from the submission of the asylum application.<sup>452</sup> The information shall be provided by the official responsible for receiving the asylum application, according to a template established by order of the General Director of IGI.<sup>453</sup> Where necessary to ensure an adequate understanding of the information by the applicant, it may also be presented orally during the preliminary interview.<sup>454</sup> Competent officers are also required to inform asylum seekers on how to contact NGOs and UNHCR and how to obtain legal assistance and representation.<sup>455</sup> The General Director of IGI appoints the official responsible for ensuring the conditions to carry out the above activities.<sup>456</sup>

The house rules of the reception centres prescribe that, when accommodated in reception centres, asylum seekers also receive information on the rights, obligations, prohibitions and disciplinary sanctions applicable during their stay in the centre. In this regard information is handed to asylum seekers in the form of an information sheet in a language that he or she understands or is reasonably supposed to understand and in which he or she can clearly communicate. Where appropriate, for an adequate understanding of the applicant, information may also be provided orally using the services of an interpreter apt to ensure appropriate communication.<sup>457</sup> The applicant has to sign an acknowledgment of receipt of the information leaflets.

According to the JRS representative, the information prescribed by the law is in practice more a presentation of the rights and obligations. The asylum seekers do not receive detailed information about their rights and obligations. It was noted that only in very few interview transcripts the asylum seeker declared that he or she is not aware of the rights and obligations.

In practice, asylum seekers are expected to contact the NGOs in the Regional Centres in order to get more detailed information on reception conditions, house rules and their rights and obligations.

**Bucharest:** The Regulation of Internal Order (ROI) is explained by the integration officer when needed or during the interview with the asylum seeker. It has been reported that leaflets regarding the ROI,

<sup>451</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>452</sup> Article 17(1)(f) Asylum Act; Article 2(1) Asylum Decree.

<sup>453</sup> Article 2(1) Asylum Decree.

<sup>454</sup> Article 2(1<sup>^</sup>1) Asylum Decree.

<sup>455</sup> Article 2(2) Asylum Decree.

<sup>456</sup> Article 2(3) Asylum Decree.

<sup>457</sup> Article 5(1) and (2) ROI.



rights and obligations were distributed in the past but are no longer distributed. The ROI is explained by the NGO representatives and the officer at the gate of the centre each time an event occurs. According to the director of the Regional Centre, the information is provided at the time of accommodation in the centre by the officers at the access control point, with the help of an IOM Arabic interpreter who is present in the centre from 08:00 to 14:00, or by a person from the community. Written information is provided.

**Giurgiu:** Asylum seekers receive information about ROI upon arrival in the centre. The NGOs organise information sessions with asylum seekers after their arrival at the centre and offer information during individual counselling sessions. According to the legal counsellor, IGI-DAI does not hold collective information sessions for asylum seekers.

**Galați:** The ROI is explained in an easily comprehensible manner at the moment of accommodation in the centre, with the assistance of an interpreter, where possible, or of a person from the community who speaks English. The information is provided every time it is requested. There is also written information in the rooms and in the hallway.

**Șomcuta Mare:** Asylum seekers are provided general information on the ROI and the projects implemented by NGOs in the Regional Centre, upon submission of the asylum application. In general, IGI-DAI provides information to asylum seekers only upon arrival in the centre, while NGO representatives cover the details and additional information on the procedure, rights and obligations.

**Timișoara:** Information on the ROI is provided in written at the registration of the asylum application. AIDRom organises information sessions on ROI twice a week, with the help of the cultural mediator who speaks Arabic. The sessions are focusing on ROI, co-living and hygiene rules, public health, fire prevention. The JRS representative also offers information during individual counselling sessions. The NGOs are organising a joint information session for the new arrivals, where they describe the activities and services of each NGO and also explain ROI and the asylum procedure. According to the AIDRom and JRS representatives, no information sessions were held jointly with IGI-DAI, NGOs and asylum seekers in 2019.

**Rădăuți:** Asylum seekers receive leaflets when their asylum application is registered. NGO representatives inform them orally during counselling sessions.

Information on the rights, obligations, prohibitions and disciplinary sanctions applicable during the stay in the Regional Centre shall be displayed in each accommodation room in an international language.<sup>458</sup> However, according to the stakeholders interviewed by the author, this is not respected in practice, although in **Șomcuta Mare** the main provisions of the ROI are incorporated in a poster in the form of infographics. In **Timișoara**, posters on the rights and obligations prepared by CNRR and AIDRom, and billboards with excerpts from the ROI and the Asylum Act, are displayed in the building where the asylum seekers are accommodated.

## 2. Access to reception centres by third parties

### Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?
- ☒ Yes ☐ With limitations ☐ No

Pursuant to Article 17(1)(r) of the Asylum Act, asylum seekers have the right to be visited by family members, representatives of national and international NGOs and bodies with duties in the field of asylum or human rights, authorised and accredited under the law.

<sup>458</sup> Article 5(3) ROI.



The house rules prescribe that visitors shall have access to the centre premises, including closed spaces, only through the access control post, based on identity documents such as identity card, passport, diplomatic identity card or residence permit. Visitors' access to the centre premises, including closed spaces, shall be allowed only after they have been authorised by the service staff at the access control post and after registering the entry in the Visitor Record Register. Authorities are forbidden from retaining the documents at the access control post.

NGOs implementing projects funded by the AMIF national programme have access to reception centres for the duration of their projects, based on protocols with IGI-DAI.

## **G. Differential treatment of specific nationalities in reception**

There is no difference in treatment based on nationality with respect to reception. All Regional Centres accommodate different nationalities.

## Detention of Asylum Seekers

### A. General

#### Indicators: General Information on Detention

1. Total number of persons detained in 2019:	377
2. Number of persons in detention at the end of 2019:	51
3. Number of detention centres:	2
4. Total capacity of detention centres:	274

#### Specially designed closed spaces

Before the recast Reception Conditions Directive, Romania only detained foreigners subject to removal. An asylum detention regime was established following the transposition of the Directive, taking the form of a specially designed closed place i.e. locked rooms in each Regional Centre, except **Giurgiu**.

Detention in a specially designed closed space is ordered in writing, for a period of 30 days, by an order motivated in fact and in law by the designated prosecutor within the Prosecutor's Office attached to the Court of Appeal territorially competent for the area where the Regional Centre is located, upon a motivated request by IGI.<sup>459</sup> Romania does not apply this form of detention in practice. Since the entry into force of the reform on 20 April 2016 and until today, only one applicant in **Bucharest** has been subject to asylum detention, as he was considered dangerous for public order. The reasons behind the lack of use of the specially designed closed spaces of the reception centres include lack of staff, as well as unsuitable facilities to meet the standard requirements for detention, especially concerning daily meals.

#### Public custody centres

The 2015 reform also amended the provisions of the Aliens Ordinance regarding the situation of foreigners who lodge an asylum application from detention. Whereas prior to 2015 the Aliens Ordinance required the release of foreigners from detention as soon as a first application for international protection was lodged, the Aliens Ordinance now prescribes that an asylum seeker is only released when he or she is granted access to the regular procedure in Romania.

The law defines the measure of taking a person into "public custody" as a temporary restriction of the freedom of movement on the territory of Romania, ordered against foreigners in order to accomplish all the necessary steps for removal or transfer under the Dublin Regulation under escort.<sup>460</sup> In practice, however, it constitutes a measure of deprivation of liberty.

There are 2 detention centres, known as Centres for Accommodation of Foreigners Taken into Public Custody (*Centrul de Cazare a Străinilor luați în Custodie Publică*), located in **Otopeni**, near Bucharest, and **Arad**, near Timișoara. The centres are managed by IGI and are specially designed for temporary accommodation of foreigners taken into public custody.<sup>461</sup>

Detention ("public custody") is ordered in writing by an order, justified in law and in fact by the designated prosecutor within the Prosecutor's Office attached to the Court of Appeal of Bucharest, upon a motivated request by IGI.<sup>462</sup>

In general asylum seekers are not detained. The main categories of asylum seekers detained are those who applied for asylum from detention and their application was assessed in accelerated procedure.

<sup>459</sup> Article 19^7(1) Asylum Act.

<sup>460</sup> Article 101(1) Aliens Ordinance.

<sup>461</sup> Article 103(3) Aliens Ordinance.

<sup>462</sup> Article 19^14(1) Asylum Act; Article 101(2) Aliens Ordinance.

During 2019, 71 asylum applications were made from public custody centre, of which 46 from Arad and 25 from Otopeni.<sup>463</sup> A total of 377 persons were detained in public custody in the course of 2019, while 51 remained in detention at the end of the year.

**Arad:** During the author's visit to the Public Custody Centre of **Arad** on 21 October 2019, there were 31 foreigners in detention and no asylum seekers. According to the JRS representative, until 18 October 2019, 10 asylum applications were made in the Public Custody Centre of Arad, out of which 4 (3 Iraq, 1 Sri Lanka) were assessed in regular procedure and 6 (1 Bosnia and Herzegovina, 1 Tunisia, 1 Palestine, 1 Kosovo, 2 Iraq) in accelerated procedure. According to the Ombudsman, between 1 January 2019 and 24 September 2019, 159 persons (148 men and 10 women) and one minor accompanied by one of his or her parents were detained in Arad.<sup>464</sup> According to the Director of Public Custody Centre **Arad**, in the first 6 months of 2019, 23 asylum applications were made.

**Otopeni:** The JRS representative assisted 52 persons detained in the Public Custody Centre of Otopeni, out of which 5 were first-time asylum seekers.

The law prescribes a deadline of 3 days for IGI-DAI to assess the asylum application of an applicant who is in detention and to issue a motivated decision.<sup>465</sup> Therefore in these cases the procedure is rapidly conducted. Asylum seekers cannot prepare for the personal interview, as they have no time to contact an attorney or a legal counsellor in order to be counselled or assisted at the interview. According to the legal counsellor in **Timișoara**, personal interviews are rudimentary and the procedure is quickly conducted, also given the mental state of detained asylum seekers.

## B. Legal framework of detention

### 1. Grounds for detention

#### Indicators: Grounds for Detention

1. In practice, are most asylum seekers detained
  - ❖ on the territory: ☒ Yes ☐ No
  - ❖ at the border:<sup>466</sup> ☐ Yes ☒ No
2. Are asylum seekers detained during a regular procedure in practice?
  - ☐ Frequently ☐ Rarely ☒ Never
3. Are asylum seekers detained during a Dublin procedure in practice?
  - ☐ Frequently ☒ Rarely ☐ Never

#### 1.1. Detention of asylum seekers in specially designed closed spaces

Under Article 19<sup>5</sup>(1) of the Asylum Act, when **Alternatives to Detention** cannot be applied, IGI may place asylum seekers in specially designed closed places to carry out the necessary procedural steps and to limit abuse to the procedure, for the following reasons:

- a. To verify the applicant's identity
- b. To establish the elements on which the application is based, which could not be obtained in the absence of this measure, in particular where there is a risk of absconding by the applicant;
- c. At the request of one of the institutions with responsibilities in the field of national security, from which it follows that the applicant presents a danger for the national security.

<sup>463</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>464</sup> Ombudsman, Report 52/2019, p.3, available in Romanian at: <https://bit.ly/376XIFG>.

<sup>465</sup> Article 19<sup>5</sup>(1) Asylum Act.

<sup>466</sup> Accommodation in airport transit zone with very restricted freedom of movement.

The law provides that the “risk of absconding” within the meaning of Article 19^5(1)(b) of the Asylum Act is to be understood as the factual situation which justifies the assumption that the applicant absconds from performing the activity of determining the elements of the asylum application made with the occasion of the personal interview.<sup>467</sup> The Asylum Act sets out the criteria for determining the existence of a “risk of absconding”:<sup>468</sup>

- a. The applicant crossed or was caught trying to illegally cross the state border of Romania after filing the asylum application;
- b. The applicant was caught trying to illegally cross the state border of Romania, and the asylum application was filed after the person was apprehended;
- c. There are reasons to believe that the applicant intends to leave Romania after filing the application.

The measure of placement in specially designed closed spaces cannot be ordered in relation to asylum seekers subject to the Dublin procedure or to a measure of removal or expulsion from the Romanian territory.<sup>469</sup>

## 1.2. Detention of asylum seekers in public custody centres

Under Article 19^13 of the Asylum Act an asylum seeker may be placed or maintained in detention (“public custody”) in the cases foreseen by the Aliens Ordinance,<sup>470</sup> as well as in the following cases:

- a. In order to carry out the transfer to the responsible Member State under the Dublin Regulation, where there is a significant risk of absconding;<sup>471</sup>
- b. Where the applicant was detained with a view to removal or expulsion from Romania and filed an application in order to delay or prevent enforcement of the removal or expulsion measure, having had the possibility to lodge an application before.

The Asylum Act sets out a different set of criteria for the determination of a “significant risk of absconding” in the Dublin procedure, referring to cases where the applicant:<sup>472</sup>

1. Has irregularly crossed the border and his or her fingerprints match with a Eurodac ‘hit’;
2. Has irregularly crossed the external border of the EU Member States or Schengen countries, or was caught trying to irregularly cross the Romanian border and applied for asylum after being apprehended;
3. Has irregularly crossed or attempted to cross the Romanian border after applying for asylum in Romania;
4. Has applied for asylum in Romania after having been transferred to the responsible Member State;
5. Has not complied with alternatives to detention;<sup>473</sup>
6. Opposes the transfer to the responsible Member State.

In practice, in most cases asylum seekers are detained on the territory. In relation to applicants subject to the Dublin procedure, who cannot be detained in specially designed closed spaces, most stakeholders reported that detention in public custody is generally not ordered. These asylum seekers are usually detained if they cross or attempt to cross into Hungary. According to the Director of the Regional Centre Timișoara, applicants subject to the Dublin procedure were never placed in detention.

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<sup>467</sup> Article 19^6(3) and (2) Asylum Act.

<sup>468</sup> Article 19^6(4) Asylum Act.

<sup>469</sup> Article 19^2(3) Asylum Act.

<sup>470</sup> Article 101(2) Aliens Ordinance. The measure of public custody is ordered against a foreigner who cannot be removed under escort within 24 hours and who: (a) risks absconding from removal; (b) avoids or hampers the preparation of the return or removal under escort process; or (c) is subject to expulsion.

<sup>471</sup> Article 19^13 Asylum Act, in conjunction with Article 19^14(1) Asylum Act.

<sup>472</sup> Article 19^14(2) Asylum Act.

<sup>473</sup> Article 19^14(2)(e) Asylum Act, citing Article 19^2(1)(a)-(b).

Whereas prior to 2015 the Aliens Ordinance required the release of the foreigner from detention as soon as a first application for international protection was lodged, the law now prescribes that an asylum seeker is only released when he or she is granted access to the regular procedure. Therefore, if they are assessed in an [Accelerated Procedure](#), they will stay in detention until the asylum procedure is concluded. If the application is rejected and the asylum seeker lodges an appeal, he or she shall remain in detention while the appeal is examined. When the applicant makes a subsequent application, detention ceases on the date he or she is granted access to the new procedure.<sup>474</sup> If the application is rejected and the asylum seeker lodges an appeal, he or she shall remain in detention while the appeal is examined.

## 2. Alternatives to detention

### Indicators: Alternatives to Detention

1. Which alternatives to detention have been laid down in the law?
 

<input checked="" type="checkbox"/>	Reporting duties
<input type="checkbox"/>	Surrendering documents
<input type="checkbox"/>	Financial guarantee
<input checked="" type="checkbox"/>	Residence restrictions
<input type="checkbox"/>	Other
2. Are alternatives to detention used in practice?
 

<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
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### Specially designed closed spaces

The Asylum Act provides for the possibility to impose alternatives to asylum detention, defined as “restrictive measures”, in order to fulfil the necessary formalities, to limit abuse of the asylum procedure, and in case the asylum seeker poses a threat to national security, on the basis of an individual assessment.<sup>475</sup> These consist of:<sup>476</sup>

- ❖ Reporting duties;
- ❖ Designated place of staying in one of the Regional Centres.

Detention in specially designed closed spaces may be ordered if reporting duties and designated place of stay measures cannot effectively be applied to carry out the necessary procedural formalities and to limit abuse of the asylum procedure.<sup>477</sup>

No restrictive measures may be imposed against an asylum applicant for the sole reason that he or she has lodged an application for international protection in Romania.<sup>478</sup>

### Detention (“public custody”) centres

The placement of an asylum seeker in detention centres (“public custody”) may be ordered if the prior assessment regarding the possibility to impose alternatives to detention demonstrates that these measures are not possible and sufficient to meet the procedure and the purpose sought,<sup>479</sup> namely removal from Romania or transfer under the Dublin Regulation.

IGI-DAI reported 39 asylum seekers subject to a decision of designated place of stay in one of the Regional Centres in 2019.<sup>480</sup> It also reported, 3 foreigners subject to alternatives to detention of tolerated status.<sup>481</sup>

<sup>474</sup> Article 101(8) Aliens Ordinance.

<sup>475</sup> Article 19^2(1) Asylum Act.

<sup>476</sup> Article 19^2(1) Asylum Act.

<sup>477</sup> Article 19^5(1) Asylum Act.

<sup>478</sup> Article 19^2(2) Asylum Act.

<sup>479</sup> Article 19^13(2) Asylum Act.

<sup>480</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>481</sup> *Ibid.*

### 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

#### Specially designed closed spaces

Asylum detention, i.e. placement in specially designed closed spaces, cannot be ordered against unaccompanied asylum-seeking children, except for cases where the unaccompanied child cannot prove his or her age and, due to serious doubts thereon, IGI-DAI requests an age assessment.<sup>482</sup>

#### Detention (“public custody”) centres

The Public Custody Centres Regulation explicitly provides that children cannot be detained in these centres, unless they are accompanied by at least one of the parents or their legal representative, who are taken into public custody.<sup>483</sup>

According to the amended Aliens Act, in case the foreigner declares that he or she is a minor and cannot prove his or her age, if there are serious doubts about his minority, he or she will be considered an adult.<sup>484</sup> In this situation, IGI requests an age assessment, with his or her prior consent.<sup>485</sup> As a consequence the child will be treated as an adult and placed in detention pending the age assessment, until his or her age is confirmed.

While IGI-DAI stated that children are not detained in public custody,<sup>486</sup> according to JRS, 80 children (accompanied and unaccompanied) were detained in public custody centres in 2017. In 2017, 4 unaccompanied children were placed in the **Otopeni** detention centre, even though they had been registered as such by the Border Police. While in detention they lodged an asylum application and, after the personal interview, IGI-DAI granted them access to regular procedure on account of their minority.

