



## Input by civil society to the EASO Annual Report 2019

Before completing the survey, please review the list of topics and types of information that should be included in your submission.

For each response, please only include the following type of information:

- New developments and improvements in 2019 and new or remaining challenges;
- Changes in policies or practices, transposition of legislation or institutional changes during 2019.

Please ensure that your responses remain within the scope of each section. Do not include information that goes beyond the thematic focus of each section or is not related to recent developments.

### 1) Access to territory and access to asylum procedures (including first arrival to territory and registration, arrival at the border, application of the non-refoulement principle, the right to first response (shelter, food, medical treatment) and issues regarding border guards)

#### Access to territory

**Austria:** Following the German announcement of prolonging extended border controls in October 2019, the Austrian Minister of Interior also prolonged the border controls to Slovenia and Hungary until 14 May 2020. The argumentation of the Austrian Government has slightly changed, however: while it initially argued that the situation was not sufficiently stable, the Minister of Interior now argues that “border controls in the heart of Europe have led to a positive effect on migration movements”.

- AIDA, Country Report Austria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_at\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_at_2019update.pdf)

**Bulgaria:** Push backs at the main entry point of the country, which borders Turkey, persisted in 2019. Moreover, the Turkish authorities reported that 90,000 individuals were held in the first nine months of the year in the Edirne Province, which borders both Bulgaria and Greece.

In 2019, the national border monitoring registered 337 alleged pushback incidents which affected 5,640 individuals. Those who are able to access the territory are also able to transit and exit the country without being detected by the authorities, which is a strategy operated by the latter so as to avoid any responsibility under the Dublin Regulation or under readmission arrangements. As a result, the official statistics on new arrivals are at the lowest since the first influx in 2013.

The Ministry of Interior further reported that it had apprehended a total of 2,495 third-country nationals, out of which 2,184 were new arrivals. This represents a 23% decrease in comparison with the previous year, which indicates similar levels of migration pressure and prevention. This decrease, however, as well as the generally low levels of registered new arrivals, cannot be attributed to usual border control measures, nor to the preventive qualities of the wall along the Bulgarian-Turkish border. Asylum seekers and government officials have both admitted that the border fence can easily be crossed, e.g. by using blankets, ladders or by passing through damaged sections of the fence, which is a persisting and frequently reported problem.

Since 1 January 2017, the Ministry of Interior no longer discloses the number of prevented entries in its publicly available statistics. Thus, in 2019, only 309 asylum seekers were able to apply for international protection at the national entry borders and only 2% of them (i.e. 12 individuals) had access to the asylum procedure. The remaining 98% who were able to apply at entry borders were sent to the Ministry of Interior’s pre-removal centres.

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Cyprus:** In 2018 it was noted that the number of persons irregularly crossing the border increased, and that the situation needed to be monitored carefully. In 2019, with the numbers of applicants for international

protection doubling compared to 2018, the government stated that changes would be made to the Green Line Regulation. To date it is not clear what changes will be made and how these will impact the entry of persons due to the majority crossing at unofficial points.

Moreover, in 2019 there were 11 boat arrivals with 427 persons. A significant number of persons arriving by these boats are relatives of persons already residing in Cyprus, often including spouses and underaged children of persons with subsidiary protection. This is partly due to the fact that the vast majority of Syrians are granted subsidiary protection, which is a status which does not entitle its holders to family reunification since 2014.

- AIDA, Country Report Cyprus, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**Spain:** The main obstacles regarding access to the Spanish territory are faced mostly at the Ceuta and Melilla borders and checkpoints. These obstacles are mainly due to the impossibility of asylum seekers to cross the border and exit Morocco. There are several reported cases concerning refusal of entry, refoulement, collective expulsions and push backs, including incidents involving up to a thousand persons during 2018, and several hundred persons during 2019.

The number of persons arriving in Spain by land in 2019 was 6,345, a slight decrease compared to the number of persons arriving in 2018 which was 6,800.

During 2019 and 2020, several incidents and developments were reported at the border:

- In May 2019, around 100 Sub-Saharan individuals tried to jump over the Melilla fence. 52 of them successfully entered the Spanish enclave, while 40 persons were detained by the Moroccan police.
- At the end of August 2019, 155 individuals accessed Ceuta by jumping over the fence, thus marking the most important jump over the fence since 2018. Out of them, seven migrants were reportedly pushed back.
- In November 2019, a van carrying 52 migrants (34 men, 16 women and 2 young children) drove into Ceuta by forcing the border's doors at "El Tarajal". Four individuals were injured and transferred to the local hospital. During the same month, at least 81 persons reached the Spanish islands of Chafarinas by boat, which are located in the Alboran Sea off the coast of Morocco. According to information provided by the NGO Caminando Fronteras, this concerned 7 children and 74 women, out of which three were pregnant women and one was about to give birth. The bad weather conditions and the lack of food reportedly exacerbated the situation.
- In June 2019, the Moroccan Government finalised the construction of a new fence at the Ceuta border. The latter is composed of a double spiral of barbed steel wire, which has been considered as dangerous by the Spanish Government. In mid-November 2019, however, the Spanish Government announced it would remove the barbed steel wire located on the Spanish parts of the fences of Ceuta and Melilla and replace them with less dangerous material. According to the Government's announcement, the rehabilitation work will last for 10 months and will cost around €18 million (i.e. €8.3 million for Ceuta and €9.5 million for Melilla). During the rehabilitation work, the Spanish and Moroccan Governments will reinforce security measures on both sides of the border.
- In December 2019, the works aimed at removing the harmful elements (i.e. blades) at the fences in Ceuta and Melilla started, with a budget of €32 million. In addition, the Ministry of Interior stated in February 2020 that, while dangerous elements would be removed from the fence, its height would be increased by 30% and new physical barriers will be put in order to prevent migrants to climb.
- In January 2020, a total of 72 persons from Mali, among them at least 14 asylum seekers, were returned to Mauritania in the framework of a bilateral agreement with Spain, considering that Mauritania accepts not only its citizens, but also migrants that have transited in its territory. One of the concerned persons testified that, after three days without eating, they were abandoned at the border with Mali and they were also mistreated by the Mauritanian authorities. As denounced by different organisations, such practice represents an indirect push-back, breaches the non-refoulement principle and is contrary to UNHCR's call to not return Malians to their country.
- On 19 January 2020, the NGO ELIN reported the summary expulsion by Spanish authorities of two people who managed to cross the border between the Spanish enclave Ceuta and Morocco. According to the NGO based in the Spanish enclave, a few hours before the Moroccan authorities had blocked the attempt of over 300 people to climb the border fence. Witnesses reported that the Moroccan police brutally repressed the crossing and many people were brought to the hospital later.

Push-back practices are thus likely to continue throughout 2020, even though it is hoped that the Constitutional Court will issue soon a decision banning them.

For further detailed accounts and relevant issues, e.g. p, arrivals by sea and current agreements with Moroccan authorities, please refer to the AIDA report under Access to territory.

- AIDA, Country Report Spain, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

**France:** In 2019 France notified the European Commission of the temporary reintroduction of border control at internal borders. The first temporary border control applied from the period of 1 May to 31 October 2019; while the second temporary border control is valid since 1 November and up until 30 April 2020. The Council of State has further validated in October 2019 a decision of reintroduction of temporary border controls that had been taken in 2018. The practice of systematic refusal of entry of persons arriving at the Italian land border persisted in 2019 regardless of protection needs of asylum seekers, including unaccompanied minors. In December 2019, several NGOs have requested a parliamentary commission with the aim to investigate violations of the law at the border. Issues reported by these NGOs include violent practices, pushbacks, the absence of medical and social care as well as a lack of support to vulnerable applicants including unaccompanied minors.

Data covering all French borders was not made available in 2019. However, in the district of Hautes-Alpes (Modane), 1,254 entry bans have been notified in the first nine months of 2019 according to the authorities, compared to 3,587 in 2018 and 1,900 in 2017.

Racial profiling by the Border Police and other police forces deployed in the region of Hautes-Alpes have also been reported, whereby passengers who appear to be of African origin are being controlled in trains arriving from Italy. Moreover, persons who explicitly express the intention to seek asylum have been refused entry by the French authorities on the basis that Italy is responsible for their claim, without being placed under the formal procedure foreseen by the Dublin Regulation.

- AIDA, Country Report France, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Greece:** 74,649 refugees and migrants arrived in Greece in 2019. This is an increase of 48% compared to 2018. In 2019, Greece alone received more arrivals than Spain, Italy, Malta and Cyprus together (49,100). A total of 59,726 persons arrived in Greece by sea in 2019, compared to 32,494 in 2018. The majority originated from Afghanistan (40%), Syria (27.4%) and DRC (6.7%). More than half of the population were women (23%) and children (36%), while 41% were adult men. Moreover, 14,887 persons arrived in Greece through the Greek-Turkish land border of Evros in 2019, compared to a total of 18,014 in 2018, according to UNHCR data. According to Police statistics, 8,497 persons were arrested in 2019 for irregular entry on the Evros land border with Turkey.

However, the figure of entries through the Turkish land border in 2019 may under-represent the number of people actually attempting to enter Greece through Evros, given that cases of alleged push backs at the Greek-Turkish border have been systematically reported in 2019, as was the case in 2018.

According to these allegations, the Greek authorities in Evros continue to follow a pattern of arbitrary arrest of newly arrived persons entering the Greek territory from the Turkish land borders, *de facto* detention in police stations close to the borders, and transfer to the border, accompanied by the police, where they are pushed back to Turkey. It is worth mentioning that these allegations concern also Turkish citizens, who have fled their country of origin and have been returned without having access to asylum. The persisting practice of alleged pushbacks have been reported *inter alia* by UNHCR, the UN Working Group on Arbitrary Detention, the UN Committee against Torture, Greek National Commission on Human Rights and civil society organisations.

On March 2019, an investigation of the Public Prosecutor of Orestiada (Evros) was initiated regarding the repeated allegations of systematic violence against migrants and refugees at the Evros river, *inter alia* based on a report issued by 3 Greek NGOs, including GCR and Human Rights Watch.

On 18 June 2019 GCR filed three complaints in front of the Prosecutor of First Instance of Athens, to be transmitted to the Prosecutor of Second Instance of Orestiada, concerning three separate incidents of alleged

pushbacks during the period April-June 2019, representing 5 Turkish citizens, including one child. In March 2020 the three complaints were still at the stage of pre-trial investigation and their examination is pending in front of the competent authorities. On the same day GCR filed a report to the Prosecutor of the Supreme Court regarding incidents of pushbacks in the Evros region from April until June 2019. However, up until March 2020 and despite the recommendation *inter alia* of the UNCAT to “enhance efforts to ensure the criminal accountability of perpetrators of acts that put the lives and safety of migrants and asylum seekers at risk” said procedures have not come to a result.

At the end of February 2020, thousands of persons, encouraged by the Turkish authorities have been moved to the Turkish-Greek land borders of Evros and have been trapped there, including vulnerable men, women and children, while violence rapidly escalated. According to the Greek Authorities, between Saturday 29 February 2020 and Monday 2 March 2020, a number of 24,203 attempts of irregular entry on the territory has been prevented; between Saturday 29 February 2020 and Sunday 8 March 2019, the prevention of 41,600 irregular entries has been reported. At the same time an increasing number of pushbacks at the borders and the use of excessive force, including lethal force, dismissed by the Greek authorities as “fake news”, is reported for the same period.

A number of alleged pushbacks at sea have also been reported in particular in March 2020 and following tension on the Greek-Turkish land borders. As mentioned by the CoE Commissioner for Human Rights, on 3 March 2020, “[r]egarding the situation in the Aegean Sea, I am alarmed by reports that some people in distress have not been rescued, while others have been pushed back or endangered. I recall that the protection of the lives of those in distress at sea is one of the most basic duties which must be upheld, and that collective expulsions constitute serious human rights violations”.

On 6 March 2020, a Danish boat patrolling between Turkey and the Greek islands as part of the Frontex Operation Poseidon, has refused to push back rescued migrants at sea, despite the orders it received. During 2019, 174 persons have been reported dead or missing at the Aegean Sea or the Evros border.

- AIDA, Country Report Greece, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_gr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf)

**Croatia:** In 2019, the main challenge continued to be a strict border regime that have led to the limited access to the territory and the asylum system in Croatia. Until September 2019, the Ministry of Interior has prevented 9,487 people in their attempt to illegally cross the border, which is 200% more compared to the same period in 2018. Reports of refoulement and/or push backs at the border have persisted in 2019. Refugees and migrants continued to be subject to serious violence and sent back across borders without being able to apply for asylum. Many NGOs have compiled testimonies of persons being pushed back from Croatia’s border with Bosnia and Herzegovina and Serbia, along with further reports of push-backs to Serbia from other neighbouring states. From January to September 2019, UNHCR and partners in Serbia reported that 384 pushbacks, involving 2,674 persons, were carried out from Croatia to Serbia; and that 289 pushbacks, involving 2,194 persons, were carried out from Croatia to Bosnia and Herzegovina.

Numerous international and domestic organisations reported on continuation of push-backs by the Croatian police such as the Border Violence Monitoring Network, Are You Syrious, Amnesty International, Médecins Sans Frontières (MSF), Human Rights Watch, Centre for Peace Studies and Welcome Initiative which issued its 5th report on violent and illegal push backs from the Republic of Croatia. The Council of Europe also raised concerns as regards pushbacks at Croatian borders. Members of the European Parliament further sent an open letter to the European Commission (EC) asking the latter to order the Croatian authorities to immediately halt the violence and the practice of pushbacks and collective expulsions from its territory and to ensure that people who enter Croatia are being provided with the possibility to seek asylum. The EC urged Croatia to investigate allegations of migrant and refugee mistreatment at its external borders, to monitor the situation closely and to keep the Commission informed on progress made. Nevertheless, the EC also stated that Croatia has taken the measures needed to ensure that the necessary conditions for the full application of the Schengen rules and standards are met. Moreover, in February 2020, the Croatian Parliamentary Domestic Policy and National Security Committee made a unanimous decision on direct monitoring of police work in the area in which the Committee received complaints regarding the treatment of migrants.

For additional information, accounts of pushbacks, actions taken by the Ombudsman and reports of NGOs (e.g; Amnesty International, Save the Children, the Centre for Peace Studies, the Border Violence Monitoring Network etc.) please refer to the AIDA report which describes these in detail. The AIDA report also explains the border monitoring project that are implemented by UNHCR and the different trainings offered to border guards, e.g. by UNHCR, the Croatian Law Centre and the Fundamental Rights Agency (FRA).

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

**Hungary:** The state of crisis due to mass migration had been extended once again and is currently in effect until 7 September 2020. This means that asylum may still only be sought at the border (inside the transit zone) and that asylum seekers are continued to be held in the transit zones for the entire asylum procedure, without any legal basis for detention or judicial remedies. Police are still authorised to pushback across the border fence irregularly staying migrants (including those who wish to seek asylum in Hungary) from any part of the country, without any legal procedure or opportunity to challenge this measure.

Moreover, in 2019, 11,101 migrants were pushed back from the territory of Hungary to the external side of the border fence and 961 were blocked entry at the border fence. The Commissioner for Human Rights of the Council of Europe Dunja Mijatović wrote in the report following her visit to Hungary from 4 to 8 February 2019 that, "Human rights violations in Hungary have a negative effect on the whole protection system and the rule of law. They must be addressed as a matter of urgency". This includes the arbitrary detention of asylum seekers in transit zones along the Hungarian-Serbian border and "repeated reports of excessive violence by the police during the forcible removals of foreign nationals". On 8 June 2019, the Parliamentary Assembly of the Council of Europe published a report on Pushback policies and practice in Council of Europe member States. Pushbacks and violent policing practices in the Balkan Region remain a serious matter of concern in 2019, according to a report published by the Border Violence Monitoring Network.

From 23 January 2018 until the end of 2019, only one person was let in each transit zone per day, and sometimes even this low quota was not followed. For example in the first week of July 2018, no asylum seeker was allowed to enter into the transit zones and since mid-December 2019 no asylum seeker is allowed to enter the Tompa transit zone. This policy hinders access to the asylum procedure for most asylum seekers arriving at this border section of the EU.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Ireland:** Anecdotal evidence received by the Irish Refugee Council Independent Law Centre suggests that some people may be refused leave to land and to enter Ireland even when they have grounds for protection. The Irish Times reported in December 2019 that "Airlines have been told to take such individuals back on a return flight before any opportunity to claim international protection arises." The Irish Refugee Council wrote to the Minister for Justice and Equality, Charlie Flanagan TD requesting clarification about these instructions, criteria used and how they adhere to Ireland's legal obligations.

The Irish Times further reported in December 2019 that, by the end of November 2019, 5,687 people had been refused leave to land.

- AIDA, Country Report Ireland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2019update.pdf)

**Malta:** Following the withdrawal of the Italian government from the informal agreement concluded between Italy and Malta in 2014, people rescued within Maltese territorial waters and SAR zone are now disembarked in Malta. Consequently, the number of arrivals increased significantly leading the authorities to revise their reception policy and resort again to systematic detention for all applicants entering Malta irregularly. This new detention regime is imposed on the basis of "reasonable grounds" to believe they carry contagious disease and need to be medically screened. Over the course of 2019, several NGOs ships on search and rescue missions requested to disembark in Malta in a context of political controversy on the island and in the EU.

Following (selected) developments have been reported in 2019:

- In March 2019, the Turkish tanker vessel El Hiblu 1 entered Malta and was boarded by members of Malta's armed forces. Following its rescue of over 100 migrants, the El Hiblu 1 was making its way to Libya when the rescued migrants protested against this return and insisted to be taken to



European safety, as had been promised at the moment of rescue. As the ship approached Malta, it was denied entry to Malta's waters with the captain claiming he was not in control of the vessel. As the ship entered Malta's territorial waters, it was boarded and secured by Maltese special operation teams and brought to port. Upon arrival, the 108 migrants were taken to detention and three teenagers identified as the 'hijackers' were charged with terrorist activities.