The JRS representative reported that in 2019 there were no children placed in the Public Custody Centre **Arad**. However, according to the Director of the Centre Arad, a family from Turkey with a 5-year-old daughter was placed in detention in April 2019. They stayed in Arad for 4 days. According to the Ombudsman, a 4 years old child, accompanied by one of the parents, was detained in Arad.<sup>487</sup>

According to IGI-DAI, 1 minor accompanied by one of the parents was detained in 2019.<sup>488</sup>

Romanian law does not prohibit detention of other vulnerable asylum seekers. IGI-DAI noted that detention of persons with special needs such as victims of torture or trafficking has not been applied in public custody.<sup>489</sup>

According to the Director of the Public Custody Centre of Arad, 20 persons with medical problems were detained. During 2019, there were two single women with mental problems detained in Arad. According

<sup>482</sup> Article 19^5 Asylum Act, in conjunction with Article 42(2) Asylum Act.

<sup>483</sup> Article 29 Public Custody Centres Regulation.

<sup>484</sup> Article 131^1(1) Aliens Act, as amended by Act 247/2018 of 6 November 2018.

<sup>485</sup> Article 131^1(2) Aliens Act, as amended by Act 247/2018 of 6 November 2018.

<sup>486</sup> Information provided by IGI-DAI, 14 February 2018.

<sup>487</sup> Ombudsman, Report 52/2019, p.3.

<sup>488</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>489</sup> Information provided by IGI-DAI, 14 February 2018.

to the JRS representative, they also made asylum applications, but they were rejected under accelerated procedure.

In **Otopeni**, the JRS representative reported that there were vulnerable persons detained, with medical and psychological issues. They were identified as such by the NGOs. IGI granted tolerated status to those considered by them as vulnerable. The average duration of detention in case of vulnerable persons identified as such by the NGOs was 1-9 months.

The number of accompanied children placed in detention in **Arad** in 2017 was 35, according to the director of the centre. In 2018, a single-parent family, a father with a 10-year-old child, was placed in detention. A family with three children from Iraq, who arrived in Romania by boat in 2017, were also held in Arad until June 2018 when they were granted tolerated status and moved to Bucharest. In 2019 there was only one child detained in Arad.

In **Otopeni**, according to the JRS representative there were no children detained in 2019. According to the Ombudsman, in 2018 there were 2 children (5 and 15-year-old) detained.<sup>490</sup> It was also reported by the Ombudsman that at the time of their visit there were no records of vulnerable persons detained.<sup>491</sup>

Save the Children stated that IGI doesn't officially take children in public custody, but children can be in public custody when they are sent there together with their parents – considering that it is in their best interest not to be separated from their family.

#### 4. Duration of detention

##### Indicators: Duration of Detention

- |   |            |
|---|------------|
| 1. What is the maximum detention period set in the law (incl. extensions):                |            |
| ❖ Asylum detention  | 2 months   |
| ❖ Pre-removal detention   | 18 months  |
| 2. In practice, how long in average are persons detained?<br>(see below for more details) | 1-5 months |

#### Specially designed closed spaces

According to Article 19<sup>7</sup>(1) of the Asylum Act, detention in specially designed closed spaces is ordered for a period of 30 days. IGI may request the territorially competent Court of Appeal to prolong detention for an additional 30-day period.<sup>492</sup> Accordingly, the total period of detention in those spaces may never exceed 60 days.<sup>493</sup>

IGI-DAI has to carry out the examination of the applicant's identity and establishment of the elements of the asylum claim expeditiously in order to maintain the measure of detention as short as possible. Delays due to the administrative procedures that cannot be imputed to the applicant cannot justify a continuation of detention, except for situations where it is necessary to continue to apply the measure for reasons of national security, without exceeding the 60-day limit.<sup>494</sup>

#### Detention ("public custody") centres

Detention in public custody centres is also ordered for an initial period of 30 days<sup>495</sup> and it may not exceed 6 months.<sup>496</sup> However, this period may be extended exceptionally for an additional period no

<sup>490</sup> Ombudsman, Report 68/2018, available in Romanian at: <https://bit.ly/2veebdY>

<sup>491</sup> *Ibid.*

<sup>492</sup> Article 19<sup>7</sup>(3) Asylum Act.

<sup>493</sup> Article 19<sup>7</sup>(5) Asylum Act.

<sup>494</sup> Article 19<sup>7</sup>(6) Asylum Act.

<sup>495</sup> Article 19<sup>14</sup>(1) Asylum Act.

<sup>496</sup> Article 19<sup>14</sup>(6) Asylum Act.



longer than 12 months, in cases where IGI-DAI is unable to transfer the asylum seeker to the responsible Member State due to delays in obtaining the necessary documentation for the transfer to the respective Member State.<sup>497</sup> Therefore, detention in public custody can last up to 18 months.

Specifically, as regards detention in the Dublin procedure, the Asylum Act recalls that detention ceases if the time limit of six weeks set out in Article 28(3) of the Dublin Regulation is reached.<sup>498</sup>

When asylum seekers lodge an application in detention centres and are assessed under the accelerated procedure, they spend the whole asylum procedure in detention.

The duration of detention in **Arad** in 2019 was as follows:

Duration of detention – Public Custody Centre Arad: in the first semester of 2019	
Duration	Number of persons
> 5 days	29
> 10 days	50
> 20 days	23
> 30 days	4
> 6 months	26
> 1 year	3
< 1 year	2

Source: IGI, Director of Arad Public Custody Centre, 21 October 2019.

According to the JRS representative, there was an Afghan national who was detained for 18 months in **Arad**. Subsequently, he was granted tolerated status and released. According to the director of Arad, there were no persons detained for more than 18 months.

In **Otopeni**, according to the JRS representative, there were 2 Indian, 1 Iranian and 1 Iraqi nationals who were detained for 18 months. 1 Ethiopian and 1 Bengali were detained for 13 months and another Bengali was detained for 11 months.

According to IGI-DAI, in 2019, the average duration of detention was 1-5 months.<sup>499</sup>

## Detention in border and transit zones

Detention upon apprehension cannot exceed 24 hours under the Romanian Constitution and the Criminal Procedure Code.<sup>500</sup> According to JRS, in 2019 persons apprehended were not held for more than 24 hours in Border Police custody, as there were no cases of large groups of new arrivals.

## C. Detention conditions

### 1. Place of detention

#### Indicators: Place of Detention

- 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
- If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure? ☐ Yes ☒ No

<sup>497</sup> Article 19^14(7) Asylum Act.

<sup>498</sup> Article 19^14(10) Asylum Act.

<sup>499</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>500</sup> Article 23 Romanian Constitution; Article 209 Criminal Procedure Code.

According to the law, asylum seekers may be detained in specially designed closed spaces within the Regional Centres, as well as in public custody centres. Asylum seekers are only detained in prisons if they are convicted of a criminal act or if they are sentenced to imprisonment.

### 1.1. Specially designed closed spaces in Regional Centres

All Regional Centres except **Giurgiu** contain specially designed closed spaces. In **Bucharest**, 96 places are established at the IGI-DAI **Tudor Gociu**. **Rădăuți** has 10 places in closed spaces, **Galați** has 30, **Timișoara** has 15 and **Șomcuta Mare** has 15 places located in a closed space in the basement of the building.

### 1.2. Detention (“public custody”) centres

There are two Accommodation Centres for Aliens Taken into Public Custody (*Centrul de Cazare a Străinilor luați în Custodie Publică*) in Romania with the following capacity:

Capacity of detention centres: 2019	
Detention centre	Capacity
Otopeni	114
Arad	160
<b>Total</b>	<b>274</b>

Capacity in Arad may be extended to 206 places but only for limited periods.

Asylum seekers placed in public custody centres shall be detained, as far as possible, separately from other categories of foreigners.<sup>501</sup> In practice, this is not the case according to the directors of the **Arad** and **Otopeni** centres and JRS representative in Otopeni.

Persons who are convicted of crimes are also to be accommodated in separate rooms from other categories of foreigners.

### 1.3. Transit zones

Romania has an airport transit zone in **Otopeni Airport** in Bucharest, with a capacity of 22 places. Three people were detained in Otopeni during 2017.<sup>502</sup> No information was available for 2018 and 2019.

## 2. Conditions in detention facilities

#### Indicators: Conditions in Detention Facilities

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

Given that detention of asylum seekers in specially designed closed spaces of Regional Centres is not used in practice, the following section focuses on conditions in detention (“public custody”) centres.

Public custody centres are managed by the IGI Migration Directorate. According to the Aliens Ordinance, the centres are established, organised, sanitary authorised and equipped to provide adequate accommodation, food, medical care and personal hygiene.<sup>503</sup>

<sup>501</sup> Article 19^16(1) Asylum Act.

<sup>502</sup> Information provided by IGI-DAI, 14 February 2018.

<sup>503</sup> Article 103(3) Aliens Ordinance.

The director of **Arad** emphasised the lack of interpreters and lack of staff of medical staff as an issue. The lack of personnel was also reported by the Ombudsman.<sup>504</sup> The director further mentioned that they cannot communicate well with the detainees.

The Ombudsman's report on **Otopeni** also mentions the existence of language barriers between IGI's staff and detainees.<sup>505</sup> The Ombudsman observed, after reading the medical records of the detainees, that the language barrier seemed to be one of the reasons why some of the detainees refused to see a specialist, a situation that might have put them in danger.<sup>506</sup> Nevertheless, the JRS representative in Otopeni stated that even though there are no interpreters in the centre, IGI communicates with the detainees with the help of other detainees who are speaking more languages and are trustworthy.

According to the director of **Arad**, NGOs and UNHCR do not hold trainings for staff working in detention centres. The director of Arad only participated to a seminar on statelessness organised by UNHCR and training on human trafficking organised by the National Authority against Human Trafficking, in which 13 other staff members of the centre participated. The director reported that in 2019 he did not participate to the monthly internal trainings in the centre on subjects recommended by the IGI Migration Directorate, held by the coordinator on duty. The director stressed that there is still a need for staff trainings on practical aspects of their day-to-day activities, which could be held by trainers or practitioners from abroad, to share their knowledge.

None of the foreigners detained in **Arad**, interviewed by the author, reported that the police officers are ill-treating them. One of the foreigners detained in **Arad** stated during the interview with the author that a police officer woke him up by kicking against his bed.

When transferred from the facility to court for hearings, detained foreigners are handcuffed and escorted. According to the director of Arad, the foreigners are not always handcuffed, only if there is a risk of absconding or the number of foreigners is higher than the number of police officers accompanying them.

Regarding detainees' right to information on their rights and obligations in detention in **Arad**, the author noticed, in one of the rooms where foreigners are taken upon arrival in the centre, leaflets on rights and obligations drafted by CNRR, the daily schedule and prohibitions in the centre. The director of the centre mentioned that every person placed in detention receives leaflets in English or Romanian from IGI upon arrival. Posters in different languages were also displayed on the dormitory doors and dining room.

According to the JRS representative, in **Otopeni**, the information on ROI and asylum procedure is provided by IGI. The detainees receive leaflets in A4 format with rights and obligations, in a language that IGI considers that the foreigners know. In addition, CNRR and JRS also provide information. CNRR has leaflets with the rights and obligations in the asylum procedure in different languages. It was reported by the Ombudsman that, according to the staff of Otopeni Centre, detainees are informed about their rights and obligations and reasons for their detention upon arrival in the centre. The information was provided by signing a document in a language that they speak or understand. However, it was also reported that a detainee stated that their rights are not explained and another detainee mentioned that he was not informed about the right to use the phone.<sup>507</sup>

## 2.1. Overall conditions

**Otopeni** centre operates in Otopeni, Ilfov County, near the largest airport in Romania, Henri Coanda Airport, which facilitates the operative return of foreigners to their countries of origin. The centre was established in 1999 and renovated in 2004-2005 with PHARE funds of €1,500,000, including Romania's

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<sup>504</sup> Ombudsman, *Report 52/2019*.

<sup>505</sup> Ombudsman, *Report 68/2018*.

<sup>506</sup> *Ibid.*

<sup>507</sup> Ombudsman, *Report 68/2018*.

own contribution.<sup>508</sup> At the time of the Ombudsman's visit in 2018, Otopeni had two buildings, with 21 accommodation rooms with a maximum of 12 beds each. The centre had a capacity of 114 places, with the possibility of extension in times of crisis up to 140 places.<sup>509</sup>

**Arad** is located in Horia, a village in Arad County. It has a capacity of 160 places. There are two buildings: one hosting the administrative offices and 52 places of accommodation and another building designated for accommodation with 108 places, administration purposes and other activities, inaugurated in 2015.<sup>510</sup> Each room is designed to accommodate 4 people and has 4.5 to 6m<sup>2</sup> per person.<sup>511</sup>

According to the directors of the two centres, both Otopeni and Arad have reached maximum capacity in the past. Arad had an occupancy rate of 108.5% in September/October 2017, with 174 persons detained. During that period, staff members were transferred from other authorities of the Ministry of Internal Affairs to Arad due to staff shortages. In 2019 this was not the case as the highest number of persons detained in **Arad** was 40. According to JRS representative, in **Otopeni** the occupancy rate in 2019 was 50-60%.

During the visits carried out to Arad in 21 October 2019, the detention conditions in the public custody centre were satisfactory. The same was echoed by the Ombudsman, who reported proper hygienic and cleanliness conditions of the rooms.<sup>512</sup> In **Arad** the entire facility was visited, except the rooms were people sleep. Hygienic conditions and overall cleanliness of the centre were very good. The empty rooms which were visited had four beds, a shower separated by a wall and with a curtain and a toilet near the shower, not separated from the rest of the room. Next to the medical offices there is a room for mother and children, which includes a baby crib and a colourful carpet. The windows of the building where people were accommodated during the visit were opaque, so there was no possibility to look outside. The persons interviewed by the author in 2018 also mentioned this issue.

In **Otopeni**, the rooms are equipped with their own bathroom, individual beds with mattresses in good condition, table, chairs, closet, television. It was found that in some of the rooms the furniture was missing. The bathrooms are equipped with toilet, sink and shower. However, none of the bathrooms were equipped for persons with physical or mobility impairment.<sup>513</sup>

During the short visit to the premises in Otopeni in June 2018, the author noticed that it was clean and people detained had clean clothes. In **Arad** some of the foreigners interviewed by the author complained that, even though it is cold outside, they received from CNRR a pair of shorts and a T-shirt but no winter clothes. Another person declared that, a month before the author visit, he received shorts, a T-shirt and a shampoo; when he used all his shampoo, he asked for another one, but he did not receive one.

According to the people interviewed by the author in **Arad**, who were also previously detained in **Otopeni**, the conditions were better in Otopeni because they have a TV in their room and they had access to the phone. The windows are not opaque and people can see outside; the food was described as better in Otopeni. Each asylum seeker has his or her own bed and there is sufficient space. Detainees are required to clean their own rooms and the common spaces in both centres.

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<sup>508</sup> Ombudsman, *Report of the visit to the Accommodation Centre for Aliens Taken in Public Custody Otopeni*, 70/2016, available in Romanian at: <http://bit.ly/2BPRsK>, 2.

<sup>509</sup> Ombudsman, *Report 68/2018*.

<sup>510</sup> Ombudsman, *Report of the visit to the Accommodation Centre for Aliens Taken in Public Custody Arad*, 30/2016, available in Romanian at: <http://bit.ly/2EbfM7g>, 3-4.

<sup>511</sup> *Ibid*, 10.

<sup>512</sup> Ombudsman, *Report 52/2019*, p.3.

<sup>513</sup> Ombudsman, *Report 68/2018*, available in Romanian at: <https://bit.ly/2veebdY>.

Detainees are accommodated in separate rooms on the basis of gender. Family members are accommodated in the same room, separately from other people, ensuring an appropriate level of privacy.

In **Arad**, authorities are planning to build a facility for families with children; this is still in the project phase.

CNRR provides material assistance through the project "Counselling and Material Assistance in Public Custody Centres", funded by the AMIF national programme. The main objective of the project is to provide information and counselling to migrants about return operations and rules that must be respected during these operations; the rights, obligations and rules of the Public Custody Centres Arad and Otopeni; and to provide services and specific assistance (including material assistance) complementary to the one granted by the Romanian government during their detention in the Public Custody Centres and during their return under escort in the country of origin or other country of destination.<sup>514</sup> According to the Ombudsman, CNRR provides complementary food, footwear and clothes to detainees.<sup>515</sup>

The Public Custody Centres Regulation prescribes that food is provided three times a day, in the form of hot or cold meal, depending on the situation of the detainees during accommodation or transport. For sick people, pregnant women and other categories of persons, food provision follows the number of meals and the diet prescribed by the doctor of the centre. At the request of detainees, religious diet is respected.<sup>516</sup>

In **Arad** the food is provided by the Arad penitentiary facility. All of the foreigners interviewed by the author in Arad complained about the food quality. They mentioned that every day they have the same menu, the food is tasteless and no rice is served. The nutritional value of food provided to persons suffering from medical conditions and requiring specific diets is ensured, as reported by the two centres' directors. Nevertheless, it was reported by the director of Arad that they have no special menus for children as meals are provided by the Arad penitentiary. Persons suffering from diabetes received special diet, according to the Ombudsman.<sup>517</sup>

## 2.2. Activities

The Public Custody Centres Regulation provides that every foreigner is entitled to an hour of recreational outdoor activities per day, depending on the weather conditions and the possibilities of surveillance. Recreational outdoor activities usually take place between 13:30 and 17:00. The director of the centre or his or her legal substitute may increase the duration of outdoor recreational activities.<sup>518</sup>

**Arad** has two courtyards of 120m<sup>2</sup> each for walking, with lawns and concrete surfaces, each equipped with a goalpost and basketball hoop with backboard and tables with benches. According to the director of Arad, between meals, people are let outside in the courtyard for an hour, under the police officers' supervision. In **Otopeni** people are also allowed outside after meals under supervision or depending on IGI missions.

There is a workout room with a few fitness machines in **Arad** that, at the time of the author's visit, was functional. **Otopeni** also has a functioning gym room.

Televisions in **Otopeni** are functional and available in every room, while in **Arad**, during the author's visit in October 2019, there were only two televisions, one in each common room, with channels provided by the Romanian cable company. The foreigners interviewed complained about the fact that they do not

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<sup>514</sup> Information provided by CNRR, 9 December 2019.

<sup>515</sup> Ombudsman, *Report 68/2018*, available in Romanian at: <https://bit.ly/2veebdY>.

<sup>516</sup> Article 30(1)-(4) Public Custody Centres Regulation.

<sup>517</sup> Ombudsman, *Report 68/2018*; *Report 52/2019*.