- In April 2019, the Sea Eye's Alan Kurdi rescued 64 people and after 10 days stranded at sea, Malta accepted to receive the rescued migrants. In August, the Alan Kurdi rescued 40 people and after four days stranded at sea was authorised to disembark the rescued migrants in Malta following the intervention of Germany and as a gesture of goodwill. As with many similar incidents of migrant rescues by NGO ships, the agreement was that the rescued migrants would not remain in Malta but would be distributed among other EU Member States.
- In October 2019, 44 people rescued at sea by a charity vessel were brought to Malta. The group was transferred from the Open Arms ship to an Armed Forces of Malta patrol boat and disembarked in Malta.

Overall, in 2019, 3,405 people arrived in Malta by boat, which represents a significant increase compared to 2018 (1,500 arrivals). The main countries of origin of arrivals were: Sudan, Eritrea and Nigeria.

Relocations from Malta continued to happen on an *ad hoc* basis throughout 2019, involving non-binding, informal agreements with other EU Member States. This practice prevented many asylum seekers to have access to the asylum procedure and even to the territory of Malta for the time needed to secure the agreement of other EU Member States to take in a number of rescued persons on an *ad hoc* basis.

The nature of the *ad hoc* relocation processes also entailed a series of systemic shortcomings. Those to be relocated to other Member States were not allowed to make an asylum application with the Maltese authorities and were not given any information on how to do so, even though some Member States' authorities have deployed officers to interview them in the Initial Reception Centre (IRC). This also meant that Dublin procedures could not be initiated. Moreover, having no access to the procedure, these potential asylum seekers were systematically (de facto) detained (at times for prolonged periods of time) in the IRC, without any individual assessment of the legality of their detention being conducted and they had limited access to assisting NGOs and lawyers. They also lacked information regarding the rights and obligations of asylum seekers prescribed by Maltese and EU law as well. In 2019, there were some instances of asylum seekers left in a form of limbo when, despite channelled in the relocation route, were never actually selected or taken up by the Member States participating in the specific relocation exercise.

- AIDA, Country Report Malta, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_mt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_mt_2019update.pdf)

**Poland:** There are persisting cases of persons denied access to the territory at the border-crossing point in Terespol on the Belarusian border, which has been the main entry point in Poland for asylum seekers. Despite repeated interventions and litigation in 2016-2019, the Polish government denies the application of unlawful practices at the border.

According to the statistics provided by the Border Guard, 1,610 persons applied for international protection at the border crossing point in Terespol in 2019, which amounts to 39% of all asylum applicants during that year. Moreover, 4,378 persons were refused entry at the border crossing point in Terespol, out of which only 81 persons were able to appeal these decisions.

- AIDA, Country Report Poland, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Slovenia:** An independent investigation into the alleged unlawful police actions in return procedures concerning foreigners who illegally crossed the Slovenian border was conducted by the Slovenian Ombudsman who can conduct border monitoring activities within the National Preventive Mechanism framework. The final report containing the findings and recommendations of the Ombudsman was published in February 2019. In respect of police procedures the findings reiterated the analysis of the interim report and further highlighted the lack of proper documentation in the procedure. The report noted that the police could document the procedures in a way that would give a clear answer as to whether the person expressed the intention for international protection without any additional administrative work. In addition, the Ombudsman could not dismiss the claims that, based on the conduct of the police in some cases, asylum

seekers were not able to access the asylum procedure although they had expressed their intention for international protection. The report noted that in light of foreigners being returned to Croatia in an informal and fast procedure, the police have to provide them with information on international protection if necessary and make sure they have enough time and the possibility to express the intention to apply. The report further stated that the low number of expressed intentions for international protection in certain police stations along with the official explanation of the Ministry of the Interior that the police were forced to adjust certain procedural standards on account of the higher number of asylum seekers who often abuse the asylum procedure, highlights the seriousness of the claims regarding the misconduct of the police and collective expulsions which are prohibited by the ECHR

The report also noted that the protocol agreed between the Slovenian and Croatian Ministry of the Interior, which states that in case the foreigner is apprehended by so-called mixed police patrols (composed of Slovenian and Croatian authorities) he or she will be handed to and processed by the Croatian authorities even if he or she was apprehended on Slovenian territory, does not absolve the police of their obligations and that such a protocol is in violation with the IPA which prohibits the removal of any foreigner who expresses the intention for international protection from Slovenian territory.

Throughout 2019, the Border Violence Monitoring Network continued to report about cases of individuals who claimed that they did not have access to the asylum procedure in Slovenia while PIC also detected cases of asylum seekers claiming they were unable to apply for asylum after several attempts. It is worth noting that in July 2019, the mixed police patrols were also established with the Italian authorities.

According to official statistics, the police documented 16,099 illegal border crossings by the end of December 2019. This is a 73.8% increase in comparison with the same period in 2018 when the police documented 9,262 illegal crossings. Up until the end of December 2019, the police returned 11,149 out of 16,099 individuals based on the bilateral readmission agreements out of which 11,026 were returned to Croatia. In comparison 4,810 people were returned in 2018 out of which 4,678 to Croatia. This indicates a 132% increase in the number of people returned based on the bilateral readmission agreement in 2019 and a 136% increase of people returned to Croatia.

According to official police statistics 4,991 people expressed their intention to apply for international protection in 2019 out of which 3,821 lodged an application for international protection. This means that 1,170 people absconded before lodging the application for international protection. In comparison, 4,266 people expressed the intention to apply for international protection in 2018 out of which 2,875 lodged the application. 1,391 people absconded before lodging the application in 2018 which means the number of persons expressing their intention to apply was 17% higher in 2019 in comparison to 2018.

However, 3,821 people applied for international protection in 2019 which is a 33% increase in comparison with 2,875 that applied for international protection in 2018. Accordingly, the increase of the number of illegal border crossings (71%) and the increase of people returned based on the bilateral readmission agreements (132%) is not proportional to the increase of persons who expressed the intention to apply for international protection (17%) and persons that lodged their asylum applications (33%).

- AIDA, Country Report Slovenia, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Portugal:** While the information available does not substantiate ongoing instances of extraterritorial *refoulement*, there have not been significant changes regarding shortcomings for persons refused entry at the border, notably regarding access to free legal assistance and an effective remedy. These risk factors are aggravated by the absence of border monitoring by the Portuguese Council for Refugees (CPR) and/or other independent organisations as well as by the delays in having access to asylum seekers. In this context, the situation in relation to refusals of entry and resulting possible risks of *refoulement* remains opaque.

- AIDA, Country Report Portugal, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pt_2019update.pdf)

**Romania:** Asylum seekers arrive in Romania mainly by land through the South-Western border with Serbia, the Southern border with Bulgaria, and through the Northern border with Ukraine according to Romanian

Border Police reports. There were also isolated cases reported by the Border Police of foreigners arriving in Romania through the Eastern border with Moldova. However, persons apprehended at the Bulgarian and Ukrainian borders are taken over by the authorities of these respective countries, based on the existing readmission agreements. In 2019, 2,048 persons were apprehended for irregularly crossing the border or attempting to cross the border. The Border Police prevented the entry of 6,042 persons.

Reports from UNHCR Serbia in 2019 show an increase in the number of collective expulsions in comparison with 2018 (746 persons were collectively expelled in 2018). 1,561 persons were collectively expelled from Romania to Serbia from 1 January to 31 December 2019, with higher numbers registered in the last months of the year (October: 288; November: 439; December: 123). According to the Jesuit Refugee Service (JRS) 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.

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 interviewed mentioned that the asylum seekers apprehended at the border declared that their phones were destroyed by the Romanian Border Police officers.

- AIDA, Country Report Romania, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ro\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ro_2019update.pdf)

**Sweden:** Internal border controls were prolonged during 2019. The government decided in October 2019 to continue border control at the internal border for another six months. The controls will continue until 12 May 2020. The decision is based on the government's assessment that there is still a threat to public order and internal security in Sweden. The security police also believe that the terrorist threat level is still high. There are also shortcomings in the control of the external borders around Schengen, which means that Sweden must retain the internal border controls. The checks are concentrated in southern and western Sweden and the Öresund bridge.

In its appropriations directions to the Police Authority for 2020, the government states that it shall prioritise and take the necessary measures to be able to carry out a fully functioning regular border control at external borders during all the months of the year. In addition, the authority shall continue to develop its preparedness and ability to conduct an appropriate border control at internal borders if necessary.

- AIDA, Country Report Sweden, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_se\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_se_2019update.pdf)

**Switzerland:** Despite the much calmer situation at present and the significant decrease in the number of arrivals at the Italo-Swiss borders in general, the Swiss Refugee Council (OSAR) was informed in September 2019 of people being pushed back at the border between Como and Chiasso. In these cases, Italian authorities receive minors (but also adults) who have been sent back on the basis of the Italo-Swiss readmission agreement, without proper identification. This is in violation of the UN Convention on the Rights of the Child, according to which the best interest of the child should take precedence over any other consideration and should always receive careful assessment.