<sup>518</sup> Article 26(1)-(2) Public Custody Centres Regulation.

have a television in their rooms. Although every room can support a television and televisions were bought, they cannot install them as they cannot connect them to a cable television network.

According to JRS and the directors of the two centres, detainees have no internet access in detention.

As regards the social activities, according to the Ombudsman's report on **Otopeni**, "even though the centre has facilities for social, cultural and recreational activities, even outdoors, no such activities were organised for the detainees due to the lack of qualified staff".<sup>519</sup> The need for social workers in detention centres was emphasised by the Ombudsman since 2016.<sup>520</sup>

The directors of both **Arad** and **Otopeni** stated in 2018 that there are no social, cultural or educational activities organised in the centre, neither for adults nor for children. The persons interviewed by the author in **Arad** confirmed that there are no activities organised for them. The same was echoed by the JRS representative in **Arad** and **Otopeni**. According to the JRS representative in **Otopeni**, detainees complain about the lack of educational and recreational activities in the centre. They can only play football when the weather allows it, go to the gym or stay in the library. Access to these facilities is allowed only during the schedule established by IGI.<sup>521</sup> According to the Ombudsman, the library in Otopeni is properly equipped with books.<sup>522</sup>

The foreigners interviewed by the author in **Arad** complained about the fact that they do not even have a ball to play football and they have requested one several times to the CNRR's representative. Another detainee interviewed by the author described his time in **Arad** centre as being more difficult than in Timișoara's prison, because at least there he could go to work outside the penitentiary. It was emphasised by one of the detainees that because of the lack of activities, sports, football they are bored and they only sleep and think about their problems. It was reported by the JRS representative in **Arad** that the lack of activities affects the detainees, especially those who are detained for longer periods of time.

**Otopeni** has a small playground. According to the director, there is also a children's room with toys. At the time of the Ombudsman's visit in Otopeni the children's room was closed because there were no children detained at that time in the centre. At the request of the Ombudsman the room was opened and it was found that there was a limited number of toys and games for children.<sup>523</sup>

The Aliens Ordinance provides for the right to access to education for children detained in public custody centres accompanied by at least one parent or by their legal representative; children have free access to the compulsory education system.<sup>524</sup> Nevertheless, according to the directors of both **Arad** and **Otopeni**, none of the children detained in public custody centres were enrolled or attended school. The director of Otopeni referred to a case from 2017 where foreigners detained requested the enrolment of their child at school and they were later released after receiving tolerated status. She also mentioned that there is a lack of staff to transport the children to school.

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<sup>519</sup> Ombudsman, *Report 68/2018*.

<sup>520</sup> Ombudsman, *Report of the visit to the Accommodation Centre for Aliens Taken in Public Custody Otopeni, 70/2016*, The Ombudsman had also observed in 2016 that there was no social worker in Otopeni, as the management of the centre stated that there was no need for such a position. The report details that: "Despite the language difficulties and the short period of detention in the centre, there were no socio-cultural-educational activities, Romanian language courses or other types of information-education sessions for the beneficiaries. There is no hired person to provide social counselling to residents or to provide other information of interest responding to the needs of cultural adaptation or other needs of detainees".

<sup>521</sup> Ombudsman, *Report 68/2018*.

<sup>522</sup> *Ibid.*

<sup>523</sup> *Ibid.*

<sup>524</sup> Article 104(6) Aliens Ordinance.

## 1.1. Health care and special needs in detention

Foreigners detained in public custody centres have the right to legal, medical and social assistance and the right to have their own opinion, religious, philosophical and cultural matters respected.<sup>525</sup>

**Otopeni** has a general practitioner, a full-time psychologist and only 2 nurses, in comparison with 2018 when there were 4 nurses.<sup>526</sup> The doctor's schedule is 8 hours per day on weekdays, while the medical staff works in 24h shifts.

**Arad** has a psychologist. As of the end of May 2019 the centre has no general practitioner, according to the director of the centre. The lack of a medical doctor makes it difficult because the nurses cannot issue medical prescriptions and detainees have to see a specialist in order to receive medication. During the author's visit on 21 October 2019, there were three nurses, one nurse position being vacant at the time. As a consequence, the shifts are not fully covered. When new persons arrive in the centre, a visual medical screening is conducted by the medical staff, who also take their pulse, temperature and blood pressure. The screening is conducted without an interpreter. In comparison with 2018, when the medical office in **Arad** did not perform medical tests for the diagnosis of infectious / contagious diseases such as HIV or hepatitis, in 2019 they did perform HIV, hepatitis and drug tests. The medical office provides oral treatment and injections in the centre. If there is a need for specialist consultations and medical prescriptions from specialist doctors, foreigners are taken to public health care institutions in Arad County. In 2019 IGI signed a contract with the Arad county hospital that now covers all the examinations.

In 2019 there were no detainees released from **Arad** due to their medical conditions. In **Otopeni** one person from Somalia was released because of his medical condition, according to the JRS representative.

According to the law, the psychologist of the centre makes the psychological evaluation of persons detained in the centre, drafts psychological observation sheets and provides specialist assistance throughout their stay. For foreigners with psychological or psychiatric problems, the psychologist of the centre informs immediately the Director of the centre or his or her legal substitute and, where appropriate, makes proposals for specialist consultations to hospital departments.<sup>527</sup>

The Asylum Act provides that vulnerable asylum seekers detained in specially designed closed spaces within the Regional Centres are regularly monitored and benefit from adequate support, according to their individual situation, including their health situation.<sup>528</sup> The Aliens Ordinance also provides for appropriate medical care and treatment for vulnerable persons in detention centres.<sup>529</sup>

According to UNHCR Romania, there is a lack of an established identification mechanism of vulnerable persons in public custody centres unlike the mechanisms used for reception centres, including specially arranged closed areas.

According to the JRS representative from Otopeni, IGI has an internal identification program established jointly with UNHCR. The director of **Arad** mentioned that there is no procedure for the identification of vulnerable persons. There is an interview guide which is filled in by the officer on duty when the foreigner is placed in the public custody centre. The guide also includes questions related to vulnerability. This guide is filled in without an interpreter. If problems are identified, the detainees are referred to the psychologist. On the other hand, the psychologist of **Arad** stated in 2018 that there is no identification mechanism for vulnerable persons but that they are all identified, even though there are no interpreters available for psychological counselling sessions. The psychologist indicated that in case the

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<sup>525</sup> Article 104(2) Aliens Ordinance.

<sup>526</sup> Ombudsman, Report 68/2018.

<sup>527</sup> Article 38 Public Custody Centres Regulation.

<sup>528</sup> Article 19^11(3) Asylum Act.

<sup>529</sup> Article 104(7) Aliens Ordinance.



foreigners do not speak Romanian or English, she uses Google translate; where difficulties may arise for illiterate persons, she uses sign language. The psychologist emphasised that for over ten years of working in detention she has managed to communicate with the migrants.

The authorities try to ensure assistance for this category of persons, but if the needs in question cannot be satisfied, the person is released. In rare cases, groups such as families with children have been released from detention.

### 3. Access to detention facilities

#### Indicators: Access to Detention Facilities

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

The Aliens Ordinance provides that national, international and non-governmental organisations and other bodies competent in the area of migration, authorised and accredited under the law, shall be provided with the possibility to visit detention centres on the basis of the Protocols concluded with IGI or prior authorisation. In exceptional and duly motivated situations, it is possible to visit the centres within 48 hours.<sup>530</sup>

Article 13 of the Public Custody Centres Regulation details visiting hours in detention centres for the following groups:<sup>531</sup>

- a. Representatives of diplomatic missions or foreign consular offices representing the detainees' interests: 09:00 – 20:00 every day;
- b. Representatives of national, international or non-governmental organisations competent in the area of migration, authorised and accredited under the law: 09:00 – 20:00 every day;
- c. Family members or other persons who need to state the reasons for visiting: 10:00 – 12:00 and 14:00 – 17:00 for a maximum of 30 minutes, three times a week, usually on Tuesday, Friday and Sunday;
- d. Legal representatives: 09:00 – 20:00 every day.

Lawyers have to hold a power of attorney from the foreigner held in detention. In some cases, lawyers have not been allowed access to detention centre on the ground that they had not had their lawyer's card validated by the Bar Association.

Visits are authorised by the Head of the Centre or his or her legal representative. In the absence of cooperation Protocols, visits by NGO representatives are authorised by the Director of the IGI Migration Directorate. There have been exceptional situations whereby NGOs were not allowed to enter the public custody centre as the authorities declared that they were holding interviews during that day.

Media and politicians have access to detention centres if their request is approved. As far as JRS is aware, neither media nor politicians have visited the detention centres.

JRS is present once a week in the public custody centre of **Otopeni** and twice a month in **Arad**. JRS provides assistance to cases not covered by projects funded by the AMIF national programme such as assistance for subsequent applications, voluntary repatriation and Dublin returnees.

The JRS representative in **Arad** mentioned that she tries to discuss with as many detainees as possible. She also mentioned that the communication is done with the help of Google translate, as they do not have interpreters. Detainees have her phone number to contact her. Three days prior to her visit in the centre she informs the director of the centre; however, she is not aware if the director informs the foreigners.

<sup>530</sup> Article 103(4) Aliens Ordinance.

<sup>531</sup> Article 13(1)-(3) Public Custody Centres Regulation.

The Public Custody Centres Regulation prescribes the conditions under which detainees may use the phone in order to contact people outside the centre.<sup>532</sup> Foreigners may use the public telephone at their own expense from 09:00 to 22:00 every day. Every person is entitled to no more than 20 minutes free of charge phone per month.

In **Arad** there are only two public phones and according to the persons interviewed by the author during the visit, one of the phones was not working properly. The phones are not in the same building as living units so people have to be escorted by the police to use them. In 2018 and 2019 the Ombudsman also recommended the installation of at least two phones.<sup>533</sup> The director of Arad mentioned that they received a wireless phone but it is only available for contacting the embassies. In **Otopeni**, according to the people interviewed, there are 2 wireless phones in the hallway next to their rooms and they can use them at any time with permission.

Detainees may use their personal mobile phone upon request, provided that it is not equipped with a camera. They are forbidden from using their personal mobile phone as long as they are under escort.

## D. Procedural safeguards

### 1. Judicial review of the detention order

#### Indicators: Judicial Review of Detention

1. Is there an automatic judicial review of the lawfulness of detention? ☐ Yes ☒ No
2. If yes, at what interval is the detention order reviewed?

The Aliens Ordinance provides that foreigners detained in public custody centres have the right to be informed immediately after their arrival in these places, in their language or in a language they understand, of the main reasons for their detention and of the rights and obligations they have during their stay in these centres. These are communicated in writing by the persons designated to manage these centres.<sup>534</sup>

According to CNRR, there is an obligation to provide information in writing in a language that the person can reasonably be supposed to understand. The documents are received upon individuals' arrival in the public custody centre. CNRR provides them counselling and, if they so wish, supports them to challenge the detention order.<sup>535</sup>

In practice, however, foreigners receive a document, in most cases written in Romanian and English, which cites the legal provision on which detention is based and the reasons for detention, according to the director of **Arad**. Communication is done only in writing when they arrive in detention and there is no interpreter provided at this stage. If necessary, further explanations are given by JRS.

In **Otopeni**, detainees are informed in writing, in Romanian, about the reasons for detention, according to the JRS representative. The NGOs are translating the reasons for them.

Under Romanian law, only a Prosecutor is competent to order detention. The maximum duration of the initial detention order is 30 days both for public custody and for specially designed closed spaces in Regional Centres.

<sup>532</sup> Article 12(1)-(4) Public Custody Centres Regulation.

<sup>533</sup> Ombudsman, *Report of the visit to Arad*, 40/2018, 17; *Report 52/2019*.

<sup>534</sup> Article 104(3) Aliens Ordinance.

<sup>535</sup> Information provided by CNRR, 9 December 2019.

Foreigners subject to detention can appeal before the territorially competent Court of Appeal within 5 days.<sup>536</sup> The appeal formulated against detention is subject to lighter formalities, as it is exempt from the judicial stamp duty.<sup>537</sup> If the applicant is detained during the Dublin procedure, it does not have suspensive effect on the detention order or on the determination of the responsible Member State.<sup>538</sup> The Court of Appeal has to examine the appeal within 3 days from the date of receipt, and its decision is final.

Few appeals were lodged against detention orders in 2019. In 2019, the Court of Appeal of Timișoara had registered only 5 appeals against detention orders of the Prosecutor's Office attached to the Court of Appeal of Bucharest.<sup>539</sup> The Court of Appeal of Bucharest had registered 3 appeals against detention as of 1 January 2019.<sup>540</sup>

The prolongation of detention is ordered by the territorially competent Court of Appeal, upon a motivated request by IGI, filed at least 5 days before the expiry of the time limit of initial detention. The court must rule before the expiry of the period of prior detention, and its decision is final.<sup>541</sup>

In general, the IGI Migration Directorate requests the extension of detention for an additional period of 5 months to enforce return decisions under escort and the court may grant an extension of detention for this period.

Questions are raised with regard to the effectiveness of judicial review against detention measures, particularly in light of recent case law from the Court of Appeal of Bucharest. In a case concerning a family from Cuba including a child enrolled at kindergarten and a grandmother suffering from thalassaemia and hypertension, whose asylum application had been rejected, detained on the basis of a risk of absconding from the voluntary return procedure, the Court briefly concluded on the legality of detention. It dismissed the appellants' argument on alternatives to detention, stating that these only apply to asylum seekers. The Court also failed to consider the best interests of the child.<sup>542</sup>

In the assessment of the IGI Migration Directorate's request for a two-month extension of detention, however, the Court of Appeal noted that even though detention was not ordered against the minor child, since the centre could not provide adequate conditions for raising and educating a child, it would be contrary to the best interests of the child to maintain the family in detention.<sup>543</sup>

In addition to judicial review upon request and judicial review in case of an extension of the duration of detention, the Aliens Ordinance requires IGI to examine the opportunity to maintain the measure of public custody at intervals of up to 3 months. In the case of families with children, the analysis must be carried out at intervals of up to one month.<sup>544</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

<sup>536</sup> Articles 19^7(7) and 19^14(8) Asylum Act.

<sup>537</sup> Article 19^16(3) Asylum Act.

<sup>538</sup> Article 19^14(8) Asylum Act.

<sup>539</sup> Information provided by the Court of Appeal Timișoara, 31 January 2019.

<sup>540</sup> Information provided by the Court of Appeal Bucharest, 29 January 2019.

<sup>541</sup> Article 19^14(4) Asylum Act.

<sup>542</sup> Court of Appeal of Bucharest, Decision 2472/2018, 29 May 2018.

<sup>543</sup> Court of Appeal of Bucharest, Decision 2767/2018, 13 June 2018.

<sup>544</sup> Article 101(13) Aliens Ordinance.

During detention in public custody centres, asylum seekers have all the rights set out in the Asylum Act, except for those concerning the right to access employment, right to accommodation in the Regional Centres and reimbursement for travel costs.<sup>545</sup> As a consequence, detained asylum seekers have the same rights to legal assistance as those at liberty.

Legal assistance for asylum seekers in detention is provided by CNRR through the project “Specialized legal assistance for asylum seekers in Romania”, funded by the AMIF national programme. In **Arad**, legal counselling is ensured by the legal counsellor of **Timișoara**.

According to the director of **Arad**, IGI informs CNRR Bucharest when an asylum application is made. It was also reported by the director that CNRR legal counsellor did not attend any of the interviews held in detention. The appeals in case of asylum applications rejected by IGI-DAI are lodged by CNRR.

In most of the cases, the legal counsellor provides legal counselling based on contact and information provided by the legal department of IGI-DAI, when the decision was already communicated to them. According to CNRR, in general, the legal counselling is provided after the decision is communicated if there is a decision to reject the asylum application in an accelerated procedure.<sup>546</sup>

When asked if the asylum seekers accommodated in the detention centres benefit from legal counselling before the personal interview, CNRR reported that it depends on when they learn about the asylum applications and the promptness of IGI-DAI in conducting the interview.<sup>547</sup>

In **Otopeni**, according to the JRS representative, legal counselling on the asylum procedure is provided to the detainees before and during the asylum procedure by CNRR for first-time asylum applications and JRS for subsequent asylum applications.

It is more difficult or even impossible for asylum seekers to contact the legal counsellors or attorneys in due time in order to prepare and/or assist them for the personal interview. They are made aware of their rights and obligation as asylum seekers only at the interview conducted by the IGI-DAI case officer. There is no legal counsellor providing legal counselling to asylum seekers in detention who works in the centre on a daily basis. Lawyers cannot contact their clients by phone, as the detainees are not allowed to have personal phones in detention and may only use their phone upon request if it has no camera. Lawyers may only access them if they visit them or if the clients have free minutes left to talk on the phone. Meetings are held in private rooms.

## E. Differential treatment of specific nationalities in detention

There are cases of **Pakistani, Bangladeshi and Irani** nationals staying longer in detention since the respective embassies do not reply to the requests submitted by IGI.

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<sup>545</sup> Article 19^16(2) Asylum Act.

<sup>546</sup> Information provided by CNRR, 9 December 2019.

<sup>547</sup> Information provided by CNRR, 9 December 2019.

## Content of International Protection

Under Government Ordinance No. 44/2004 (“Integration Ordinance”), beneficiaries of international protection are included in an integration programme upon request and according to a protocol concluded individually by IGI-DAI.<sup>548</sup> The application for participation in the integration programme has to be submitted to IGI-DAI within 30 days of the grant of protection.<sup>549</sup>

After the registration of the application, the integration officer of IGI-DAI interviews the beneficiary. An evaluation form of the person’s needs is drafted in order to determine the necessary assistance or activities for his or her social integration.<sup>550</sup> Based on this evaluation form, an individual plan is established, which includes deadlines, necessary activities to achieve the objectives, responsible persons, institutions and/or organisations are communicated to the beneficiary. The implementation of this plan is monitored by IGI-DAI.<sup>551</sup>

Participation in the integration programme is relevant to the enjoyment of certain rights such as [Housing](#) and [Social Welfare](#).

Activities which may be included in the plan mainly include, separately or cumulatively, the following:<sup>552</sup>

- Counselling and support activities to ensure access to the rights listed in the Integration Ordinance;
- Cultural orientation sessions;
- Romanian language courses (see [Access to Education](#)).

In addition to the integration programme offered by the state authorities, there are several projects concerning the integration of beneficiaries of international protection and third-country nationals funded through the national AMIF scheme. Since 2016 the implementation of these projects covers 5 regions throughout the country.<sup>553</sup> Each region has at least one Regional Centre for asylum seekers.

1. IOM Romania implemented the second phase of the project “INTERACT PLUS - Integrated services for migrants, social and intercultural dialogue” until 2 August 2019 in Region 1 which includes **Bucharest** and the following counties: Ilfov, Arges, Brasov, Buzau, Calarasi, Covasna, Dambovita, Dolj, Ialomita, Gorj, **Giurgiu**, Olt, Prahova, Teleorman, Valcea.<sup>554</sup>

According to IGI-DAI’s announcement on AMIF grants awarded, JRS’s project “My place – A bridge for the integration of beneficiaries of international protection and third country nationals in Romania” was retained for funding.<sup>555</sup> However, the grant agreement was not concluded according to JRS representative. It would have been operational in Region 1, which now includes a smaller number and different counties than the previous project: **Bucharest**, Vrancea, Bacau, Vaslui, Braila, Tulcea. As of 2 August 2019 until the present time (January 2020), no integration project is implemented in Region 1.

2. JRS implements the project “My place – A bridge for the integration of beneficiaries of international protection and third country nationals in Romania” in Region 2 in partnership with Children’s heart Foundation (Fundatia Inima de copil). The objective of the project is to sustain an effective integration of the beneficiaries of international protection and third country nationals at the level of **Galați**, Constanța, Vrancea, Bacau, Vaslui, Braila, Tulcea counties, with special

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<sup>548</sup> Article 15 Integration Ordinance.

<sup>549</sup> Article 16 Integration Ordinance.

<sup>550</sup> Article 17 Integration Ordinance.

<sup>551</sup> Article 18(1) Integration Ordinance.

<sup>552</sup> Article 18(2) Integration Ordinance.

<sup>553</sup> Romania is Home, *Integration programs*, available in Romanian at: <https://bit.ly/2RXBfZk>.

<sup>554</sup> IGI-DAI, *AMIF projects*, available in Romanian at: <http://bit.ly/2HVtES4>. According to IOM, 481 beneficiaries of international protection benefitted from its services in 2019.

<sup>555</sup> IGI-DAI, *Closed Selections of projects*, available in Romanian at: <https://bit.ly/36fyCUP>.

attention afforded to vulnerable persons and persons with special needs, by providing services complementary to those provided by the State. These include activities such as information, counselling, material assistance, legal, medical, psychological assistance, as well as social, cultural, recreational, educational, training courses, Romanian language and cultural orientation, at the level of the two regional integration centres in Galați and Constanța.<sup>556</sup>

3. ICAR Foundation implements the project “Integration of foreigners in Romania – a continuous process” in Region 3 which includes **Rădăuți** and Botoșani, Iași and Neamț counties.<sup>557</sup>
4. In Region 4 LADO Cluj, in partnership with Asociația Profesională Neguvernamentală de Asistență Socială Baia Mare (ASSOC), is implementing the project “SIM - CIS - Integrated services for migrants - intercultural and solidarity communities. The project covers **Maramureș**, Satu Mare, Sălaj, Cluj, Bistrița Năsăud, Mureș, Harghita, Sibiu și Alba counties. The project aims to offer educational social, cultural and recreational activities, Romanian language and cultural orientation courses to beneficiaries of international protection and third country nationals. The project also foresees financial incentives for completing some social integration activities; a number of health insurances are covered and the costs of meals of children from kindergarten, pre-school or school are reimbursed.<sup>558</sup>
5. In Region 5, the Western part of Romania, AIDRom in partnership with Filantropia Oradea, implements the project “Integration NOW - Complex and Uniform Approaches for Migrants”. “The project aims to support the socio-economic and cultural integration of beneficiaries of international protection and third-country nationals in the Romanian society, in Region 5, through an integrated “on stop shop” approach, in providing the information and services they need, and by enhancing active collaboration and involvement the authorities / institutions, the private sector and other entities with attributions in the field of migrant integration”. The project is implemented for a period of 1 year since 13 August 2019.<sup>559</sup> Region 5 includes **Timișoara**, and Arad, Bihor, Hunedoara, Mehedinți și Caraș Severin counties.

The integration prospects for beneficiaries of international protection in Romania are assessed in the context of appeals against returns of beneficiaries from other European countries. Different courts in Germany and the Netherlands have dismissed such appeals on the ground that conditions for international protection holders in Romania do not present deficiencies triggering Article 3 ECHR,<sup>560</sup> including the case of a person with PTSD.<sup>561</sup> In one case in the Netherlands, the court opposed the return of a family on the basis that beneficiaries of protection have no effective assistance after the expiry of their integration programme in Romania.<sup>562</sup>

<sup>556</sup> JRS, ‘My Place – o punte pentru integrarea BPI si RTT in Romania’, available in Romanian at: <http://bit.ly/2t45amz>.

<sup>557</sup> IGI-DAI, *AMIF projects*, available in Romanian at: <http://bit.ly/2F2ysaC>.

<sup>558</sup> Liga Apărării Drepturilor Omului (LADO) Cluj, ‘SIM\_CIS4 – Servicii integrate pentru migranți – comunități interculturale și solidare’, available in Romanian at: <http://bit.ly/2F963Pv>. According to ASSOC, roughly 18 beneficiaries of international protection and 10 third country nationals were assisted by the organisations in 2019.

<sup>559</sup> AIDRom, ‘Integrare ACUM – Abordari complexe si unitare pentru migranti’, available in Romanian at: <http://bit.ly/2owtwz3>. According to AIDRom, 120 beneficiaries of international protection and third country nationals were assisted by the organisation between August and December 2019. Some of them left Romania before the end of the programme.

<sup>560</sup> (Germany) Administrative Court of Aachen, 6 L 202/18.A, 7 May 2018; Administrative Court of Düsseldorf, Decision 22 L 5230/17.A, 5 June 2018; Administrative Court of Hannover, Decision 12 B 3173/18, 3 July 2018; (Netherlands) Regional Court of The Hague, Decision NL.18.7700, 17 May 2018; Regional Court of Gravenhage, Decision NL.18.21071, 5 December 2018.

<sup>561</sup> (Germany) Administrative Court of Aachen, Decision 6 L 606/18.A, 6 July 2018.

<sup>562</sup> (Netherlands) Administrative Court of Roermond, Decision NL.18.5246, 3 May 2018.



## A. Status and residence

### 1. Residence permit

#### Indicators: Residence Permit

What is the duration of residence permits granted to beneficiaries of protection?

❖ Refugee status	3 years
❖ Subsidiary protection	2 years

The duration of residence permits granted for **refugee status** is 3 years and for **subsidiary protection** 2 years.<sup>563</sup>

The conditions for issuing a residence permit – in the form of a **card** – are prescribed by the Asylum Decree.<sup>564</sup> In order to obtain a residence permit, issued free of charge, the beneficiary of international protection has the obligation to submit to IGI-DAI a document which proves his or her legal residence. This can be a: title of ownership; lease agreement registered with the fiscal administration; commodity contract concluded in authentic form; or any other documents concluded under the conditions of validity provided by Romanian legislation in force regarding the housing title, which prove the acquisition of some housing rights.<sup>565</sup>

Responsibility for issuing the residence permits lies with IGI-DAI. In practice there are no difficulties in the issuance of the residence permit. However, the AIDRom representative in **Timișoara** stated that beneficiaries encounter difficulties in obtaining a rental contract fulfilling the conditions required by the authorities. Currently, the landlords do not want to declare to the authorities that they rented out their apartments.

The beneficiary of international protection has to fill in a standard form,<sup>566</sup> which is usually filled in together with the officer in charge. The time of issuance of the residence permit card is issued differs from one Regional Centre to another: 4 weeks in **Bucharest**, 2-3 weeks in **Timișoara**, according to the director of the regional centre of Timișoara, 3 weeks **Rădăuți**, 2-4 weeks in **Galați**, 4 weeks in **Somcuta Mare**, 2-3 weeks in **Giurgiu**.

According to IOM Romania, a difficulty still reported in 2019 by several beneficiaries of international protection is the fact that their names are transcribed differently from their identification documents or there are different versions of names within the same family.<sup>567</sup>

As regards the renewal of residence permit, beneficiaries of international protection do not encounter any problems. Before the expiry of the residence permit, they fill in a request of renewal and a new card is issued in the same time frame as mentioned above.

IGI-DAI delivered 980 residence permits to refugees and 902 to subsidiary protection beneficiaries in 2019.<sup>568</sup>

### 1. Civil registration

The procedure of civil registration is set out in Act 119/1996.<sup>569</sup>

<sup>563</sup> Article 20(6) Asylum Act.

<sup>564</sup> Article 51 Asylum Decree.

<sup>565</sup> Article 50(3) Asylum Decree.

<sup>566</sup> The form is available at: <http://bit.ly/2xaDCgJ>.

<sup>567</sup> Information provided by IOM Romania, 18 November 2019.

<sup>568</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>569</sup> Act 119/1996 on civil registration acts, available in Romanian at: <http://bit.ly/2nFDcYr>.



## 2.1. Marriage and child birth registration

With regard to marriage registration, the law provides the obligation for the future spouses to present identity documents, birth certificates, and medical certificates.<sup>570</sup> Beneficiaries of international protection have to present several documents, such as:

- Identity document, which in their case may be the travel document issued after granting a form of protection;<sup>571</sup>
- Birth certificate;
- Certificate/ evidence issued by diplomatic missions or consular offices;
- Declaration, authenticated by the notary, which proves that they fulfil the necessary conditions for getting married;
- Proof of divorce/ death certificate of the spouse as the case may be;
- Prenuptial medical certificate;
- Marriage convention.

In addition, foreign citizens who do not speak Romanian have to submit the marriage declaration in the presence of and through an authorised translator, which they have to pay for.

According to IOM Romania, no obstacles were reported as regards marriage registration, where the only step that may take longer is obtaining the celibacy certificate from the country of origin's embassy / consulate in Romania, as it was also reported for 2018.<sup>572</sup>

As regards birth registration, IOM Romania mentioned that there were cases where families could not afford to pay the notaries fees for a declaration requested by the authorities in charge of birth registrations. This declaration must be made by the parents even though they have their marriage certificate translated and registered in Romania, and which already contains their names, place and date of marriage. All this information has to be repeated in the declaration given at the notary, as well as the fact that the father recognises the child in order to obtain the birth certificate.<sup>573</sup>

According to the AIDRom representative in Timișoara, in 2018 difficulties were only encountered in other localities in the south-western region of Romania. Cases from **Arad** and **Caras-Severin** County were reported.<sup>574</sup>

In 2018, ASSOC mentioned that in the past beneficiaries faced some difficulties in getting the celibacy certificate, as their countries of origin do not have embassies in Romania; it is impossible to obtain them through another family member who still lives in the country of origin, as they cannot apply for the certificate. In case of birth registration it was reported that some difficulties may arise if the mother does not have the same surname with the father and they cannot prove they are married.<sup>575</sup> As for 2019, no problems were reported regarding marriage and child birth registration, even more beneficiaries are aided by the competent persons.<sup>576</sup>

## 2.2. Bank accounts

According to the legal counsellor in **Galați**, beneficiaries are unable to open bank accounts at some banks as it appears there are certain third countries whose nationals (Syrian, Iraqi, Iranian and sometimes Afghan nationals) are not offered services for security reasons. Only one small bank agrees to open bank accounts for beneficiaries of international protection.

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<sup>570</sup> Article 25(3) Act 119/1996.

<sup>571</sup> Local Council of Timișoara, *Marriage Registration*, available in Romanian at: <https://bit.ly/2CSb8si>.

<sup>572</sup> Information provided by IOM Romania, 18 November 2019.

<sup>573</sup> Information provided by IOM Romania, 18 November 2019.

<sup>574</sup> Information provided by AIDRom, 16 January 2019.

<sup>575</sup> Information provided by ASSOC, 30 January 2019.

<sup>576</sup> Information provided by ASSOC, 5 March 2020.

In **Șomcuta Mare** some of the banks are also reluctant to open bank accounts, according to JRS representative, but there are a few banks that are opening bank accounts for beneficiaries of international protection. Beneficiaries are required to present their residence permit and travel document. According to ASSOC representative, in 2018 beneficiaries of international protection may open a bank account more easily than asylum seekers because their residence permit is valid for longer periods than temporary identity documents issued for asylum seekers. Usually beneficiaries deal with this on their own or are accompanied by fellow nationals; ASSOC has not received many requests of this kind.<sup>577</sup> In 2019, according to ASSOC, bank policies hindered beneficiaries to open bank accounts.<sup>578</sup>

In **Timișoara**, in most cases beneficiaries were not able to open bank accounts in 2018. The banks required not only the residence permit, but also the beneficiaries' passport or travel document issued by IGI-DAI. In 2019 some beneficiaries were able to open bank accounts. The AIDRom representative together with their legal counsel tried to find out why this issue occurred and it seems that there was a decision of the Romanian National Bank regarding the opening of bank accounts for Syrian, Afghan, Iraqi and Sudanese nationals.<sup>579</sup>

In **Rădăuți**: beneficiaries can only open a bank account when they have an employment contract.

In **Giurgiu**, according to the legal counsellor, banks open bank accounts for beneficiaries of international protection only for salary transfers and do not issue debit cards for them. People therefore have to withdraw their salaries from the bank.

IOM Romania reported that the problems are similar to those identified in 2018, namely: inclusion of the country of origin on the list of risk countries (terrorist financing, etc.); social condition of the family; proof of the need for an account; validity of the residence permit. It was also mentioned that the number of beneficiaries of international protection reporting these issues was lower than in 2018.<sup>580</sup>

## 2. Long-term residence

### Indicators: Long-Term Residence

Number of long-term residence permits issued to beneficiaries in 2019: not available

Long-term residence or permanent residence status is regulated by Government Emergency Ordinance No. 194/2002 ("Aliens Ordinance"). The conditions for obtaining long-term or permanent residence status are prescribed by Article 71 of the Aliens Ordinance and do not differ for refugees and people granted subsidiary protection.

- a. **Lawful residence:** Permanent residence status may be granted to refugees or beneficiaries of subsidiary protection who have lawfully resided on the territory of Romania continuously during the last 5 years preceding the filing of the application.<sup>581</sup> Continuity implies that a person has not been absent from Romania for more than 6 consecutive months and shall not exceed 10 months of absence in total.<sup>582</sup>

The 5 years residence term may be reduced to 4 years for beneficiaries of international protection in Romania who actively participate in the economic, social and cultural life of the Romanian society, including following the integration programmes provided by the

<sup>577</sup> Information provided by ASSOC, 30 January 2019.

<sup>578</sup> Information provided by ASSOC, 5 March 2020.

<sup>579</sup> Information provided by AIDRom, 16 January 2019.

<sup>580</sup> Information provided by IOM Romania, 18 November 2019.

<sup>581</sup> Article 71(1)(a) Aliens Ordinance.

<sup>582</sup> Article 71(1)(a)(i) Aliens Ordinance.

Integration Ordinance,<sup>583</sup> or are married to a person holding Romanian citizenship for at least 5 years.<sup>584</sup>

According to the law, this period of residence starts from the moment when the asylum application was lodged.<sup>585</sup>

- b. **Knowledge of Romanian language:** In addition, the applicant has to know Romanian language at least at a satisfactory level. Usually this requirement is verified by the officer examining the request for a long-term residence card, by having a discussion in Romanian with the applicant.<sup>586</sup>
- c. **Public order / national security:** The applicant must not pose a threat to public order or national security.<sup>587</sup>
- d. Health insurance.<sup>588</sup>
- e. Accommodation: The applicant has to prove the legal possession of a living space.<sup>589</sup>
- f. Means of subsistence: The applicant has to prove he or she has at least the level of the gross average income in Romania.<sup>590</sup>

Article 72 of the Aliens Ordinance sets out the documents that the applicant has to submit personally, when requesting the permanent residence status:

- ❖ Travel document,<sup>591</sup> for which there is an exemption for beneficiaries of international protection;<sup>592</sup>
- ❖ Proof of the legal possession of the living space, in accordance with the law;<sup>593</sup>
- ❖ Proof of the means of subsistence at the gross average earning in Romania;<sup>594</sup>
- ❖ Proof of health insurance;<sup>595</sup>
- ❖ Criminal record, issued by the Romanian authorities.<sup>596</sup>

According to AIDRom, documents have to be valid for at least 6 months when lodging the request for permanent residence status. As regards the interpretation of conditions, in practice the only issue reported was the health insurance. IGI requires as proof of the person's contribution to the state health insurance a certificate issued by the County Health Insurance House (CJAS), even though he or she has a work contract.<sup>597</sup> This was confirmed by the director of Regional Centre Timișoara.

In relation to the proof of health insurance, beneficiaries have to present a certificate confirming that they are paying health insurance. Employees and their co-ensured persons prove their quality of insured with the certificate issued by the employer.<sup>598</sup> In some cases, obtaining this certificate takes a lot of time as it has to be submitted by the employer.

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<sup>583</sup> Article 71(1)(a)(v) Aliens Ordinance.

<sup>584</sup> Article 71(1)(a)(vi) Aliens Ordinance.

<sup>585</sup> Article 71(1)(a)(vii) Aliens Ordinance.

<sup>586</sup> *Ibid.*

<sup>587</sup> Article 71(1)(f) Aliens Ordinance.

<sup>588</sup> Article 71(1)(c) Aliens Ordinance.

<sup>589</sup> Article 71(1)(d) Aliens Ordinance.

<sup>590</sup> Article 71(1)(b) Aliens Ordinance.

<sup>591</sup> Article 72(1)(a) Aliens Ordinance.

<sup>592</sup> Article 146 Asylum Act.

<sup>593</sup> Article 72(1)(b) Aliens Ordinance.

<sup>594</sup> Article 72(1)(c) Aliens Ordinance.

<sup>595</sup> Article 72(1)(d) Aliens Ordinance.

<sup>596</sup> Article 72(1)(e) Aliens Ordinance.

<sup>597</sup> Information provided by AIDRom, 16 January 2019.

<sup>598</sup> Health Insurance House (*Casa de Asigurări de Sănătate*), *Clarifications regarding validation of the quality of an insured person for employees*, available in Romanian at: <http://bit.ly/2Gb71YZ>.