Also, the situation in the transit zones at the airport merits consideration. Since 2014, admission conditions in the transit for asylum seekers in possession of fake documents are more restrictive. They are admitted after an arrest not exceeding 24 hours and brought before the Public Prosecutor, who issues an accusation ruling for forgery of a document with a fine, which may constitute in some cases a violation of Article 31 of the Geneva Refugee Convention.

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

**Serbia:** Access to territory remains a serious concern, and the trend of pushbacks remains unchanged in 2019. At least 16,000 persons likely in need of international protection were pushed back by Serbian border police to Bulgaria and North Macedonia. The practice of the Border Police Station Belgrade (BPSB) at the airport implies that decisions on refusal of entry are also issued to persons that might be in need of international protection and in the procedure that does not contain guarantees against refoulement. Also, it is still not



clear if foreigners served with various forms of expulsion decisions are entitled to access asylum procedure. Also, the period that asylum seekers have to wait to submit asylum application has a discouraging effect on them.

- AIDA, Country Report Serbia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_sr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_sr_2019update.pdf)

**United Kingdom:** In 2019, 21,704 people were refused entry at the UK port of whom 8,691 were at the juxtaposed controls and were denied access to the UK. The UK also operates juxtaposed controls in France and Belgium. In the control zones in France and Belgium, no asylum claim can be made to UK authorities, and the acknowledged purpose of these agreements with France and Belgium was to stop people travelling to the UK to claim asylum. This was reiterated by the statement from the Home Secretary following talks between the leaders of France and the UK on 18 January 2018. Of the 8,691 people turned back in control zones in 2019, it is not known how many wished to claim asylum. There is little or no information about any attempted claims, and whether those who attempt to claim are referred to the authorities of the state of departure, as the regulations require.

An increase in the number of individuals attempting to enter the UK having travelled across the Channel using small unregulated vessels led to the Home Secretary making statements in relation to border control and declaring the issue a 'major incident'. According to the statement, over 500 people attempted to enter the UK by sea in 2018. The statement appeared not to introduce any new regulations or practice other than a commitment to ensure that the Safe Third Country guidance is followed and an increase in capacity of border control vessels to monitor the situation. Media outlets continued to pay attention to this issue and the BBC reported in December 2019 that the number of people successfully crossing reached almost 1,900 in 2019.

A further statement was made on 24 January 2019 following an agreement between the Home Secretary and French Interior Minister announcing more cooperation and funding building on what is described as successful interventions aimed at preventing these crossings. A statement following the meeting of the Home Secretary and French Interior Minister in August 2019 appeared to make no new firm commitments.

- AIDA, Country Report United Kingdom, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_uk\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_uk_2019update.pdf)

## 2) Access to information and legal assistance (including counselling and representation)

### Access to information

**Belgium:** A brochure entitled "Asylum in Belgium", published by the Commissioner-General for Refugees and Stateless Persons (CGRS) and the reception agency Fedasil, explains the different steps in the asylum procedures, the reception structures and rights and obligations of the asylum seekers. It was last updated in June 2019 and exists in three languages (Dutch, French, English,) and in a DVD version and is distributed at the dispatching desk of Fedasil, where people are designated to a reception accommodation place. Asylum seekers also receive an extensive brochure on the day they made the application.

In October 2019 Fedasil further launched a new website ([www.fedasilinfo.be](http://www.fedasilinfo.be)) which is available in 12 languages: Dutch, French, English, Arabic, Farsi, Pashto, Russian, Spanish, Albanian, Turkish, Somali and Tigrinya. 8 of these languages also include an audio version. There are 8 main topics addressed: asylum and procedures, accommodation, living in Belgium, return, work, unaccompanied minors, healthcare and education. The website is only accessible in Belgium.

- AIDA, Country Report Belgium, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_be\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_be_2019update.pdf)

**Cyprus:** In practice, in recent years the information leaflet provided by the Asylum Service was outdated and rarely provided to asylum seekers. As of 2018, the information leaflet has been updated and issued, however it was considered to be not user-friendly. In 2019 efforts were made by the Asylum service in collaboration with EASO to produce more effective information materials, however due to the changes taking place this has delayed and is expected to be available mid-2020.

Moreover, in late 2019, the Cyprus Refugee Council (CRC) published a leaflet that was made available in the main detention centre that includes information on the basis of detention, available remedies, legal aid and how these can be accessed.

- AIDA, Country Report Cyprus, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**France:** The French Office for the Protection of Refugees and Stateless Persons (OFPRA) published a guide on procedures which has shown to be very useful both for asylum seekers and for practitioners. This includes information on the regular procedure, inadmissibility and accelerated procedures, appeals, the interview, the content of protection etc. The last version was updated in December 2019.

Moreover, OFPRA published a guide on the right of asylum for unaccompanied minors in France in 2014, which was subsequently updated in 2020. The guide is quite comprehensive, describing the steps of the asylum procedure, the appeals and the procedure at the border. However, it is more used by professionals than by minors themselves because it remains hard to understand. OFPRA has stated its intention to share this guide as widely as possible in Prefectures, in waiting zones at the border and with stakeholders working in children's care. In practice, this guide is not available in all prefectures, however. In many regions, the prefecture agents recommend asylum seekers to download it on OFPRA's website.

- AIDA, Country Report France, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Hungary:** On 25 July 2019, the European Commission decided to refer Hungary to the CJEU concerning legislation that criminalises activities in support of asylum applications and further restricts the right to request asylum.

Moreover, the lack of information on procedural steps taken during a Dublin procedure still persisted in 2019. The main factors that render access to information difficult are: (a) untimely provision of the information enabling asylum seekers to make an informed choice; (b) language barriers; (c) illiteracy; (d) failure to address specific needs of asylum seekers, e.g. by using child- and disability-friendly communication; and (e) highly complex and technical wording of official information material. Frequently, information is not provided in user-friendly language, and written communication is the main means of information provision, although it has been shown to be less effective than video material. The Hungarian Helsinki Committee's (HHC) experience shows that alternative sources of information are rarely used in practice.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Malta:** In 2019, information was no longer provided by RefCom to detained applicants, i.e. all applicants who entered Malta irregularly. The only information provided to applicants in detention was delivered by UNHCR Malta visiting regularly detention centres and by NGOs on a case by case basis. As a consequence, most of applicants detained upon arrival were not informed about the ground for their detention, nor about their rights as asylum-seekers. Most of the applicants were detained under Health Regulation and the very basic document provided to them does not mention any kind of information and is generally not provided in a language the applicant can understand.

Moreover, access to NGOs was heavily limited in 2019: since all applicants arriving irregularly in Malta were detained, access to detention became a priority for UNHCR and NGOs. While UNHCR was always granted access, NGOs were limited in accessing detention facilities on several occasions. For example, access was revoked after two leading NGOs filed habeas corpus cases which led to the acknowledgment of the unlawfulness of detention and the release of several applicants. Access was then denied for NGOs for several weeks without any explanation.

- AIDA, Country Report Malta, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_mt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_mt_2019update.pdf)

**Poland:** The Supreme Audit Office concluded in 2019 that the Office for Foreigners (OFF) had provided access to necessary information for asylum seekers at its seat, in the centres and through its website. The information concerned asylum procedure, material reception conditions, healthcare, rights and obligations of asylum seekers, appeal proceedings and NGOs' assistance. In the centres, information meetings were

organized on a regular basis and asylum seekers could receive leaflets published by NGOs. The Office for Foreigners published its own guides for asylum seekers as well.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Slovenia:** Throughout the asylum procedure, lawyers from the Slovenian Legal-Informational Centre for NGOs (PIC) are available to asylum seekers for any questions regarding procedures and rights and obligations they have. PIC lawyers are present in the Asylum Home every weekday and in branch facilities in accordance with a set schedule. Information may also be provided by the Migration Office officials in individual cases during the official interviews or separately. In the past, during the asylum application process, people were also given a brochure in their language, prepared by the Migration Office, which described the asylum system in Slovenia. However, the brochures are currently outdated and were not regularly in use in 2019.

- AIDA, Country Report Slovenia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Portugal:** In practice, while the Immigration and Borders Service (SEF) generally complies with the obligation to inform asylum seekers of key developments, decisions and associated rights during asylum procedures. Interpretation for that purpose is not systematically available and rarely includes an explanation of the grounds of the decision. The absence of translation has also been problematic in cases where SEF informs asylum seekers of developments in their asylum applications by postal mail and e-mail, using letters written in Portuguese to which are attached documents such as accelerated procedures decisions, Dublin transfer decisions or proposals for a final decision in the regular procedure in Portuguese. This problem mainly concerns asylum seekers residing in private accommodation. The Portuguese Refugee Council (CPR) has also received a few complaints from asylum seekers according to whom SEF did not provide for the interpretation of the document narrating the essential facts at the end of their personal interview. Asylum seekers thus sign a document which states that the content has been translated and agreed with them, although this is not always done in practice.

Upon presentation of the application, the asylum seeker is required to fill out a preliminary form that among others includes information on identification, itinerary, grounds of the asylum application, supporting evidence and witnesses. The preliminary form is available in Portuguese, English and French. However according to CPR's experience asylum seekers are not systematically provided quality interpretation services at this stage of the procedure, which may result in the collection of insufficient and poor quality information. In December 2019, following an agreement between SEF and CPR, two CPR liaison officers were deployed to the premises of SEF-GAR to facilitate registration, provision of initial information and referral procedures (e.g. for housing).

- AIDA, Country Report Portugal, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pt_2019update.pdf)

**Romania:** According to the Border Police, it verbally informs, in a language widely used internationally, about the possibility to apply for asylum in Romania. However, during specific border surveillance and control activities, the focus is on identifying foreign citizens who express their willingness to make an asylum application (vulnerability indicators). There is no interpretation at this stage.

The Border Police also reported that, as a result of the cooperation activities carried out by the Border Police with NGOs 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. 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 NGOs.

Moreover, JRS and UNHCR Romania have developed information leaflets in English, French, Arabic, Farsi and Pashto for asylum-seekers at the border in Romania. The content of leaflets have been agreed upon by the General Inspectorate of the Border Police and are now available in most border crossing points. A new batch is being printed this year, to supplement border crossing points where the leaflet is not yet available. However, while the leaflets were distributed, there is 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.

- AIDA, Country Report Romania, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ro\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ro_2019update.pdf)

**Spain:** In November 2019, UNHCR published a video and a leaflet in 4 languages (Spanish, English, French and Arabic) in collaboration with the Spanish Ombudsman and Save the Children, with the aim to inform unaccompanied as well as separated children about their right to asylum. The leaflet is formulated in a child-friendly and accessible way.

- AIDA, Country Report Spain, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

**Croatia:** Basic information for the Integration of Foreigners can be found in the amended guide for integration which was prepared by Croatian Governmental Office for Human Rights and the Rights of National Minorities. The guide is available in 7 languages (Croatian, English, French, Ukrainian, Arabic, Urdu and Farsi). Similarly, the Croatian Red Cross has prepared leaflets in 4 languages (English, Arabic, Farsi, French) containing basic information for beneficiaries of international protection as well as contacts of relevant institutions and NGOs. IOM Croatia also issued a Guidebook for the stakeholders involved in the integration process of beneficiaries of international protection. The guidebook is available in Croatian and English.

Moreover, the Croatian Law Centre, in cooperation with UNHCR Croatia, the Ministry of the Interior and the Ministry of Foreign and European Affairs, made leaflet with information on the procedure for family reunification. The leaflet was made in Croatian and translated into Arabic, Farsi and English.

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

**Switzerland:** With the entry into force of the new legislation in March 2019, all asylum seekers are provided with information on the asylum procedure but also on reception, accommodation, health insurance, allowances etc. They also watch a short film that present the main steps of the procedure and the intervening actors. As they also have the opportunity to address questions to the counselling persons, it can be stated, that they are better informed and have a better understanding of the asylum process than under the old procedure.

However, one persisting and serious difficulty in Switzerland is the access to NGOs and legal advice for persons who are located in remote federal accommodation centres. Since the procedure in principle takes place exclusively in the federal asylum centre with processing facilities, the presence of NGOs responsible for ensuring the legal protection of asylum seekers is considerably reduced in remote federal accommodation centres. Concrete opportunities for access to other civil society organizations vary strongly depending on the location both centres with and without processing facilities. In cases where mandated legal representation decides not to appeal a negative decision because it would be doomed to failure, there is very little possibility of seeking assistance from another organization or private lawyer. First of all, the time limit is very short. Secondly, a ticket for transportation to a legal advisory office must be organised and finally, some legal advisory offices are only open one day per week. As a result, persons located in the countryside face clear disadvantages especially regarding the access to legal advice and therefore also access to some information and support.

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

**United Kingdom:** The charity Migrant Help has been providing the Asylum Support Applications UK and Asylum Advice and Guidance services since 2013. In 2019 they retained the contract under a new tender, called Advice, Issue Reporting and Eligibility. They provide general information, advice and guidance through a Telephone Advice Centre, or face to face appointments at the initial accommodation centres or outreach sessions. In the first few months of the new contract the organisation was heavily criticised for failing to respond to the number of calls they were receiving. A number of NGOs wrote to the government to highlight their concerns in this regard. Migrant Help's regular newsletters have sought to address concerns with regular updates about what action they are taking to improve the access to the service. Multilingual

information is given via Migrant Help's website in different forms: web/video presentations, audio briefings and written briefings. These are in 15 languages and may be downloaded.

Moreover, the government's Integration Action Plan, published in February 2019, includes commitments to improve the information provided to new refugees and to better coordinate government departments to improve new refugees' access to existing services. New information was published during 2019, one general document, translated into eleven languages and one specifically advising how to claim welfare benefits, available in English only.

- AIDA, Country Report United Kingdom, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_uk\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_uk_2019update.pdf)

## Legal assistance

**ECRE Legal Note on Austria:** The change of the legal-aid system is the most worrying development in Austria in 2019. While no major amendments to the Asylum Act were introduced, the system of legal assistance has been drastically changed following the introduction of the law establishing a Federal Agency for Supervision and Support Services (Bundesagentur für Betreuungs- und Unterstützungsleistungen, BBU-G). It foresees that this new Federal Agency will be in charge *inter alia* of providing legal assistance to asylum seekers in first and second instance as of January 2021, thus excluding NGOs from the provision of legal assistance. The Federal Agency falls under the responsibility of the Ministry of Interior, whose influence will inevitably affect the provision of objective and independent legal assistance

- For a detailed analysis of this reform, see ECRE's Legal Note: ECRE, *Reforming legal assistance in Austria: an end to independent provision?*, June 2019, available at: <https://bit.ly/2NHkaB0>.

**Belgium:** A study of UNHCR in 2019 states that several actors regret the rigidity and complexity of the asylum procedure in Belgium, which inevitably requires greater specialisation on the part of lawyers. While most of them generally agree that the time limits inherent in the asylum procedure are sufficient, they consider that the time limits inherent to accelerated procedures hamper the quality of legal assistance, especially in detention. In their view, the lack of transparency and the multiplication of procedures causes a significant loss of resources and time.

- AIDA, Country Report Belgium, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_be\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_be_2019update.pdf)

**Bulgaria:** Since the end of 2017 the National Legal Aid Bureau provides legal aid to vulnerable asylum seekers at first instance. The pilot project, funded by the Asylum, Migration and Integration Fund (AMIF) was extended until 31 January 2021. The provision of legal aid for vulnerable asylum applicants commenced in March 2018 and was secured to 507 asylum seekers until the end of 2019 at first instance. Other asylum seekers did not enjoy access to legal aid at the first instance of the asylum procedure.

Moreover, legal aid has not been provided to detainees, including asylum seekers in detention centres, as of the end of 2019 due to National Legal Aid Bureau's budget constraints, despite a pilot project financed by AMIF which provided legal aid to vulnerable asylum seekers for the first time in Bulgaria. In its 2019 report, the CPT highlighted that legal assistance is left entirely to various NGOs whose representatives visit both detention centers and assist detained individuals pro bono in their immigration and asylum procedures, including for access to courts. In this context, the CPT reiterates its recommendation that the system of legal aid run by the National Legal Aid Bureau should be extended to detained foreign nationals in all phases of the detention procedure; whereas for destitute foreign nationals these services should be provided free of charge.

- AIDA, Country Report Bulgaria, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Cyprus:** The decisions issued by the newly established International Protection Administrative Court (IPAC), including legal aid decisions, are not published on the CyLaw online platform as opposed to all other Courts in Cyprus. Nevertheless, they are published on the online platform Legi net which requires a subscription and only covers cases from June to November 2019, which has made it difficult to observe the number of applications for legal aid and the success rate as statistics are not released. However, based on the published decisions on legal aid applications submitted before the IPAC for the period June-November 2019, only 1 legal



aid application has been successful leading to the observation that the “merits” part of the test remains extremely difficult to satisfy

- AIDA, Country Report Austria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_at\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_at_2019update.pdf)

**Croatia:** In August 2018, the Ministry of Interior published a public call for providers of legal counselling i.e. for a project for providing legal assistance in the asylum procedure. The Croatian Law Centre (CLC) was selected for the period April 1, 2019 – March 31, 2020. The Project "Legal Counselling in the Procedure of Granting International Protection" is financed by AMIF and is aimed at providing legal information in regard to the procedure of granting international protection.

Until April 2019, CLC lawyers were providing legal assistance under the project funded by UNHCR every Tuesday in the Reception Centre for Applicants for International Protection- Porin, usually from 10.00 am to 12.00. As of May 2019, CLC lawyers are providing legal counseling every working day in the Reception Centre in Zagreb, while counselling Reception Centre in Kutina and Reception Centre for Foreigners in Ježevo (detention centre) is organized when needed. Interested applicants who need legal information out of the scope of the project funded through AMIF are referred to CLC lawyers working on project funded by UNHCR. However, it was reported by a lawyer that in the Reception Centre for Applicants for International Protection, adequate room is not provided for conversation with clients i.e. attorneys have to talk with the clients in the lobby where privacy of the conversation is not ensured.

As regards legal assistance at second instance, the list of the providers of free legal aid, chosen in accordance with a public call which was announced in June 2018, is available on the website of the Ministry of Interior. A new public call was announced in January 2020. In practice, the reimbursement of costs is still considered problematic by attorneys representing applicants in Administrative Court disputes as there are no clear rules for some specific situations.