Applications for permanent residence status are examined by a special committee of IGI.<sup>599</sup> The decision has to be taken no later than 6 months from the day the application was registered. For objective reasons, the Head of IGI may extend this deadline by another 3 months, duly notifying the applicant.<sup>600</sup>

The applicant is notified within 15 days of the request being granted. Within 30 days from the receipt of the communication, the person who has been granted the right of permanent residence in Romania has to present him or herself to the regional office of the IGI, where the application was registered, for the issuance of the permanent residence permit.<sup>601</sup>

In practice, the decision is given in most of the cases in 1 month, in some centres even in 3-4 months. The permit is issued within 3-4 weeks in **Timișoara**, 4 weeks in **Bucharest**. In **Rădăuți** there was only one application for long-term residence permit in 2019. The JRS representative in Rădăuți reported that the reason behind this is that beneficiaries are leaving the country. In **Șomcuta Mare** no cases were reported by ASSOC. In **Giurgiu** no problems were reported regarding the issuance of the permit, but there have been cases where the issuance of such permits has been hampered by the existence of a commodity or rental contract attesting the residence of the beneficiary.

**Galați:** According to the legal counsellor, the beneficiaries of international protection have to prove that they have 12 minimum net wages/ salaries and if they are not working, they have to prove that they have 5000 EUR in their accounts. Difficulties occur when they cannot open bank accounts. It was reported that there was a case when the person could not open a bank account and therefore did not apply for the long-term residence permit.

In 2017, 890 long-term residence permits were issued to refugees and 467 to beneficiaries of subsidiary protection.<sup>602</sup> Statistics for 2018 and 2019 were not made available.

### 3. Naturalisation

#### Indicators: Naturalisation

- |  |               |
|--|---------------|
| 1. What is the minimum residence period for obtaining citizenship? |               |
| ❖ Refugee status   | 4 years       |
| ❖ Subsidiary protection  | 8 years       |
| 2. Number of citizenship grants to beneficiaries in 2019:          | Not available |

The main criteria for naturalisation are laid down in Article 8(1) of the Act on Romanian Citizenship.<sup>603</sup> The applicant must:

- Have legally resided in Romania continuously for at least 8 years, or at least 5 years since the day of marriage to a Romanian national;
- Prove, through behaviour, actions and attitude, loyalty to the Romanian State, and not undertake or support actions against the rule of law or national security and declare that he or she has not taken such actions in the past;
- Have reached the age of 18;
- Have legal means for a decent existence in Romania, under the conditions established by the legislation on the regime of foreigners;
- Be known for good behaviour and have not been convicted in the country or abroad for an offense that makes him or her unworthy of being a Romanian citizen;
- Know Romanian language and possess basic notions of Romanian culture and civilisation, sufficient to integrate into the social life.

<sup>599</sup> Article 73(1)-(2) Aliens Ordinance.

<sup>600</sup> Article 73(3) Aliens Ordinance.

<sup>601</sup> Article 73(4)-(5) Aliens Ordinance.

<sup>602</sup> Information provided by IGI-DAI, 14 February 2018.

<sup>603</sup> Act 21/1991 of 1 March 1991, available in Romanian at: <http://bit.ly/2xafo6v>.

The minimum period of residence prior to the naturalisation application is shorter for a number of categories of applicants treated preferentially.<sup>604</sup> Recognised **refugees** are one of the categories required to have resided in Romania continuously for a period of at least 4 years prior to the submission of the application. Therefore, the aforementioned provision clarifies the distinction between refugee status and subsidiary protection, which means that preferential treatment is afforded only to those bearing refugee status, while persons with **subsidiary protection** need to fulfil the condition of living 8 years prior to submitting the application.

However, the Act on Romanian Citizenship has introduced two additional articles which extend the right to apply for nationality to stateless persons or foreigners who have “particularly contributed to the protection and promotion of Romanian culture, civilization and spirituality”<sup>605</sup> or “who can significantly promote the image of Romania through outstanding performance in sports”.<sup>606</sup> The Romanian Government considered these amendments “necessary” and found that “not adopting them urgently will significantly affect the nationality acquisition and reacquisition process”.<sup>607</sup>

The competent authority is the National Authority for Citizenship (NAC).<sup>608</sup>

According to the AIDRom representative in **Timișoara**, in 2018, 4 beneficiaries applied for Romanian citizenship, even though AIDRom provided counselling in this regard to more persons. It was also pointed out that there is no common practice on citizenship grants. Beneficiaries who cannot prove their income for the past 3 years have problems understanding what other documents are required in order to apply. Counselling is provided to them by AIDRom jointly with CNRR.<sup>609</sup>

**Timișoara:** According to the AIDRom representative, foreigners requested to participate to citizenship training course/ preparation for naturalisation. Upon request, AIDRom is organizing this course every week. Foreigners are learning Romanian language, history, geography for 1h and a half or 2 hours. The AIDRom representative was aware of a person who applied but failed the test. The director of IGI-DAI stated that there were 3 persons who applied for naturalisation, out of which one was rescheduled for the interview.

IOM Romania reported 6 beneficiaries of international protection who had applied for citizenship in 2019. The decisions are pending.<sup>610</sup>

**Galați:** 1 beneficiary of international protection applied for naturalisation. JRS is also offering preparatory course for naturalisation upon request.

**Rădăuți:** it was reported that there were no beneficiaries who applied for naturalisation.

**Somcuta Mare:** According to the JRS representative, a person obtained citizenship in 2019 and there is another person who would like to apply. None of the persons assisted by ASSOC applied for citizenship in 2019.<sup>611</sup>

IGI-DAI does not keep statistics on citizenship granted to beneficiaries of international protection.<sup>612</sup>

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<sup>604</sup> Article 8(2) Act on Romanian Citizenship.

<sup>605</sup> Article 8<sup>1</sup> Act on Romanian Citizenship, as amended by Government Emergency Ordinance No. 37/2015 of 15 September 2015.

<sup>606</sup> Article 8<sup>2</sup> Act on Romanian Citizenship, as amended by Government Emergency Ordinance No. 37/2015 of 15 September 2015.

<sup>607</sup> Government Emergency Ordinance No. 37/2015 of 15 September 2015.

<sup>608</sup> For further details, see European Statelessness Network, *Ending Childhood Statelessness: A case study on Romania*, 2015, available at: <http://bit.ly/2DxDsiz>.

<sup>609</sup> Information provided by AIDRom, 16 January 2019.

<sup>610</sup> Information provided by IOM Romania, 21 January 2019.

<sup>611</sup> Information provided by ASSOC, 5 March 2020.

<sup>612</sup> Information provided by IGI-DAI, 20 February 2020.

#### 4. Cessation and review of protection status

##### Indicators: Cessation

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

Article 98(1) of the Asylum Act prescribes the grounds for cessation of **refugee status** as cases where the beneficiary:

- a. Has voluntarily re-availed him or herself of the protection of the country of nationality;
- b. Having lost his or her nationality, has voluntarily re-acquired it;
- c. Has acquired a new nationality and enjoys the protection of the country of his or her new nationality;
- d. Has voluntarily re-established him or herself in the country which he or she left or outside which he or she remained owing for the reasons on the basis of which he or she was granted refugee status;
- e. Can no longer, because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, continue to refuse to avail him or herself of the protection of the country of nationality or habitual residence and cannot invoke, in order to justify such refusal, imperious reasons of concern to previous persecutions; or
- f. Expressly renounces refugee status granted by Romania in writing.

Article 99(1) of the Asylum Act provides the following grounds for cessation of **subsidiary protection**:

- a. When the circumstances which led to its grant have ceased to exist or have changed to such an extent that this form of protection is no longer necessary; or
- b. When the beneficiary expressly renounces in writing, to the subsidiary protection granted by the Romanian State.

These provisions on changed circumstances do not apply to a person who has been granted refugee status or subsidiary protection and who can rely on compelling reasons resulting from previous persecution, in order to refuse the protection of the country of origin or habitual residence.<sup>613</sup>

Article 102 of the Asylum Act describes the cessation and withdrawal procedure. It shall be triggered *ex officio* by IGI-DAI or at the proposal of one of the institutions responsible for national security or public order, when new elements or data indicate the existence of reasons to reconsider the situation of the persons enjoying international protection within the meaning of the Asylum Act. Where the procedure for the cessation or cancellation of international protection is initiated at the proposal of one of the institutions responsible for national security or public order, IGI-DAI shall inform the respective institution of the decision of the procedure.

Article 103 of the Asylum Act requires the case officer in charge to inform the beneficiary of international protection in writing of: (a) the initiation of the cessation or, as the case may be, withdrawal of the international protection granted by the Romanian state, as well as the reasons for initiating the procedure; (b) rights and obligations during this procedure; (c) the possibility to present, in a personal interview or written statement, the reasons why international protection should be maintained.

In addition, the same article sets out the rights and obligations of the person subject to cessation or withdrawal procedure. During the cessation or withdrawal of the international protection granted by the Romanian state, the beneficiary has the right to: (a) be assisted by a lawyer; (b) have an interpreter free

<sup>613</sup> Articles 98(2)-(3) and 99(2) Asylum Act.



of charge; (c) contact and receive assistance by a UNHCR official; (d) receive counselling and assistance by an NGO representative; (e) receive, upon request, legal and procedural information, including information on the procedure in the administrative phase, under the legislation on legal aid in civil matters, taking into account his or her personal situation; (f) be provided, on request, with information to clarify the reasons for a cessation or withdrawal of international protection decision at the administrative phase and to explain how such a decision may be challenged, under the legal provision on legal aid in civil matters. The beneficiary has the obligation to: (g) provide the competent authorities with full and complete information about their personal situation; submit all the documents at his or her disposal and relevant to his or her personal situation; (h) follow the stage of the procedure and inform IGI-DAI within 5 days regarding any change of residence; (i) respond to the requests of IGI-DAI.

The beneficiary of international protection has the possibility to present, in a personal interview or written statement, the reasons why his or her international protection should be maintained.<sup>614</sup> The interview is not conducted in case the beneficiary of international protection has acquired Romanian citizenship.<sup>615</sup> If the beneficiary is not present at the interview, the case officer will assess the case on the basis of the documents in the personal file.<sup>616</sup>

The re-evaluation of the case may be carried out in the [Regular Procedure](#) or [Accelerated Procedure](#). The case officer decides on the re-examination of the case in the accelerated procedure, pursuant to the conditions set out in Article 75 for applying it.<sup>617</sup>

Upon request, IGI-DAI grants UNHCR access to information on the procedure for reconsideration of the situation of beneficiaries of international protection and on the decisions issued, if the beneficiary has consented to this. In fulfilling its supervisory role under Article 35 of the Refugee Convention, UNHCR has the right to present its views to IGI-DAI on the procedure for reconsidering the situation of beneficiaries of international protection at any stage of this procedure.<sup>618</sup>

After analysing the existing elements from the case file and, as the case may be, the reasons invoked during the interview, the case officer issues a reasoned decision, which maintains, ceases or withdraws international protection.<sup>619</sup> The cessation or withdrawal of the form of protection shall not have effect on the person's family members.<sup>620</sup>

Depending on the reasons, which gave rise to the decision to cease or withdraw the form of protection, the case officer may mention, as the case may be, the obligation to leave the Romanian territory.<sup>621</sup> If the decision states also the obligation to leave the Romanian territory, IGI shall issue and enforce the return decision.<sup>622</sup>

If the case officer decides to cease or to withdraw international protection, the beneficiary may appeal the decision, following the rules of the [Regular Procedure](#) or [Accelerated Procedure](#).

The law does not prescribe a systematic review of the protection status and cessation has not occurred systematically in 2018 or 2019.

IOM Romania shared that they were not aware of cases of cessation or withdrawal of international protection.<sup>623</sup> The same was reported in Timișoara, Somcuta Mare and Galați.

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<sup>614</sup> Article 103(1)(c) Asylum Act.

<sup>615</sup> Article 103(3) Asylum Act, citing Article 98(1)(c).

<sup>616</sup> Article 103(4) Asylum Act.

<sup>617</sup> Article 103(5) Asylum Act.

<sup>618</sup> Article 103(6) Asylum Act.

<sup>619</sup> Article 104(1) Asylum Act.

<sup>620</sup> Article 104(2) Asylum Act.

<sup>621</sup> Article 104(3) Asylum Act.

<sup>622</sup> Article 104(4) Asylum Act.

<sup>623</sup> Information provided by IOM Romania, 18 November 2019.



IGI-DAI provided the information that they had issued 57 cessation decisions in 2019 (31 cessation of refugee status and 26 of subsidiary protection), up from 3 decisions issued in 2018.<sup>624</sup>

## 5. Withdrawal of protection status

### Indicators: Withdrawal

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

**Refugee status** is revoked where: (a) the person who has been granted refugee status has made false statements, failed to provide certain data or used false documents that were decisive for granting refugee status, and there are no other grounds for maintaining the status of refugee; or (b) after granting the refugee status it was discovered that the person should have been excluded from being a refugee.<sup>625</sup> **Subsidiary protection** is revoked under the same grounds as the refugee status,<sup>626</sup> the only difference being the grounds of exclusion.

The withdrawal procedure is the same as the **Cessation** procedure. There were no revocation cases in Bucharest, Timișoara, Galați in 2019.

IGI-DAI issued 7 decisions of withdrawal of protection status, of which 4 decisions of withdrawal of subsidiary protection (2 Afghanistan, 1 Syria and Lebanon) and 3 decisions of withdrawal of refugee status (2 Syria, 1 Iraq).<sup>627</sup>

In **Rădăuți**, there was a single case of withdrawal of protection status in 2019. The case concerned a person who declared that he was a Syrian national and turned out to be from North Africa.

## B. Family reunification

### 1. Criteria and conditions

#### Indicators: Family Reunification

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

There is no difference between refugees and subsidiary protection beneficiaries in relation to the criteria and conditions for family reunification.

<sup>624</sup> Information provided by IGI-DAI, 5 March 2019, 20 February 2020.

<sup>625</sup> Article 100 Asylum Act.

<sup>626</sup> Article 101 Asylum Act.

<sup>627</sup> Information provided by IGI-DAI, 20 February 2020.

## 1.1. Eligible family members

Article 2(j) of the Asylum Act defines family members of the beneficiary of refugee status or subsidiary protection, to the extent that the family is in the country of origin at the date of the asylum application made by the sponsor, as:

- Spouse;
- Minor unmarried children of the beneficiary or the spouse, with the condition that they are unmarried, regardless of whether they are born in the marriage or out of wedlock or adopted in accordance with the national law of the country of origin.

The law does not set out any waiting period before a beneficiary of international protection may apply for family reunification. The law does not prescribe any deadline for applying for family reunification. The beneficiary of international protection in Romania may apply for asylum for his or her family members as long as they are not on the territory of Romania.<sup>628</sup> Beneficiaries of international protection are also not required to prove the existence of income, accommodation or health insurance for family reunification.

They only need to prove the family relationship with the family member or the fact that the marriage was concluded before entering the territory of Romania.<sup>629</sup> In practice, if the beneficiary of international protection does not have the financial means to pay for the translation of necessary documents to prove family ties, NGOs might help him or her in covering the costs of translation. In this case, the beneficiary has to wait until he or she receives the [Residence Permit](#), as the terms of the project funded by the national AMIF programme clearly state that costs of such translations may be covered only based on residence permit.

## 1.2. Family reunification procedure

Prior to 2017, the applications for family reunification were assessed by IGI-DAI **Bucharest**. Currently, family reunification applications are to be processed by every Regional Centre.

According to the law, once the application has been submitted, the beneficiary shall also present original documents (birth certificate, marriage certificate, identity card) to prove family ties with the family members or, in the absence of these documents, any other documents proving the status of family member.<sup>630</sup>

In order to obtain additional data and information on family ties and to clarify other relevant aspects of the asylum application lodged for family members, IGI-DAI must conduct an interview with the beneficiary of international protection.<sup>631</sup>

If the beneficiary of international protection does not present to IGI-DAI sufficient documents showing his or her family relationship with the family member in whose name the application is made, where originals are in the possession of the family member who is in a third country, IGI-DAI must communicate to the Directorate-General for Consular Affairs of the Ministry of Foreign Affairs the list of the necessary documents.<sup>632</sup>

The General Directorate for Consular Affairs requests the diplomatic mission or the consular office of Romania from the country where the family member of the beneficiary of international protection is, to establish the existence of the documents requested by IGI-DAI. The family member must present these documents, in original, to the diplomatic mission or consular office of Romania.<sup>633</sup> The documents shall be sent in copy, with the mention "according to the original", through the General Directorate for

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<sup>628</sup> Article 71(1) Asylum Act.

<sup>629</sup> Article 71(3) Asylum Act.

<sup>630</sup> Article 30(1) Asylum Decree.

<sup>631</sup> Article 30(2) Asylum Decree.

<sup>632</sup> Article 30(3) Asylum Decree.

<sup>633</sup> Article 30(4) Asylum Decree.

Consular Affairs, to IGI-DAI by the diplomatic mission or consular office of Romania from the country where the family member is present.<sup>634</sup>

### **Cases of family reunification in 2019 per regional centre**

**Timișoara:** According to AIDRom representative and the director of Regional Centre Timișoara, there were no cases of family reunification in 2019.

In **Galați** there were many applications for family reunification and they were all admitted or still pending a decision. The procedure takes around 6-9 months, as the application is assessed by the case officer, according to article 31(2) of the Asylum Decree. When the application was assessed by IGI-DAI Bucharest the average duration of the procedure was 2-3 months. Thus, the procedure for family reunification takes much more time since the assessment of the application is done at the regional level.

**Rădăuți:** 16 requests were lodged, all of them were admitted and in 14 cases the family members already arrived in Romania. The family members arrived within 2-3 months. In some cases, they arrived within 2-3 weeks. IGI-DAI is assessing the applications swiftly in 1-2 weeks. An unaccompanied child who attained the age of majority wanted to submit an application for family reunification; however, he did not apply as he received the documents 6 months after he had been granted a form of protection. It was also noted that in one case, the Embassy from Erbil requested the proof of financial means. However, the situation was remedied.

**Șomcuta Mare:** According to JRS representative, 3 unaccompanied minors submitted applications for family reunification, which were all admitted. According to ASSOC representative, there were 2 applications, that were also admitted. The IGI-DAI accepts scanned documents. As for covering the translation fees of the documents, ASSOC representative reported that, if the beneficiary states in advance that he or she would like to apply for family reunification, this is taken into account and may be covered by the project implemented by the NGO. As of August 2019, with the start of a new phase of the SIM\_CIS project, the budget line assigned no longer covers this. However, the NGO may help beneficiaries who intend to apply for family reunification, by putting them in contact with a translation company in Bucharest. Beneficiaries may cover the cost of translation from the non-refundable financial aid, as the procedure for family reunification is triggered only after the beneficiaries are informing their families about the requested documents and not immediately after they are granted a form of protection.<sup>635</sup>

It was reported by some of the stakeholders interviewed that in general IGI-DAI requests original documents, but if the applicant cannot present the original documents, he or she is informed that the family members have to present them at the Romanian Embassy.