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

**Hungary:** In 2019, the National Directorate-General for Aliens Policing (NDGAP) – following a series of Court rulings – abandoned its practice of not allowing lawyers who are not yet members of the Bar Association to represent asylum seekers. This practice was started in 2017 and was in stark contrast with the wording of the Asylum Act and the Act on General Rules of Administrative Proceedings. Consequently, HHC lawyers who are not yet members of the Bar Association can again represent asylum seekers in their administrative proceedings.

However, the low financial compensation for legal assistance providers might be an obstacle for lawyers and other legal assistance providers to engage effectively in the provision of legal assistance to asylum seekers. In 2019, despite the continuous governmental attacks on the organisation and the significant drop in the numbers of asylum seekers, the HHC provided legal counselling to 864 asylum seekers, an increase compared to the year before. Among these cases, the HHC provided legal representation in 316 cases. Only 20 asylum seekers received some form of international protection, which demonstrates the gross dysfunctionality of the Hungarian asylum system. The HHC won nearly 90% of the cases where it provided legal representation for asylum seekers before domestic courts. This is a clear indication of the quality of the decisions taken by the asylum authority, as nearly all asylum seekers in Hungary are represented by the HHC.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Netherlands:** Previous years the Dutch administration announced that free legal assistance at first instance would be limited to the moment when an asylum seeker has to submit his or her views against the Immigration and Naturalisation Service (IND) written intention to reject the application. As a result, the applicant will not be able to discuss his or her case before the start of the actual asylum procedure. To implement this measure, the Decree on Legal Aid Fees (*Besluit vergoedingen rechtsbijstand*) has to be amended. The Secretary of Justice has announced that a proposal to adjust the Decree is currently being prepared. A feasibility test (*ex ante uitvoeringstoets*) as requested by the Dutch Parliament has been executed and the State Secretary of Justice & Security responded to this by announcing that free legal assistance in 2021 will be available only then when the IND has issued a written intention to reject the asylum application. In 2020 a legal proposal to amend the Decree on Legal Aid Fees will be presented to Parliament.

- AIDA, Country Report Netherlands, 2019 Update, available at:

[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_nl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2019update.pdf)

**Greece:** Article 46(7) L 4375/2016 provides that “detainees who are applicants for international protection shall be entitled to free legal assistance and representation to challenge the detention order...”. In practice, no free legal aid system has been set up to challenge his or her detention. Free legal assistance for detained asylum seekers provided by NGOs cannot sufficiently address the needs and in any event cannot exempt the Greek authorities from their obligation to provide free legal assistance and representation to asylum seekers in detention, as foreseen by the recast Reception Conditions Directive. This continued to be the case in 2019, where only two to three NGOs were providing free legal assistance to detainees with limited resources and less than 10 lawyers in total focusing on detention countrywide.

- AIDA, Country Report Greece, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_gr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf)

**Poland:** Legal assistance in Poland has been a persisting issue throughout the years. In 2019, only 304 asylum seekers benefited from the free legal aid system. Given the overall number of appeals (1,571) in 2019, the capacity for providing legal aid was definitely not sufficient. There is no information on the number of cases in which legal aid was granted by NGOs or by other legal aid providers.

One of the main obstacles to the provision of legal aid is the lack of funding for NGOs. However, in 2019, a call for proposals have been opened to NGOs. These calls had been closed since 2016. NGOs thus submitted 62 applications, compared to 142 in 2016. The limited amount of proposals is probably due to the overall absence of funding during these past 3 years, which has resulted in NGOs having to reduce their staff and/or activities, while some others even ceased to exist. Eventually, 27 applications for projects were accepted but only 6 concerned projects dedicated to asylum seekers. In January 2020 the NGOs called on the European Commission to amend the system of distribution of funding so that the funding can actually reach NGOs providing assistance to asylum seekers and migrants. Moreover some projects only started in September 2019, so their impact on 2019 remains limited.

In January 2020 UNHCR signed an agreement with the Bar Association of Attorney-at-Law in Warsaw according to which the Bar Association will provide legal aid to persons seeking international protection.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Portugal:** While CPR provided support to 1,548 asylum seekers that applied for international protection in 2019, the continued increase of spontaneous asylum applications has further impacted its capacity to provide legal information and assistance to asylum seekers placed in detention at the border, similar to the regular procedure. This problem is aggravated by shorter deadlines, communication problems as well as bureaucratic clearance procedures for accessing the restricted area of the airport where the Temporary Installation Centre (CIT) is located. Other issues reported include the lack of interpreters and limitations in the timely provision of information by the SEF (e.g. on the dates of interviews).

Moreover, in 2019, CPR witnessed an increasing number of cases where, following a refusal by the appointed lawyer to provide free legal aid on the grounds that the chances of success were limited (‘merits test’), the Portuguese Bar Association chose not to appoint a replacement. In some instances this happened following the refusal of only one lawyer. While some of these decisions were later reversed following review requests submitted with the support of CPR, this is a concerning practice that may have an impact on the effective access to legal aid by asylum seekers.

Another concern relates to the overall quality of free legal aid at a appeal stage, as the current selection system is based on a random / automatic selection procedure managed by the Portuguese Bar Association on the basis of preferred areas of legal assistance chosen beforehand by the appointed lawyers that are general in nature and not specifically related to asylum law. In general, appointed lawyers are not trained in asylum law and have limited experience in this particular field of law. In cooperation with UNHCR, CPR continued its effort to engage with the Portuguese Bar Association with the aim of providing training to relevant lawyers in 2019. Discussions were also held on other measures which could help to improve the quality of appeals.

In January 2019, CPR also provided a training session for judges and public prosecutors of the Administrative Courts focusing on evidence and credibility assessment, within the framework of a continuous training on

asylum and immigration organised by the Centre for Judicial Studies (*Centro de Estudos Judiciários*, CEJ). Throughout 2019, CPR continued to deliver trainings on asylum-related matters to diverse audiences, including judges.

- AIDA, Country Report Portugal, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pt_2019update.pdf)

**Romania:** In court proceedings, legal aid may be provided by NGOs (e.g. the Romanian National Council for Refugees (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, an application for legal aid was made in 26 cases, and 8 legal aid applications were rejected. No review of the application for legal aid was lodged in these rejected cases. According to the Romanian National Council for Refugees (CNRR), the reason for the dismissal of the requests is that the applicants had had access to legal counselling from CNRR and therefore they do not need the assistance of an attorney. It was reported by an attorney, that the Regional Court of District 4 of Bucharest also dismissed the application for legal aid in one case due to the fact that the applicant failed to prove the lack of income. It was noted that the judge in this case was newly appointed in asylum cases.

In 2019, the Bar Associations in Romania did not organise any training on asylum law for the lawyers registered 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 on asylum cases.

According to certain lawyers, one of the most important aspects that should be considered and addressed by the institutions and organisations working with asylum seekers is to ensure continuity of legal assistance throughout 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 they are assisted by an attorney paid from the legal aid scheme, there is no certainty that they will file an onward appeal.

Moreover, the communication between lawyer and client is not facilitated in any way, and no interpreter is ensured for this. 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 reasoned decision of the Regional Court is communicated 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.

- AIDA, Country Report Romania, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ro\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ro_2019update.pdf)

**Spain:** In May 2019, the Spanish Ombudsman admitted a complaint lodged by the Spanish General Bar Council (*Consejo General de la Abogacía Española*) regarding the difficulties that lawyers are facing in the provision of legal assistance to persons reaching illegally Spanish shores. The General Bar Council raised several issues, including the violation of the right of defence of asylum seekers. This mainly results from the lack of facilities to carry out preparatory, individualised and private interviews with asylum seekers as well as the lack of interpreters, thus preventing the possibility for them to be interviewed in their mother tongue. The Spanish General Bar Council thus drafted a Protocol on the provision of legal assistance to persons arriving to Spain by sea in June 2019, with the aim to provide guidance to lawyers offering legal assistance to asylum seekers arriving to the Spanish shores.

- AIDA, Country Report Spain, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

**Switzerland:** The new asylum procedure of March 2019 introduced a right for asylum seekers to receive free counselling and legal representation in first instance procedures. This accompanying measure, which aims to ensure fair asylum procedures, was introduced in order to compensate the acceleration of the process leading to a decision. In order to ensure this legal protection, the State Secretariat for Migration (SEM) mandates one

or more service providers to carry out these tasks in the centres of the Confederation and at the airports of Geneva and Zurich.

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

### 3) Provision of interpretation services (e.g. introduction of innovative methods for interpretation, increase/decrease in the number of languages available, change in qualifications required for interpreters)

#### Interpretation

**Austria:** The Federal Law on the Establishment of the Federal Agency for Care and Support Services (BBU-G) passed in June 2019 foresees that a federal agency annexed to the Ministry of Interior should be responsible for the provision of interpreters for the purpose of asylum procedures as of 1 January 2021. This includes the provision of interpreters both at first and second instance, but also in case of oral hearings in front of the Federal Administrative Court (BVwG) as well as in procedures concerning basic support. The law lists a wide range of areas in which interpreters should be provided by the federal agency, *inter alia* for interviews related to the making of an application for international protection; for measures relating to the termination of the right to stay as well as for the granting or limitation of basic services. The current plans of the “pilot phase” only provide for the employment of 5 persons for the purpose of interpretation during the first half year of 2021; a number which should reach 15 employees in the second half of that year. The authorities and Courts will still have the possibility to hire external interpreters, however.

- AIDA, Country Report Austria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_at\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_at_2019update.pdf)

**Belgium:** In 2019, UNHCR identified a number of issues regarding the access and quality of interpretation. These issues seem to apply to all stages of the asylum procedure and concern the competent authorities, lawyers, social workers in reception structures as well as associations. UNHCR thus recommends to facilitate access to interpretation by clarifying the rules on interpretation and on how to find an interpreter. It also suggests to improve the current system by centralising the contact details of interpreters, standardising practices within the closed centres and providing clear information on the right to free interpretation under the Belgian legal aid system.

- AIDA, Country Report Belgium, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_be\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_be_2019update.pdf)

**Bulgaria:** Both at first and second instance, interpretation continued to be difficult in 2019, and its quality was often poor and unsatisfactory. Interpretation in determination procedures remains one of the most serious, persistent and unsolved problems for a number of years. Interpretation is secured only from English, French and Arabic languages, and mainly in the reception centres in the capital Sofia. Interpreters from other key languages such as Kurdish (Sorani or Pehlewani), Pashto, Urdu, Tamil, Ethiopian and Swahili are largely unavailable.

With respect to those who speak languages without interpreters available in Bulgaria, the communication takes place in a language chosen by the decision-maker, not the applicant. Cases where the determination was conducted with the assistance of another asylum seeker are still monitored, although extremely rare. In both cases it is done without the asylum seeker’s consent or evidence that he or she understands it or is able to communicate clearly in that language. It has to be noted however that, in 2019, this represented only 1% of the cases.

27% of the monitored court hearings were assisted by interpreters. However, national courts continued to omit conducting a verification of interpreter’s qualifications in such cases, which created serious problems with respect to the level of understanding and communication between the court and the appellants, and thus seriously undermined this legal safeguard.

As regards interpretation in detention, staff interpreters are not required by law, nor provided in practice. Verbal abuse, both by staff and other detainees, is reported often by the detainees. In 2019, as in previous years, detainees have complained about the lack of tailored and translated information and uncertainty on their situation. This has led to risks of re-traumatisation for persons with vulnerabilities.

- AIDA, Country Report Bulgaria, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Croatia:** Up to now, interpreters were not professionally trained and interpretation is not done by accredited interpreters in the majority of cases. Many of them are native speakers, however they are not fluent in Croatian. Usually, persons who simply possess the requested language skills are contracted by the Ministry of Interior. Nevertheless, there is a lack of interpreters, especially for some specific languages (such as Kurumanji and Tamil). In addition, applicants from African countries are often interviewed in English or French, languages they are considered as being able to understand. Applicants are asked at the beginning of the interview if they understand the interpreter.

- AIDA, Country Report Bulgaria, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Hungary:** There is no specific code of conduct for interpreters in the context of asylum procedures. Many interpreters are not professionally trained on asylum issues. There is no quality assessment performed on their work, nor are there any requirements in order to become an interpreter for the NDGAP. The NDGAP is obliged to select the cheapest interpreter from the list, even though his or her quality would not be the best. For example, in the Vámoszabadi refugee camp, the HHC lawyer reported that in all his cases regarding Nigerian clients, none of the English interpreters fully understood what the clients said; the lawyer had to help the interpreter. The same happened at the court. There was another case, where the interpreter did not speak English well enough to be able to translate; for example, he did not know the word “asylum”.

Moreover, no interpretation is provided during the medical examination, which makes communication and building confidence between doctor and patient extremely difficult. In one of the pending ECtHR cases (ECtHR, *R.R. v. Hungary*, Application No 36037/17.), the Court’s interim measure granted explicitly requested the Hungarian government to provide interpretation at the medical check-ups of the applicant. Despite this interim measure, the Hungarian government responded that according to the regulation they are only obliged to guarantee the translation during the administrative procedures and not during the medical examinations. Lack of interpretation during consultations with doctors remained an issue in the transit zones in Hungary, as the UN Special Rapporteur on the human rights of migrants reiterated during his visit in July 2019 to the Hungarian transit zones at the southern border with Serbia. According to the UN Special Rapporteur, some asylum applicants reported cases where the doctor simply failed to provide a diagnosis due to communication barriers.

- AIDA, Country Report Hungary, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Poland:** In 2019 NGOs reported cases where applicants were held responsible for inconsistencies in their statements made during interviews, which in reality seem to result from improper interpretation.

- AIDA, Country Report Poland, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Spain:** In June 2016, the Ministry of Interior has changed subcontractors for the provision of interpreters to the OAR and all police offices that register asylum applications in the Spanish territory, for which NGOs do not provide services anymore. The contract was awarded to the Ofilingua translation private company. Since then, several shortcomings have been reported, mainly due to the fact that the agency does not have a specific focus on migration and asylum, for which it did not count on the needed expertise due to the sensitive field of asylum and did not have the contacts of most of the needed interpreters by the Office of Asylum and Refuge (OAR). In addition, a lack of proper expertise in interpretation techniques has been detected in many cases. It is thus common for some interpreters to make personal comments going beyond their interpretation role in front of the interviewer and with the risk of including subjective considerations in the asylum interview. There are also interpreters who do not speak adequate Spanish, so in many circumstances the statements made by the asylum seeker are not properly reflected in the interview. In addition, interpreters who were working before with NGOs have reported a reduction of pay and deterioration of working conditions, thereby potentially affecting the quality of their work. Following the jump over the Ceuta fence at the end of August 2019, shortcomings in finding interpreters for asylum interviews have been reported.



- AIDA, Country Report Spain, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

**Slovenia:** Interpreters for some languages are not available in Slovenia, or may not be available at the given time, or the provided interpretation is of poor quality, which may lead to problems with accessing the asylum procedure. This was one of the key issues highlighted by persons who claimed they had expressed the intention to apply for international protection but were returned to Croatia during the field visit carried out by PIC to Bosnia and Herzegovina in June 2018, a finding which has been reiterated by the Ombudsman in visits carried out in 2019. It became evident from the testimonies and documentation collected that interpretation was not guaranteed in all return procedures. In the procedures of our interviewees, the police often performed the interviews in English instead of providing an interpreter. Some individuals pointed out that they did not sufficiently understand the language to be able to follow the procedure, while others did not have any problems with the language in which the procedure was conducted. However, in some cases, when interpretation was ensured in the procedure, the question of appropriate translation and professionalism of the interpreters was raised by some individuals. They pointed out that they felt they had not received all the information that the police wanted to convey to them, or that the information they wanted to pass on was not forwarded on by the interpreter to the police. In a few cases, individuals reported that the interpreters mocked, insulted and threatened them that they would be returned to Croatia. Since there is no systematic monitoring over the conduct of proceedings by the police and the work of interpreters, recording should be introduced in the procedure to allow for a comprehensive supervision of the course of the procedure. This way, dispelling potential doubts in the conduct of the procedure could be achieved faster and at the same time would make it easier to detect any possible violations of standards.

- AIDA, Country Report Slovenia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Portugal:** The quality of interpretation services used for interviews remains a serious challenge, as in many cases service providers are not trained interpreters but rather individuals with sufficient command of source languages. While the interpreters are bound by a legal duty of confidentiality, there is no agreed code of conduct used by the SEF. In the case of rarer languages – e.g. Tigrinya, Pashto, Bambara, Lingala, Tamil, Kurdish and to a lesser extent Arabic and Farsi – securing interpreters with an adequate command of the target language remains very challenging.

The issues resulting from a lack of access to interpreters also affect the access to legal aid. The absence of an easily accessible interpretation service hinders the communication between the lawyer and the client during the preparation stage of the appeal. Although the High Commission for Migration's (ACM) translation hotline can constitute a useful tool in this regard, it is insufficiently used by lawyers according to CPR's experience. Moreover, the expenses for the preparation of the appeal, including for interpretation and translation of documents, need to be paid in advance by the appointed lawyer who can then ask the court for reimbursement. This is an additional obstacle to effective legal representation at this stage.

- AIDA, Country Report Portugal, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pt_2019update.pdf)

**Romania:** According to JRS representatives, access to interpretation differs from a border crossing point to another, but is in principle 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. JRS Romania has not received any complaints related to information provision at the border crossing points in 2019, nor of ill-treatment.

Moreover, according to the JRS representative in Timișoara, asylum seekers complain about the lack of interpreters at the stage of registration and lodging of the asylum application. This was also confirmed by the Director of the Regional Centre Timișoara, stating that they have the possibility to call an interpreter at this stage of the procedure, but they do not. The same issue was reported in Giurgiu and Rădăuți with the mention that IGI-DAI turns to asylum seekers or refugees accommodated in the center for interpretation.