IOM reported that in some cases beneficiaries of international protection had to prove they have an income, medical insurance or accommodation.<sup>636</sup>

In **Giurgiu**, original documents are preferred, according to the JRS representative. Even though family reunification is not part of JRS representative's responsibilities, she drafted upon request approximately 10 applications for family reunification, of which 3 were approved.

### **1.3. Specific procedure for unaccompanied children**

The Asylum Act provides for a family reunification procedure for unaccompanied children, with specific requirements. The family reunification for unaccompanied minors, beneficiaries of international protection, shall be done with respect to his or her best interests.<sup>637</sup> The procedure may be triggered ex

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<sup>634</sup> Article 30(5) Asylum Decree.

<sup>635</sup> Information provided by ASSOC, 5 March 2020.

<sup>636</sup> Information provided by IOM, 18 November 2019.

<sup>637</sup> Article 72(1) Asylum Act.

*officio* by IGI-DAI. In this case the consent of the legal representative and/or the unaccompanied child is also required.<sup>638</sup> In all cases, the unaccompanied child's views will be taken into account and given due weight.<sup>639</sup>

If the unaccompanied child's family has been traced, the case officer analyses the possibility and the conditions for carrying out family reunification and issues a reasoned decision in this respect.<sup>640</sup> The decision provided may be challenged under the same conditions as a decision delivered by IGI-DAI in the [Regular Procedure](#).<sup>641</sup>

IGI-DAI shall take, as soon as possible, the necessary measures to trace the unaccompanied child's family, while protecting his or her best interests.<sup>642</sup> The unaccompanied child's opinion on the tracing of his or her family is taken into account and given the due importance, in relation to his or her age and maturity.<sup>643</sup>

The data and information collected for the purpose of family tracing are processed in accordance with the principle of confidentiality, especially when the life or physical integrity of a child or his or her close family who have remained in the country of origin is endangered.<sup>644</sup>

According to Save the Children, it is rather NGOs than IGI-DAI that assist unaccompanied children to initiate the family reunification procedure. Nevertheless, there were not many cases of family reunification for unaccompanied children in 2019.

According to IOM Romania, the reunification procedure is triggered at the request of the child through the legal representative. The AIDrom representative stated that, according to her knowledge, the NGOs triggered the family reunification procedure for unaccompanied children.

**In Galați,** it was reported that an unaccompanied child who applied for family reunification requested the assistance of the NGO representative, who was in contact with IGI-DAI and his legal representative.

**In Rădăuți,** the reunification procedure is triggered by the NGOs.

The same was reported in **Șomcuta Mare**; the NGOs are initiating the procedure, taking care of the documents, with the legal representative's support and approval. However, according to the ASSOC representative, IGI-DAI is triggering the reunification procedure for unaccompanied minors.<sup>645</sup>

### Time limits and duration

The law prescribes that the family reunification procedure must be completed as soon as possible, not exceeding 9 months from the date the application was made. If further checks are required, the 9-month period may be extended by up to 6 months.<sup>646</sup>

**Timișoara:** The family reunification procedure takes around 6 months. In comparison with 2017, in 2018 the procedure at the level of the National Centre for Visas for foreigners who want to travel to Romania did not delay the process. In 2019 there were no applications for family reunification.

**Șomcuta Mare:** For an application submitted in February 2019, the parents of the unaccompanied minor arrived in Romania in October 2019. Another unaccompanied minor lodged the application in

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<sup>638</sup> Article 72(2) Asylum Act.

<sup>639</sup> Article 72(2) Asylum Act.

<sup>640</sup> Article 72(3) Asylum Act.

<sup>641</sup> Article 72(4) Asylum Act.

<sup>642</sup> Article 73(1) Asylum Act.

<sup>643</sup> Article 73(2) Asylum Act.

<sup>644</sup> Article 73(3) Asylum Act.

<sup>645</sup> Information provided by ASSOC, 5 March 2020.

<sup>646</sup> Article 31(4) Asylum Decree.

September 2018 and received the approval in March 2019. According to the ASSOC representative, the duration of the procedure depends on the country of origin of the family members, and their ability to communicate with the embassies. For example, in Afghanistan they do not have identity documents and they only request them when the reunification procedure starts; this procedure also takes time.<sup>647</sup>

**Rădăuți:** The family members arrived within 2-3 months of the registration of the family reunification application, but there were also cases when they arrived within 2-3 weeks. IGI-DAI is assessing the applications swiftly within 1-2 weeks.

**Bucharest:** The average duration of the procedure is 6 months.

**Giurgiu:** The procedure takes 8-12 months.

**Galați:** The procedure takes 6-9 months, but not more than 9 months. There were no cases where the 6 months timeline was exceeded.

In 2019, 123 applications for family reunification were submitted, of which 46 from nationals of Somalia, 45 from Syria, 10 from Iraq, 9 from Afghanistan, 4 from Turkey, 2 from Cameroon, 2 from Rwanda, 2 from Palestine, 1 from Comoros, 1 from Bangladesh and 1 from a stateless person. IGI-DAI took 95 decisions, of which 79 were admitted and 16 dismissed (12 Somalia and 4 Syria).<sup>648</sup>

## 2. Status and rights of family members

If the case officer considers that the family relationship or, as the case may be, the conclusion of the marriage before entering Romania, has been proved by the beneficiary international protection, he or she will request the diplomatic missions or consular offices of Romania to grant the short stay visa for the family members holding valid travel documents.<sup>649</sup>

For the family members who do not hold valid travel documents or are unable to obtain them and they are outside the country of origin, at the request of the case officer, the diplomatic missions or consular offices of Romania shall issue *laissez passer* and shall grant a short stay visa in order to enter the country. The validity of the travel document shall be no more than 30 days and ceases on the date of entry of the holder into the territory of Romania.<sup>650</sup>

After their entry into Romania, if they consent to the asylum application, family members will have their application assessed according to the provisions of the Asylum Act.<sup>651</sup> In practice, the family members are registered as asylum seekers, they are fingerprinted and photographed, granted temporary identity documents and follow the steps of the asylum procedure. They are scheduled for an interview and receive a decision. In all reported cases, family members were granted the same form of protection as the sponsor. IOM also stated that family members are granted the same form of protection as the beneficiary that applied for family reunification.<sup>652</sup>

**Galați:** The family members were granted the same form of protection as the sponsor. The asylum procedure in their case is the same as for the other asylum seekers, there is no differential treatment.

**Șomcuta Mare:** The family members received the same form of protection as the sponsor. The asylum procedure in their case is carried out swiftly by IGI-DAI. The same was reported by the ASSOC representative. The same was reported in **Rădăuți**.

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<sup>647</sup> Information provided by ASSOC, 5 March 2020.

<sup>648</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>649</sup> Article 71(3) Asylum Act.

<sup>650</sup> Article 71(3<sup>^</sup>1) Asylum Act.

<sup>651</sup> Article 71(4) Asylum Act.

<sup>652</sup> Information provided by IOM, 18 November 2019.

If the conditions for family reunification set out in Article 30 of the Asylum Decree are not fulfilled, the case officer shall issue a decision to reject the asylum application of the family members. The rejection of the application cannot be solely based on the lack of documentation certifying family ties or marriage.<sup>653</sup> The decision shall be communicated to the sponsor beneficiary of protection who submitted the asylum application for the family members.<sup>654</sup>

## C. Movement and mobility

### 1. Freedom of movement

Beneficiaries of international protection enjoy freedom of movement within Romania, in the sense that they may choose their place of residence freely and move freely, under the same conditions as other legally residing foreigners.<sup>655</sup> Beneficiaries are not allocated to specific geographic regions or facilities.

### 2. Travel documents

The travel document is issued, upon request, to the beneficiaries of international protection (both persons with refugee status and subsidiary protection) in Romania for a period of 2 years, without the possibility of prolonging its validity. Upon expiry, a new travel document with the same validity period is issued.<sup>656</sup> **Refugees** receive a dark blue trilingual travel document (Romanian, English, French) as specified in the 1951 Refugee Convention, while beneficiaries of **subsidiary protection** receive a different travel document, also trilingual but of grey colour, which mentions “subsidiary protection”.<sup>657</sup>

For beneficiaries of international protection who are abroad and do not possess valid travel documents, the diplomatic missions or consular offices of Romania, with the approval of IGI, will provide them with travel documents valid only for the return to Romania. The validity of the travel title is at most 30 days and ceases upon the holder’s entry on Romanian territory.<sup>658</sup>

The travel document is valid for travel to all countries, except the country of origin of the beneficiary.

**Refugees** may travel freely in the EU, without a visa, while beneficiaries of **subsidiary protection** must apply for a visa. At the base of this trend lies the European Agreement on the Abolition of Visas for Refugees signed at Strasbourg on 20 April 1959,<sup>659</sup> and the Council Regulation (EC) No 539/2001. Before 2014, beneficiaries with subsidiary protection were assimilated to refugees and they were also exempt from the visa requirement.

In order to apply for a travel document, beneficiaries of international protection are obliged to certify their residence by submitting one of the following documents: lease agreement registered with the fiscal authority; commodity contract concluded in authentic form; or any other documents concluded under the conditions of validity provided by Romanian legislation in force regarding the housing title, which prove the acquisition of some housing rights. In addition, beneficiaries should also submit an ID photo when applying for a travel document. The travel document is issued for a fee of 258 RON/€60, which represents a tax imposed by the National Printing House.

The application (standard form) for the travel document is made at IGI-DAI, after the temporary residence permit is issued. The authority issues the travel document within 30 days.

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<sup>653</sup> Article 31(2) Asylum Decree.

<sup>654</sup> Article 31(3) Asylum Decree.

<sup>655</sup> Article 20(1)(b) Asylum Act.

<sup>656</sup> Article 20(8) Asylum Act.

<sup>657</sup> Annexes 5 and 6 Government Decision 557/2006.

<sup>658</sup> Article 20(9) Asylum Act.

<sup>659</sup> European Agreement on the Abolition of Visas for Refugees signed at Strasbourg on 20 April 1959, signed by Romania on 5 November 1999 and ratified through Act 75/2001.

IGI-DAI issued 1,622 travel documents to beneficiaries of international protection in 2019.<sup>660</sup>

## D. Housing

### Indicators: Housing

- |  |           |
|--|-----------|
| 1. For how long are beneficiaries entitled to stay in reception centres?       | 12 months |
| 2. Number of beneficiaries staying in reception centres as of 31 December 2019 | 114       |

### 1. Stay in reception centres

Beneficiaries of international protection who participate in integration programmes and have no financial means are allowed to stay in the Regional Centres, subject to availability of places.<sup>661</sup> They may stay in the centres for 6 months with the possibility of extension for another 6 months in case of well-founded reasons, with the approval of IGI-DAI, without exceeding the implementation period of the integration programme.<sup>662</sup>

A total of 114 beneficiaries of international protection were residing in the Regional Centres at the end of 2019:

Beneficiaries of protection in Regional Centres: 2019	
Centre	Total
Timișoara	1
Șomcuta Mare	25
Rădăuți	28
Galați	27
Bucharest	27
Giurgiu	6
<b>Total</b>	<b>114</b>

Source: IGI-DAI, 20 February 2020.

Beneficiaries accommodated in Regional Centres have to pay rent and maintenance costs.<sup>663</sup> The daily rental fee is 6.6 RON / €1.4 during winter and 5.67 RON / €1.2 during summer. Vulnerable beneficiaries may be accommodated free of charge in the Regional Centres.<sup>664</sup>

Beneficiaries of international protection who participate in integration programmes and have no financial means have the right to stay in Regional Centres or in other facilities managed by the Ministry of Internal Affairs for a general period of 12 months instead of 6 months, which may be extended for 6 months.<sup>665</sup>

In practice, beneficiaries of international protection in **Timișoara, Șomcuta Mare, Rădăuți, Galați** and **Giurgiu** are allowed to stay for free, according to the amended Integration Ordinance, for up to 3

<sup>660</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>661</sup> Article 21(1) Integration Ordinance.

<sup>662</sup> Article 21(2) Integration Ordinance.

<sup>663</sup> Article 21(5) Integration Ordinance. The rental fee is established at local level for the living facilities which are in the state's or territorial / administrative unit's property.

<sup>664</sup> Article 34(2) and (3) Integration Ordinance. IGI-DAI may provide accommodation in its centers to vulnerable persons that do not require specialised assistance and who cannot benefit from a home from the institutions ability within the space and funds available. For well-founded reasons, the IGI-DAI may extend the integration program for these persons.

<sup>665</sup> Article 21(2) Integration Ordinance.



months, in comparison to 2 months as prescribed by the previous version of the Ordinance. Beneficiaries of international protection have to pay a rental fee after that period.

According to IOM Romania, in **Bucharest**, only vulnerable beneficiaries are allowed to stay in the centre for free.

At the moment of the author's visit, in Timișoara there was a single parent family accommodated in the centre (mother and child).

According to IGI-DAI, 112 vulnerable beneficiaries of international protection were accommodated in the regional centres in 2019.<sup>666</sup>

In **Somcuta Mare**, after the 60 days that beneficiaries of international protection are allowed to stay for free, ASSOC covers the rental fee until the beneficiary receives the non-refundable financial aid.<sup>667</sup>

In **Rădăuți**, ICAR Foundation pays the rental fee for another two months. As a result, the beneficiary has to pay for rent only after four months after obtaining international protection.

In addition to this, JRS implements the project "A New House" in all the Regional Centres, funded through the AMIF national programme, which covers partially or entirely the rental fees and/or the utility costs for beneficiaries of international protection. In 2019, 241 beneficiaries of international protection received rental/utilities subsidies. The rental/utilities subsidies may be covered for a maximum of 12 months within this project. However, in 2019, the longest period for which these subsidies were granted was 10 months. These services are available to: (a) relocated or resettled beneficiaries; (b) beneficiaries enrolled in the integration programme; and (c) beneficiaries in a vulnerable situation. For each case, a request is made to IGI-DAI in order to receive their approval for assisting the case.

## 2. Social housing

According to the law, beneficiaries of international protection have the right to access the social housing scheme under the same conditions as Romanian citizens.<sup>668</sup>

After the integration programme is completed or when a job opportunity has been identified, IGI-DAI guides the assisted person to the community where there are vacancies and informs him or her on how to get a social home under the conditions set in the law.<sup>669</sup>

The local public administration authorities have the obligation to ensure, within the limits of available resources, social housing for persons who have acquired a form of protection in Romania and who are to move to the respective community under the same conditions as the Romanian citizens, even if they have not established their domicile or residence in that area.<sup>670</sup>

If the local public administration authorities cannot provide a social home, the beneficiary may rent housing within the respective local community.<sup>671</sup> IGI-DAI subsidises up to 50% of the rent, subject to availability of funding, for a maximum period of one year.<sup>672</sup> According to IGI-DAI, 11 persons benefitted from this subsidy in 2018.<sup>673</sup>

**Timișoara:** Requests for social housing have been submitted, but until now no one has benefited from this. The local public administration authority has no social houses available; the list of requests for

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<sup>666</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>667</sup> Information provided by ASSOC, 5 March 2020.

<sup>668</sup> Article 20(1)(q) Asylum Act.

<sup>669</sup> Article 28 Integration Ordinance.

<sup>670</sup> Article 29(1) Integration Ordinance.

<sup>671</sup> Article 29(2) Integration Ordinance.

<sup>672</sup> Article 29(3) Integration Ordinance.

<sup>673</sup> Information provided by IGI-DAI, 5 March 2019.

social housing is endless. In order to benefit from financial aid from IGI-DAI for the rent, beneficiaries have to prove that they have requested social housing and they have to have a rental contract registered at the tax authorities. According to the director of the Regional Centre Timișoara, in 2019, IGI-DAI granted subsidies (50% of the rent) to a single man.

**Bucharest:** Requests for social housing have also been filled, but none has been accepted according to IOM. IOM was not aware of rent subsidies being provided. Within the Interact Plus project implemented by IOM, rental fees were covered for 15 persons accommodated in the Regional Centre Bucharest and Giurgiu, but also outside the centres.

**Rădăuți, Giurgiu and Șomcuta Mare:** This provision has never been applied in practice. In Șomcuta Mare, Galați, Giurgiu and Rădăuți they request assistance under the aforementioned project “A New House” run by JRS.

**Galați:** As far as JRS is aware, no beneficiary of international protection was granted this subsidy by IGI-DAI.

ASSOC is aware of a single beneficiary of international protection who lives in **Baia Mare** in a social housing. The request was made 3 years ago and the beneficiary was granted social housing in 2018.<sup>674</sup> In 2019 no such requests were made.<sup>675</sup>

Other issues reported by AIDRom are the high rental fees in **Timișoara** (around €250 for a studio) and landlords’ reluctance to accept foreigners as they do not speak Romanian and they need a rental contract registered at the tax authority in order to receive the residence permit and all the other documents; many landlords do not declare their contracts because they do not want to pay taxes.

**Rădăuți:** It was reported that landlords are reluctant to rent out their apartments for short periods.

## E. Employment and education

### 1. Access to the labour market

Beneficiaries of international protection have the right to be employed by natural or legal persons, to carry out voluntary activities, to exercise free professions and to carry out legal acts, to carry out acts and deeds of commerce, including independent economic activities, under the same conditions as Romanian citizens.<sup>676</sup> There are no differences between refugees and subsidiary protection beneficiaries in relation to access to employment.

Beneficiaries participating in the integration programme are registered as individuals looking for a job at the National Agency for Employment, within 30 days of signing the protocol.<sup>677</sup>

In order to carry out measures to stimulate employment, the National Agency for Employment, through its agencies, has the obligation to draw up an individual plan for each person included in the integration program and register them as a person looking for a job, according to the legal provisions. For this purpose, IGI-DAI provides information on the education and professional profile of the beneficiaries. The National Agency for Employment may also collaborate with NGOs in order to inform, counsel or provide other services to beneficiaries of international protection.

Unemployed beneficiaries of international protection included in the integration programme may also benefit from relocation, mobility or activation allowance, if they are registered as unemployed.<sup>678</sup>

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<sup>674</sup> Information provided by ASSOC, 30 January 2019.

<sup>675</sup> Information provided by ASSOC, 5 March 2020.

<sup>676</sup> Article 20(1)(c) Asylum Act.

<sup>677</sup> Article 24 Integration Ordinance.

## 1.1. Obstacles to access in practice

Although beneficiaries of international protection have the same rights as Romanian citizens when it comes to access to labour market, there are some fields where there is limited or no access. For example, doctors with refugee status or subsidiary protection do not have the right to practice medicine in Romania,<sup>679</sup> unless they are married to a Romanian citizen, they are family members of an EU citizen, or they have a **Long-Term Residence** permit granted by Romania or an EU Member State.<sup>680</sup>

Legally there are no limitations imposed on beneficiaries of international protection regarding access to labour market. In practice, knowledge of Romanian language (and in some cases English) may hinder beneficiaries' access to labour market. In addition, many of the beneficiaries do not have diplomas that certify their studies, which makes it impossible for them to apply for certain positions.

In practice, access to labour market also depends on the economic power of the city or region.

**Timișoara:** There are jobs available and beneficiaries may easily find a job, even if they do not speak Romanian, in fast-food shops owned by people from the foreign community. As a consequence, they may work and face no language barrier.<sup>681</sup>

**Bucharest:** IOM reported that the difficulties encountered by the beneficiaries of international protection in 2018 in accessing the labour market, still persists in 2019. Mainly for beneficiaries who do not have diplomas, certificates of studies or qualifications. Some of the employers are not aware of the conditions under which foreigners can be employed in Romania and of the status of beneficiaries of international protection. Another difficulty encountered is the level of knowledge of Romanian language, which usually is required at an advanced level.<sup>682</sup>

**Șomcuta Mare:** According to the JRS representative, persons accommodated in the centre are periodically informed about available jobs in the area by AIDRom. There are a couple of companies which constantly recruit people in the unskilled labour sector. There were 2 beneficiaries of international protection legally working in Baia Mare. No problems or difficulties in accessing the labour market were reported by the JRS representative, who also mentioned that if the beneficiaries are willing to work, jobs will be found for them. Even though there are jobs available, beneficiaries have not expressed interest in seeking employment. Beneficiaries do not intend to remain in Șomcuta Mare because it is a small city and there is no community of foreigners; they prefer to go to **Cluj**, which is one of the most developed cities in Romania. According to ASSOC, in 2018, one of the obstacles faced by beneficiaries is the Romanian language. However, many of the beneficiaries do not make efforts to learn it. Even though employers are flexible and understanding, people often leave without any notice but because they are unsatisfied with the salary received.<sup>683</sup> In 2019, the ASSOC representative reported that there were no obstacles faced by beneficiaries.<sup>684</sup>

**Galați:** It was reported that several beneficiaries transferred their integration programme to Bucharest where there is a foreign community. 95% of the beneficiaries are leaving Galați and heading to Constanta or Bucharest. There are jobs available especially in the unskilled labour sector and employment offers are received from different companies. The employers are requiring a basic or

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<sup>678</sup> Article 25 Integration Ordinance.

<sup>679</sup> The issue was debated during a meeting on 26 October 2017 with representatives of the Romanian Government, the College of Doctors, IGI, NGOs, UNHCR and the International Organisation for Migration (IOM). The conclusions of the meeting were that the Government will analyse the proposals and will try to find solutions. See EMINET, 'Obținerea dreptului de practică de către medicii străini, în contextual deficitului de personal din sistemul de sănătateromănesc', 26 October 2017, available in Romanian at: <http://bit.ly/2hK7IUb>.

<sup>680</sup> Article 376(1) Act 95/2006 on Health Reform.

<sup>681</sup> Information provided by AIDRom, 16 January 2019.

<sup>682</sup> Information provided by IOM Romania, 18 November 2019.

<sup>683</sup> Information provided by ASSOC, 30 January 2019.

<sup>684</sup> Information provided by ASSOC, 5 March 2020.

intermediary knowledge of Romanian language or English. There were beneficiaries who accepted to work for 1,200 RON / €255 and others who refused such jobs.

**Rădăuți:** Even though it is a small city there are some jobs. However, few beneficiaries are interested. Beneficiaries are reluctant to work for the minimum wage of around €300. Their interest in learning Romanian depends on the teaching methods applied. According to the JRS representative, 1 family finalised the integration programme.

**Giurgiu:** According to the JRS representative, the main obstacles in finding a job are the language barrier, the lack of diplomas and the lack of qualifications. Beneficiaries also have higher salary expectations than what can be offered.

## 1.2. Recognition / equivalence of professional qualifications

According to the Asylum Act, beneficiaries of international protection have the right to equal treatment to Romanian citizens regarding the equivalence of studies or periods of study, the recognition of diplomas, attestations and certificates of competency, as well as of professional qualifications which give access to regulated professions in Romania, in accordance with the regulations in force.<sup>685</sup>

If the beneficiary would like to be employed in a position according to his or her qualifications, he or she has to obtain the recognition and validation of his or her diplomas. The request for recognition and validation of diplomas is assessed by the National Centre for Recognition and Validation of Diplomas (CNRED), within the Ministry of Education.

The request should include the following documents:<sup>686</sup>

1. Standardised application;
2. Certificate (act) of study for equivalence or recognition:
  - Copy if studies are in Romanian, English, French, Spanish or Italian;
  - Copy and legalised translation into Romanian for other languages;
3. Transcript or any other document from the education institution certifying the courses taken. If the recognition of the specialisation, or the field of study is not mentioned in the diploma,
  - Copy if studies are in Romanian, English, French, Spanish or Italian;
  - Copy and legalised translation into Romanian for other languages;
4. Other relevant documents e.g. full programme of course for the pursuit of a regulated profession in case of study documents obtained in third countries:
  - Copy if studies are in Romanian, English, French, Spanish or Italian;
  - Copy and legalised translation into Romanian for other languages;
5. Copies of personal identification documents i.e. passport, identity card, proof of name change if applicable;
6. Processing fee of 50 RON / €11.

The CNRED website also mentions that Apostille or over-legalisation is required for the authentication of the diplomas subject to recognition. For states parties to the Hague Apostille Convention, diplomas subject to recognition must be addressed to the Hague Apostille by the competent authorities of the issuing countries. Education titles in Italy, Greece, Spain, Portugal and Cyprus are covered by the Hague Convention Apostille, whereas other EU Member States are exempted.

For States who are not party to the Hague Apostille Convention, education titles shall be legalised or accompanied by the Certificate of Authenticity issued by the competent authorities of the country of origin. The legalisation is applied by the Ministry of Foreign Affairs of the issuing country and the Embassy / Consular Office of Romania in that country or by the Ministry of Foreign Affairs of the issuing

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<sup>685</sup> Article 20(1)(r) Asylum Act.

<sup>686</sup> CNRED, *Recunoașterea studiilor superioare ale cetățenilor din state membre UE, SEE și din Confederația Elvețiană, membrii de familie ai acestora, posesorii unui permis de ședere pe termen lung CE și refugiați, în vederea accesului pe piața forței de muncă*, available in Romanian at: <http://bit.ly/2ySVHRc>.

country and its Embassy / Consular Office in Romania and the Ministry of Foreign Affairs of Romania. For countries where there are no diplomatic missions of Romania or who do not have diplomatic missions in Romania, titles are endorsed by the Ministry of Education and the Ministry of Foreign Affairs of the issuing country.

When requested, CRNED did not clarify whether this procedure also applies to beneficiaries of international protection. However, in case Apostille is required for beneficiaries, this would be contrary to the essence of international protection, as the person would be required to request the over-legalisation or Apostille from the Ministry of Foreign Affairs of the issuing country and its Embassy. According to AIDRom representative in **Timișoara** and Save the Children, if the beneficiary of international protection has studied in the country of origin, CNRED does not require Apostille or over-legalisation. CNRED only requires Apostille if the studies are completed in another country. However, according to IOM, depending on the country of origin, CNRED may require Apostille or over-legalisation of beneficiaries' diplomas.<sup>687</sup>

The AIDRom representative from **Timișoara** reported that there is always a need to follow-up on the cases submitted at CNRED, as it often happens that the person handling the file does not answer. As a consequence, the legal counsellor of AIDRom sends requests to CNRED management in order to receive a reply.<sup>688</sup>

The recognition procedure lasts 2-6 months according to the AIDRom representative from Timișoara. According to IOM, the procedure lasts 2 months and beneficiaries receive support from the NGOs implementing integration projects. In Timișoara beneficiaries receive assistance from NGOs and also from the Department of International Relations of universities where they would like to apply.<sup>689</sup>

**Șomcuta Mare:** It was reported that 2 beneficiaries of international protection, medical doctors, from Iraq and Syria, respectively, requested the equivalence of their professional qualifications. The Iraqi national submitted the request at the Ministry of Education at the beginning of 2019 and received an answer in June 2019. He was informed that he needs to pass 8-9 exams in order to receive the diploma. The Ministry does not inform the applicant where he or she is supposed to take the exams; it only mentions that they have to be accredited institutions. The 2 beneficiaries had to inquire at universities if it is possible for them to take the necessary exams. One university informed them that they have to enrol at university and take all the courses from the first academic year until the last one. Later on, the beneficiaries were informed by one person from the community that they have to present the explicit curriculum, with all the subjects taught in their country of origin. The Iraqi national submitted the curriculum at the Ministry of Education and he received the diploma. The ASSOC representative, reported that they had no cases of such in 2019.<sup>690</sup>

IGI-DAI does not keep statistics on the number of beneficiaries of international protection in employment.

## 2. Access to education

Beneficiaries of international protection have the right to have access to all forms of education, under the same conditions as Romanian citizens.<sup>691</sup> In order to have access to education, children beneficiaries of international protection need to have the minimum age provided by law for all children: 3 to 6 for pre-school education and 6 for primary education.

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<sup>687</sup> Information provided by IOM Romania, 18 November 2019.

<sup>688</sup> Information provided by AIDRom, 16 January 2019.

<sup>689</sup> Information provided by IOM Romania, 18 November 2019.

<sup>690</sup> Information provided by ASSOC, 5 March 2020.

<sup>691</sup> Article 20(1)(h) Asylum Act.

## 2.1. Enrolment at schools

The legal provisions regarding the Romanian language courses for children were detailed by the new amendment of the Integration Ordinance. Therefore, it is stated that, in order to integrate minors beneficiaries of international protection into the Romanian education system, they benefit from a preparatory course for learning the Romanian language, emphasising that the course is intensive and free of charge during a school year. It was also added that the enrolment is made throughout the calendar year, and the attendance of the course may continue during the following school year, as the case may be.<sup>692</sup>

During the first year, children are enrolled at schools as viewers and listeners; they do not receive grades and are not registered in the class book.<sup>693</sup> At the end of the preparatory course, the level of knowledge of Romanian language is assessed and an evaluation commission determines enrolment at school.<sup>694</sup>

**Bucharest (Region 1):** IOM reported that families feel safer if the child attends Arabic schools. In this way, beneficiaries consider that there is no danger of children being removed from their tradition and culture. Another difficulty is the lack of diplomas from the country of origin, but also the fact that in some cases children have not attended school for long periods of time. Lastly, the enrolment forms are all in Romanian.<sup>695</sup>

**Giurgiu:** JRS enrolled 5 children at school in 2019. Children attended school for 7 days, after which they refused to go to class because it was too challenging, they did not adjust and did not understand what was taught in class, they did not receive sufficient guidance from the teachers.

**Galați:** Children are enrolled at school from the moment they become asylum seekers. There are children enrolled at school in Constanta and Bacau. Also 2 children accommodated in the Regional Centre Galați are enrolled at school and attend the classes.

**Timișoara:** The Aidrom representative reported that she is not aware if younger children are still enrolled by their parents, even when they are still in the asylum procedure, at the Arab School in Timișoara, as it was reported in the previous years. The Arab School is a private school, which has functioned for over 7 years. Teaching takes place in Arabic, Romanian and English. If they have the financial means to afford the fee of around €100 per month, they prefer to enrol their children in this school as the cultural impact is not so high and it is considered a more appropriate way of cultural integration for their children. Only after one year children are enrolled at the state school. Children aged 15-16 are enrolled at the state school. According to the AIDRom representative, a request for enrolment was submitted one week before the author's visit in the centre; they received an answer within 2-3 weeks, but the child did not attend the classes at all as they were planning to leave the country.

**Rădăuți:** Children are enrolled at school during the asylum procedure. It was noticed that in 2019 children attended the classes. There are 2 children beneficiaries of international protection who are attending the school.

**Galați:** No difficulties were reported in 2019. The most common reason why children do not go to school is that the family intends to leave the country. However, this only happens with children accommodated in the Regional Centre, as for those who arrived under the reunification procedure or those living in other cities, they attend school.

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<sup>692</sup> Article 10(1) Integration Ordinance.

<sup>693</sup> Article 10(2) Integration Ordinance. During the preparatory course children beneficiaries of international protection participate free of charge in pedagogical activities within the school units, without their presence being registered in official documents.

<sup>694</sup> Article 10(3) Integration Ordinance

<sup>695</sup> Information provided by IOM Romania, 21 January 2019.



**Somcuta Mare:** According to the ASSOC, there were no obstacles faced for the enrolment of children at school. There are no preparatory classes. Children are observers for the first year; afterwards a commission evaluates to decide in which grade they should be enrolled.<sup>696</sup> According to the JRS representative, 2 children from Iraq were enrolled at school at the time of the author's interview. It was also reported that during the year there were more children enrolled, but they left the centre.

As regards children with special needs, the conditions for accessing education are the same as for Romanian children. The child should first be issued a degree of disability by the Complex Assessment Service of the Child with Disabilities within the Directorate-General for Social Assistance and Child Protection (DGASPC). This is a particularly complicated and bureaucratic process, which has to be repeated every year.<sup>697</sup>

Based on the evaluation, the Complex Assessment Service of the Child with Disabilities also decides if the child should be enrolled in a school for children with special needs or in a state school, and at what grade.

In **Timișoara** the same rules apply for beneficiaries of international protection as for Romanian citizens. In the case of a girl with disabilities, the case was referred to other NGOs and public authorities dealing with disabled minors. There were no problems regarding their integration, as the mother of the girl is employed as a personal assistant of the girl, and she is paid according to the law applicable to Romanian citizens. The only difficulties faced by the family are the language barrier and bureaucracy, the mother's employment and the issue of the disability certificate. Without proper support and assistance in this process, the family of the girl would not have managed. No cases reported in 2019.

IOM reported that in 2019 they did not receive any requests for enrolment of children with disabilities.<sup>698</sup>

In **Somcuta Mare**, the ASSOC representative reported a case, for which the diagnostic procedure was ceased because the minor and its family left the centre.<sup>699</sup>

Beneficiaries of international protection that have reached the age of 18 encounter the same problems in accessing vocational training or education, regardless their age, according to the AIDRom representative. The language is an impediment. If they do not have diplomas, they have to be examined for all subjects from the first to twelfth grade, or if they cannot certify the years of study, they have to repeat those school years in Romania following the Romanian curricula. There are very few youngsters that have chosen this path, even though professors were understanding and helpful. Another reported situation is that of youngsters that went to an Arabic school and after one year transfer to public schools. IOM also pointed out the lack of diplomas and language barriers as an obstacle or the fact that certain beneficiaries are illiterate and / or do not have the appropriate level of education (for example for enrolling at certain courses it is necessary to finalise primary education (4 years of schooling). ASSOC, on the other hand, specified that along with the language barrier, in some cases there is also a lack of determination.

## 2.2. Integration courses

The new amendments of the Integration Ordinance stipulate that IGI-DAI, in collaboration with the authorities of the local public administration, organizes sessions of cultural accommodation and counselling activities, aiming to familiarize the adult beneficiaries of international protection with the traditions, customs, legislation and specifics of the Romanian society.<sup>700</sup> The previous provision stipulated that IGI organizes these activities and may collaborate with public authorities and NGOs. IGI

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<sup>696</sup> Information provided by ASSOC, 5 March 2020.

<sup>697</sup> For the highly onerous administrative requirements to be met for this process according to Common Order No 1985/1305/5805/2016, see DGASPC, *Necessary documents for the complex assessment of the child's disability*, available in Romanian at: <http://bit.ly/2hK8T0r>.

<sup>698</sup> Information provided by IOM, 18 November 2019.

<sup>699</sup> Information provided by ASSOC, 5 March 2020.

<sup>700</sup> Article 13(1) Integration Ordinance.



and the local public administration authorities may collaborate with other public institutions and non-governmental organizations in order to organize these activities.<sup>701</sup>

Adult beneficiaries of international protection benefit from intensive and free of charge Romanian language courses, organized by the specialized structures of the Ministry of National Education, in collaboration with IGI. Enrolment is made throughout the calendar year, and the attendance of the course may continue throughout the following school year.<sup>702</sup> IGI-DAI, in collaboration with the NGOs provides the necessary spaces for organizing the courses.<sup>703</sup> The Ministry of Education appoints a qualified person to teach the Romanian language course for adults and minors and it also ensures adequate training for these teachers.<sup>704</sup> The Ministry of Education establishes the organisation, duration and schedule of these courses.<sup>705</sup> At the end of the preparatory course, a commission issues a certificate that demonstrates the level of knowledge of the Romanian language.<sup>706</sup>

For unaccompanied minors who are beneficiaries of international protection, IGI-DAI collaborates with DGASPC and NGOs representatives. They establish the integration plan for the children and implement the activities included in the plan.<sup>707</sup>

In practice, some deficiencies in Romanian courses are reported in **Timișoara** and **Rădăuți**. Participants are not grouped based on their age – children and adults are in the same class – or on their level of education, meaning that illiterate persons and persons with higher education are grouped together. In Timișoara they are grouped in advanced and beginner groups. The classes are held only twice a week, from 5-6pm for advanced learners and from 3-5pm for beginners. There is only one teacher in Timișoara for all beneficiaries.

**Rădăuți:** As of September 2019, beneficiaries were grouped based on their age, but they are not grouped on their level of education or level of Romanian language knowledge. The classes are held on Monday and Thursday for children and on Wednesday for adults. During the summer break the Romanian language course is not held. On the other hand, ICAR Foundation is also organising Romanian language courses. These courses are framed on the needs, level of education and knowledge of Romanian language of the beneficiaries. Before starting the course, beneficiaries have to take a test.

Another stakeholder reported that as regards the Romanian classes organised by the Ministry of Education, beneficiaries are not grouped based on their age; they are all in the same class, advanced or beginners. It was also reported that the professor does not explain well enough and some of the beneficiaries are not attending the course anymore, which can affect their integration programme, because they need to have 80% attendance at this course. It was also mentioned that all beneficiaries are attending ICAR Foundation's classes because the professor does her best to explain the class material.

**Șomcuta Mare:** The Romanian language courses are held three times a week in the Regional Centre with beneficiaries of international protection and asylum seekers. In addition, ASSOC also organises language courses according to JRS representative. ASSOC representative reported that the person appointed by the Ministry of Education may provide information on the integration courses.<sup>708</sup>

In **Timișoara**, it was reported that there is goodwill by the teacher, but there seems to be a lack of support at the national level. The lack of efficiency was emphasised by the AIDRom representative who stated that in case a new beneficiary starts participating in Romanian language classes the whole group

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<sup>701</sup> Article 13(2) Integration Ordinance.

<sup>702</sup> Article 14(1) Integration Ordinance.

<sup>703</sup> Article 14(2) Integration Ordinance.

<sup>704</sup> Article 14(3) Integration Ordinance.

<sup>705</sup> Article 14(4) Integration Ordinance.

<sup>706</sup> Article 14(5) Integration Ordinance.

<sup>707</sup> Article 35(3) Integration Ordinance.

<sup>708</sup> Information provided by ASSOC, 5 March 2020.

of beginners will have to repeat all the introductory courses. There were 10 beneficiaries of international protection registered in the integration programme and also third-country nationals participating in the Romanian language classes. AIDRom also organises Romanian language classes in the same way as ICAR Foundation.

The AIDRom representative in Timișoara deems that beneficiaries should benefit from proper measures which will give them the opportunity to learn Romanian extensively in the first 3 months. Language courses should be daily and intensive. In reality, beneficiaries are concerned about sustaining their families or themselves and pay for rent. As a result, they focus on employment and they have less or no time at all to attend Romanian classes.

In **Bucharest**, the courses take place at School no. 145 three times a week. Courses are held by a teacher designated by the School Inspectorate. Beneficiaries are not divided based on their age. One of the problems identified is that the structure of the course is strictly related to the school year calendar; so if a beneficiary starts the course in January, he or she will go to the lesson at which the group is at that time, even if he or she does not have any knowledge of Romanian language. In addition, these classes do not provide support materials for the beneficiaries.<sup>709</sup>

According to JRS representative, the Romanian language classes are organized separately for adults and children and it was reported that there is a lack of teachers and lack of interest of teachers.

According to the director and the integration officer of Bucharest Centre Stolnicu, there is only one teacher of Romanian language in Bucharest; the courses are held twice a week for 2 hours and the beneficiaries are divided based on their age. In 2018 they were no longer divided based on their knowledge. Children beneficiaries of international protection have separate classes.

In **Galați**, beneficiaries are grouped based on their age, but when the number of beneficiaries attending the class is low, they are not grouped into age categories. There are 2 teachers, 1 for the children and the other for the adults. The classes are held twice a week for 2 hours. JRS is also organising Romanian language courses every weekday in Constanta and Galați.

In 2019 it was reported that a beneficiary of international protection living in Piatra Neamt has not benefitted from the integration programme because no Romanian language courses were organised in the county.

In **Giurgiu**, the legal counsellor was unable to provide information on the Romanian classes organised by the Ministry of Education, because the only Romanian classes organised in the centre are the ones held by the NGOs. She also mentioned that the last time ISJ organised Romanian classes in the centre was three years ago.

IOM Romania, in partnership with the Intercultural Institute in Timișoara and the Schottener Social Services Foundation, implemented between July 2017 and January 2019 the project "REACT\_RO: educational resources for learning Romanian language and cultural accommodation of beneficiaries of International Protection (BPI) and Third-Country Nationals (RTT) in Romania". The project aimed at contributing to the development of a coherent package of educational resources for learning Romanian as a foreign language and orientation in society that takes into account the needs of beneficiaries of international protection and third-country nationals in Romania.<sup>710</sup>

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<sup>709</sup> Information provided by IOM Romania, 21 January 2019.

<sup>710</sup> IOM Romania, "REACT\_RO: resurse educaționale pentru învățarea limbii românești acomodarea culturală a Beneficiarilor de Protecție Internațională (BPI) și Resortisanților Țărilor Terțe (RTT) în România, available in Romanian at:<http://bit.ly/2F9Wlw5>.

## F. Social welfare

Beneficiaries of international protection who for objective reasons lack the necessary means of subsistence have the right to receive, upon request and within the limits of the state's financial resources, a monthly non-reimbursable aid ("aid") for a maximum period of 12 months.<sup>711</sup> The amount of aid is related to the reference social indicator under the terms and conditions established by Government Decision.<sup>712</sup>

The Integration Ordinance states that to ensure effective access to social rights, the competent authorities take into account the specific situation of the beneficiaries of international protection.<sup>713</sup> New provisions were added by the amendments, stipulating that at IGI's request, local support teams may be set up to integrate beneficiaries of international protection and other foreigners who have a right of residence in Romania, as well as citizens of the Member States of the European Union, the European Economic Area and citizens of the Swiss Confederation. The local support teams are composed of IGI-DAI, local public administration authorities, public institutions and NGO representatives.<sup>714</sup> Further rules will be published, prescribing how these support teams are established, how they operate and what their responsibilities are.<sup>715</sup>

The timeline for the submission of the application for inclusion in the integration program was prolonged from 30 days to 3 months from the date the international protection was granted, by the amended Integration Ordinance.<sup>716</sup> Another legal provision introduced by the amendment prescribes that NGO representatives may participate at the interview conducted by the integration officer of IGI-DAI with the beneficiary of international protection. The scope of the interview is to establish the type of assistance or activities necessary for the social integration of the applicant.<sup>717</sup>

The duration of integration programmes for beneficiaries of international protection is prolonged from 6 months to 12 months, which may be extended with 6 months.<sup>718</sup>

### Conditions for aid

The non-refundable financial aid is granted for an initial period of 6 months, with the possibility of extending it to 12 months. In order to receive non-refundable aid, beneficiaries of international protection must be enrolled in the integration programme.<sup>719</sup> However, some groups, referred to as "special cases", are exempt from the obligation to be enrolled in the programme. The special cases are:<sup>720</sup>

- a. Unaccompanied children;
- b. Persons with disabilities;
- c. Persons who have reached retirement age and do not benefit from retirement;
- d. Pregnant women;
- e. Single-parent families with juvenile children;
- f. Victims of human trafficking;
- g. Victims of torture, rape or other serious forms of psychological or sexual violence.

In 2018, 1,146 beneficiaries of international protection were enrolled in such a programme, of whom 608 continued a programme started in 2017. 10 unaccompanied children beneficiaries of international protection were enrolled in the integration programme in 2018.<sup>721</sup>

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<sup>711</sup> Article 20(1)(m) Asylum Act.

<sup>712</sup> *Ibid.*

<sup>713</sup> Article 14<sup>1</sup>(1) Integration Ordinance.

<sup>714</sup> Article 14<sup>1</sup>(2) Integration Ordinance.

<sup>715</sup> Article 14<sup>1</sup>(3) Integration Ordinance.

<sup>716</sup> Article 16 Integration Ordinance.

<sup>717</sup> Article 17(1) (2) Integration Ordinance.

<sup>718</sup> Article 20 integration Ordinance.

<sup>719</sup> Article 60(1) Asylum Decree.

<sup>720</sup> Article 33(2) Integration Ordinance.

<sup>721</sup> Information provided by IGI-DAI, 5 March 2019.

In 2019, 793 beneficiaries of international protection were enrolled in the integration programme, of whom 450 started in 2019 while the rest continued the programme started in 2018.<sup>722</sup>

The provision of aid is subject to actual residence of the beneficiary, which is mentioned on the [Residence Permit](#). The beneficiary of international protection is included in the integration programme coordinated by the IGI-DAI office territorially competent for the area where he or she resides.<sup>723</sup>

In case a beneficiary would like to change his or her place of residence, he or she has to communicate this intention to IGI-DAI where he or she started the integration programme and has the obligation, within 15 days from the date of moving to the new address, to present him or herself to the IGI-DAI office territorially competent for the area in which he or she now resides or, as the case may be, to the relevant territorial entity of the Aliens Authority, to register him or herself and to make the necessary changes to the identity document.<sup>724</sup>

IGI-DAI reported that 537 beneficiaries of international protection received the non-refundable financial aid in 2019.<sup>725</sup>

### **Application procedure for aid**

The authority responsible for granting the non-refundable aid is the County Agency for Payments and Social Inspection (*Agenția Județeană pentru Plăți și Inspecție Socială*, AJPIS). The funds necessary for granting aid are provided from the budget of the Ministry of Labour and Social Protection through the Agency for Payments and Social Inspection of the County.<sup>726</sup>

The application for non-refundable aid is drafted individually by each beneficiary of international protection who fulfils the conditions set out in the law or by his or her legal representative or guardian, according to a template established by IGI.<sup>727</sup> This requirement raises issues in practice for unaccompanied children, as confirmed by Save the Children, JRS and AIDRom representatives in Timișoara. An unaccompanied child beneficiary of international protection may not access non-refundable financial aid due to the fact that he was not appointed a legal representative by DGASPC, since the legal representative only assists unaccompanied asylum-seeking children during the asylum procedure and not after they are granted a form of protection.

Save the Children reported that some of the unaccompanied children beneficiaries of international protection did not access the non-refundable financial aid due to the fact that they were not appointed a legal representative within three months from the day of granting international protection. Although the occurrence of these situations is lower than before, it still happens.

According to IOM, for accompanied children registered by IOM, the application for financial aid was made within the time limit prescribed by the law. As for unaccompanied children, IOM could not provide any information since the legal representative is appointed by DGASPC.

According to IGI-DAI, 24 unaccompanied children were enrolled in the integration programme in 2019 and they all benefited from the non-refundable financial aid.<sup>728</sup>

Children have access to the financial aid only when they are 18. Until then, the money is collected in an account on behalf of the beneficiary. Upon leaving the centre, the child will live in a DGASPC centre, and the director of the centre becomes the legal representative of the child.<sup>729</sup>

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<sup>722</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>723</sup> Article 60(1) Asylum Decree.

<sup>724</sup> Article 52(2) Asylum Decree.

<sup>725</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>726</sup> Article 20(5) Asylum Act.

<sup>727</sup> Article 60(2) Asylum Decree.

<sup>728</sup> Information provided by IGI-DAI, 20 February 2020.

According to the AIDRom representative in **Timișoara**, unaccompanied children benefit from the state child allowance and non-refundable financial aid only if they are accommodated in an emergency residential centre of DGASPC or if they are appointed a legal representative. When unaccompanied children were not appointed a legal representative, who would have to sign the processing of personal data agreement for them according to the General Data Protection Regulation, NGOs could no longer assist them. Between 2017 and 2019, AIDRom had 3 cases of unaccompanied minors who did not benefit from the abovementioned financial aid and other benefits since no legal representative had been appointed. IGI-DAI does not keep statistics on the number of unaccompanied children beneficiaries of international protection who received the non-refundable financial aid.<sup>730</sup>

In practice, the application is made within 3 months of the date of granting international protection, with an NGO's assistance. IGI-DAI forwards the file of the beneficiary to the AJPIS for review. The application must be accompanied by the decision granting international protection, the temporary residence permit, as well as a certificate attesting the registration in the integration programme issued by the territorially competent IGI-DAI office.<sup>731</sup>

In order to establish the right to aid, the AJPIS makes a social investigation within 10 days from the receipt of the application to confirm that the applicant lacks the necessary means of subsistence.<sup>732</sup> The Executive Director of the AJPIS approves granting the financial aid, starting with the following month in which the application was registered with the territorial agency, on the basis of the documents submitted by IGI-DAI.<sup>733</sup> Until the first month of payment of the aid, beneficiaries who have no means of subsistence shall receive from IGI-DAI material aid equal to the amount granted to asylum seekers, within the limits of available funds, but no more than three months.<sup>734</sup> In 2019, 609 beneficiaries of international protection benefited from this material aid.<sup>735</sup>

IGI-DAI reviews the situation of each beneficiary of aid, twice a year, depending on the active participation of the person in the activities stipulated in the individual integration plan and submits to the competent AJPIS proposals for extending the period of granting, suspending or terminating the payment of aid.<sup>736</sup>

It was reported that in **Șomcuta Mare** there are no obstacles in obtaining financial aid, according to ASSOC. It was reported by the JRS representative that unaccompanied children beneficiaries of international protection received the financial aid through their legal representative.

**Galați:** No problems were reported as regards the non-refundable financial aid.

**Rădăuți:** It was reported that a newborn child was excluded from the integration programme, because his/her parents were excluded from the integration programme, as the father is employed and receives the minimum wage (gross).

In **Giurgiu:** It was reported that unaccompanied minors beneficiaries of international protection accommodated at DGASPC do not receive the financial aid because they receive food and accommodation from DGASPC.

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<sup>729</sup> Information provided by IOM Romania, 18 November 2019.

<sup>730</sup> Information provided by IGI-DAI, 5 March 2019.

<sup>731</sup> Article 60(2)-(3) Asylum Decree.

<sup>732</sup> Article 60(5) Asylum Decree.

<sup>733</sup> Article 60(4) Asylum Decree.

<sup>734</sup> Article 22(3) Integration Ordinance.

<sup>735</sup> Information provided by IGI-DAI, 20 February 2020.

<sup>736</sup> Article 60(6) Asylum Decree.

Beneficiaries of international protection who participate in the integration programme, who do not meet the conditions for receiving non-refundable financial aid and who have no means of subsistence, are supported in order to fulfil the legal conditions for obtaining the minimum guaranteed income.<sup>737</sup>

Beneficiaries of international protection also have the right to benefit from social insurance, social assistance measures and social health insurance, under the conditions provided by the law for Romanian citizens.<sup>738</sup>

## G. Health care

Beneficiaries of international protection have the right to benefit from health insurance under the conditions provided by the law for the Romanian citizens.<sup>739</sup> Persons suffering from mental health problems, including torture survivors and traumatised persons also have access to treatment in the same conditions as Romanian nationals.

Challenges in practice include lack of awareness of how the Health Insurance House (*Casa de Asigurări de Sănătate*, CAS) works and what it entails. Therefore, NGOs play a key role in assisting beneficiaries of international protection to overcome all the practical obstacles, which would be insurmountable without this type of support.

The JRS representative in **Rădăuți** reported difficulties regarding the identification of family doctors. Family doctors refuse to register beneficiaries of international protection, including children, because they have to register patients for at least six months and are afraid that beneficiaries will leave Romania.

Another reported issue is related to health insurance. Persons who do not earn an income are obliged to pay state health insurance for 12 months, which equals 6 gross national salaries, irrespective of the date of filing the declaration.<sup>740</sup> In practice the amount which has to be paid monthly by the beneficiaries is 208 RON/ €44, so it increased from 190 RON/ €40 of last year. An annual health insurance (valid for 12 months) costs the equivalent of 10% of six gross minimum wages, which is 1248 RON/ €265.

NGOs may reimburse the cost of this. The payment of one month of health insurance triggers an obligation to pay for the entire year in order to access health services. If beneficiaries stop paying health insurance, they enter into debt. If they commit to stay for six months, ICAR Foundation may pay for their health insurance. In 2019, 3 beneficiaries of international protection benefited from this financial support.

In **Galați**, beneficiaries do not pay health insurance, even though within the project implemented by JRS on integration it is possible to reimburse a maximum of 500 RON / €106 for medical services.

One problem identified by IOM was that as of January 2019, in order to pay the health insurance, people without incomes must first create an online account. Therefore, in some cases beneficiaries needed support in this regard because they did not have access to a computer; or they did not understand the registration procedure.<sup>741</sup>

In 2018, the ASSOC representative stated that the monthly cost of health insurance represents a burden for the beneficiaries. They are informed about the health system in Romania and, if they opt for it, they have to pay the contribution, while the NGO identifies a family doctor for them. The AMIF project may cover a minimum two-month contribution for health insurance, but the beneficiary of international

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<sup>737</sup> Article 22(1) Integration Ordinance.

<sup>738</sup> Article 20(1)(g) Asylum Act.

<sup>739</sup> Article 20(1)(g) Asylum Act.

<sup>740</sup> Article 180(3) Fiscal Code.

<sup>741</sup> Information provided by IOM Romania, 18 November 2019.

protection has to assume responsibility to pay the contribution for the entire year.<sup>742</sup> For 2019, the ASSOC representative reported no obstacles.

According to the AIDRom representative in **Timișoara**, beneficiaries of international protection who pay for their health insurance are not issued a health insurance card.

In **Giurgiu**, it was reported that there is a lack of health insurance. For vulnerable cases, ICAR Foundation within their project may fund the cost of health insurance, but only for a limited period. Afterwards the beneficiary is responsible for the payment of his or her health insurance.

Stakeholders have also mentioned difficulties related the generally poor condition of the state health care system which also affects Romanian nationals. As a consequence, beneficiaries prefer to access private medical clinics instead of state hospitals.

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<sup>742</sup> Information provided by ASSOC, 30 January 2019.



## ANNEX I – Transposition of the CEAS in national legislation

The following section contains an overview of incompatibilities in transposition of the CEAS in national legislation:

Directive	Provision	Domestic law provision	Non-transposition or incorrect transposition
<b>Directive 2011/95/EU</b> Recast Qualification Directive			
<b>Directive 2013/32/EU</b> Recast Asylum Procedures Directive			
<b>Directive 2013/33/EU</b> Recast Reception Conditions Directive	Art 20(5)	Art 55 <sup>1</sup> Asylum Decree	According to article 20(5) decisions for reduction or withdrawal of material reception conditions shall be based on the particular situation of the person concerned, especially with regard to persons covered by Article 21, taking into account the principle of proportionality. Member States shall ensure a dignified standard of living for all applicants. These provisions were not transposed in the Asylum Act and Decree.
<b>Regulation (EU) No 604/2013</b> Dublin III Regulation	18(2)	94 <sup>1</sup> Asylum Act	For persons whose applications are considered to have been tacitly withdrawn, i.e. persons who have left Romania and moved on to another EU Member State, and the asylum procedure has been discontinued, the asylum procedure may be continued if the person makes an asylum claim within 9 months of the decision to close the file, issued in case of implicit withdrawal. If the time limit has expired, the asylum claim is considered a Subsequent Application. Therefore, persons who withdraw their asylum applications and have not left the territory of the EU for at least 3 months or have not been returned to a third country or to the country of origin cannot continue their asylum procedure in case they return to Romania. As a consequence, they will have to lodge a subsequent application. This is not in line with the second paragraph of the article 18(2), which clearly states that when the Member State responsible had discontinued the examination of an application following its withdrawal by the applicant before a decision on the

			<p>substance has been taken at first instance, that Member State shall ensure that the applicant is entitled to request that the examination of his or her application be completed or to lodge a new application for international protection, which shall not be treated as a subsequent application. Moreover, the Dublin III Regulation does not foresee a time limit for the possibility to continue the asylum procedure.</p> <p>The Romanian Asylum Act does not prescribe the possibility to continue the asylum procedure if the previous application of the returned person has been rejected at first instance. In this case the person returned has to submit a subsequent application. According to Article 18(2), Member States responsible shall ensure that the person whose application was rejected only at first instance has or has had the opportunity to seek an effective remedy.</p>
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