In Bucharest even though there are no interpreters when the asylum application is registered, asylum seekers did not report problems at this stage.

The Romanian Ombudsman further noted during the visit made at the Regional Centre Şomcuta 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 the Regulation of Internal Order (ROI), information regarding prohibitions and sanctions, etc, which are documents which are signed at the registration stage.

For more details on the lack of interpreters in Romania and the use of double-interpretation across the regions, please refer to the AIDA report, under the section Interpretation.

- AIDA, Country Report Romania, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ro\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ro_2019update.pdf)

**Switzerland:** Even if, in general, an interpreter is present during the interviews, some problems have been identified with regard to simultaneous translation. Internal, unpublished surveys on procedural problems conducted by the representatives of charitable organisations attending interviews regarding the grounds for asylum (coordinated by the Swiss Refugee Council) regularly name difficulties relating to simultaneous translation as a main problem. In this respect, the systematic presence, in principle, of a legal representative during the interview should reinforce the right of asylum seekers to be able to express themselves in a language of which they have a sufficient command.

The representatives of charitable organisations also point out that several interpreters are not impartial, sometimes even have close ties to the regime in the country of origin, or that they are not professional (imprecise, no literal translation but a summary, lacking linguistic competence). Problems have also been identified in relation to the difference in accent or dialect between the interpreter and the applicant, especially in cases where the applicant's mother tongue was Tibetan, Kurdish of Syria or Dari.

Moreover, in a recent report on the provision of medical care in custodial institutions (not focused on immigration detention), the National Commission for the Prevention of Torture (NCPT) has highlighted important language barriers, which are often overcome with the help of other detainees or detention staff. This is highly problematic, and the NCPT recommends the resort to interpreters.

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

#### 4) Dublin procedures (including the organisational framework, practical developments, suspension of transfers to selected countries, detention in the framework of Dublin procedures)

##### General

**ECRE - Dublin Implementation in 2018:** ECRE has published a report providing a detailed overview of developments in legislation, policy and practice relating to the application of the Dublin III Regulation, based on current practice, case law and up-to-date statistics from 21 European countries.

See: ECRE/AIDA, *The implementation of the Dublin III Regulation in 2018*, April 2019, available at <https://bit.ly/2wLnldr>.

**ECRE - Dublin implementation in the first half of 2019:** ECRE published a further statistical update on the implementation of the Dublin III Regulation in the first half of 2019, which demonstrated that its implementation continues to be fraught by inefficiency and questionable compliance with legal standards, according to statistics on 15 European countries.

See: ECRE/AIDA, *The Dublin system in the first half of 2019*, August 2019, available at: <https://bit.ly/2U045Gr>

**ECRE - Dublin Implementation since 2016:** ECRE's study on the implementation of the Dublin Regulation III was published by the European Parliament Research Service (EPRS) which commissioned it. Drawing largely on statistics from AIDA, and on ongoing Dublin-related litigation, the study uses the European Commission's own

Better Regulation toolbox. The Better Regulation framework is designed to evaluate any piece of Regulation against the criteria of effectiveness, efficiency, relevance, coherence and EU added value.

See: EPRS/ECRE, *Dublin Regulation on international protection applications*, February 2020, available at <https://bit.ly/2T11ceo>.

## Dublin requests

**Bulgaria:** In 2019, Bulgaria received 3,088 incoming requests and made 80 outgoing requests, compared to 3,448 incoming requests and 125 outgoing requests in 2018 and compared to 7,934 incoming requests and 162 outgoing requests in 2017.

- For detailed statistics and tables on Dublin requests in Bulgaria, see: AIDA, Country Report Bulgaria, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**France:** In 2019, 46,460 Dublin requests have been made by French authorities, up from 45,358 in 2018. At the end of the year, 36,900 of them were still in Dublin procedure and 9,560 persons re-channelled from a Dublin procedure to a regular or accelerated procedure (*requalifiés*).

- AIDA, Country Report France, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Netherlands:** In 2019, several Dublin claims were submitted to the Greek authorities. Guarantees were required from the Greek authorities, i.e. that reception conditions are suitable and that the asylum seeker will be treated in accordance with European standards. The Dutch authorities further asked whether Greece has an “accommodation model” that may be regarded as suitable in general, probably in order to obtain a general guarantee for future cases. Until now, the Dutch authorities have not transferred asylum seekers to Greece.

- AIDA, Country Report Netherlands, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_nl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2019update.pdf)

**Poland:** According to the Office for Foreigners, in 2019, Poland accepted requests concerning 2,908 persons in total (down from 3,623 in 2018). The Office for Foreigners did not provide information on evidence required to support requests on the basis of family reunification provisions.

- AIDA, Country Report Poland, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Slovenia:** Slovenia issued 976 outgoing requests in 2019, compared to 722 in 2018. Out of 976 outgoing requests 179 were “take charge” and 797 were “take back” requests. For detailed breakdown, as well as for detailed statistics on the criteria on which outgoing requests were based, see the tables provided in the AIDA report.

- AIDA, Country Report Slovenia, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Romania:** In 2019, Romania issued 239 and received 1,386 requests under the Dublin Regulation. For detailed statistics on the use of the different Dublin criteria, please refer to the AIDA report.

- AIDA, Country Report Romania, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ro\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ro_2019update.pdf)

**Sweden:** In 2019, Sweden issued 3,641 and received 6,474 requests under the Dublin Regulation.

- AIDA, Country Report Sweden, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_se\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_se_2019update.pdf)

**Switzerland:** According to the SEM, in 2019 Switzerland made a total of 4,848 requests for take charge or take back to other Member States, compared to 6,810 in 2018 and 8,370 in 2017. For a detailed breakdown on the use of the different Dublin criteria, please refer to the AIDA report.

- AIDA, Country Report Switzerland, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

## Dublin criteria

**Bulgaria:** In the past, the sovereignty clause under Article 17(1) of the Regulation was used in few cases, mainly for family or health condition reasons. The sovereignty clause has never been applied for reasons different from humanitarian ones. Similarly to 2017 and 2018, Bulgaria did not apply the sovereignty clause in 2019. During 2019, Bulgaria issued 0 “take charge” requests based on the humanitarian clause of Article 17(2) and received 4 requests based on the humanitarian clause, which were rejected.

- For detailed statistics and tables on Dublin criteria in Bulgaria, see: AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Hungary:** The HHC is aware of one case from 2019 when a DNA test was used to verify the family link between two brothers. The costs of the test were not borne by the applicant. As opposed to the last such case from 2017, the NDGAP communicated the procedural steps with the applicant and the legal representatives in a swift and speedy manner.

Despite the positive attitude of the Hungarian Dublin Unit, it is still evident that Dublin transfers could hardly take place without the active involvement of competent lawyers. HHC lawyers and attorneys experienced an increasingly strict and negligent attitude from the German asylum authority, BAMF, which has been even stricter in 2019. In 2019, the HHC successfully facilitated Dublin procedures for unaccompanied minors to Germany and Norway, based on Article 8 (1) of the Dublin Regulation. While the Norwegian authorities proceeded in a prompt and speedy manner, the German authorities, as mentioned, unnecessarily prolonged the cases and issued very schematic rejection decisions before finally taking responsibility.

Hungary decided in 17 cases in 2019 under Section 17(1) of Dublin Regulation to examine an application for international protection itself. Even though in 2018 the Immigration and Asylum Office (IAO, the former NDGAP) refused to provide the necessary data, in 2019 NDGAP made them available upon request of HHC. According to that, Hungary established the responsibility of other Member States in 1 case under the “humanitarian clause”. Pursuant to the humanitarian clause of Dublin Regulation there was no request by other Member States sent to Hungary in 2019. There were 18 cases in 2019 where “sovereignty clause” was applied, while no case where dependent persons clause was applied.

In 2019, no Dublin decisions were issued with regard to irregular entry criteria (e.g. with respect to Bulgaria, Greece or Croatia).

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Poland:** The humanitarian clause was applied in 2 cases in 2019. The sovereignty clause was not used in 2019. No information on the circumstances was provided.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Slovenia:** In 2019, the most frequently used criteria for both outgoing and incoming requests was Article 18(1)(b) of the Regulation. Out of 976 outgoing requests made in 2019, 680 were rejected by other Member States. The most common reasons why the requested Member States deemed that they were no longer responsible were: the departure of the individual from the territory of the Member States for at least three months; non-registration of irregular entry in the other Member State; and return or removal of the person to the country of origin or a safe third country.

According to available information, the family unity criteria under Articles 8-11 of the Regulation are respected in practice, both in outgoing and incoming procedures. Article 8 of Dublin Regulation is consistently invoked when a child applies for international protection in Slovenia. However, the long duration of the Dublin procedure usually results in them absconding from the country before the procedure can be completed and transfer to another Member State implemented. In 2019, four children were reunited through the Dublin procedure. Nevertheless, no cases were registered in 2019 on the basis of Article 9 and 10 of the Regulation.

Originals or at least copies of documents showing family links (birth certificates, family books) are required by authorities, while DNA analysis was used for the first time in 2019. The application of the family provisions is not refused, even if the asylum seeker fails to indicate the existence of family members in another Member State

from the outset of the asylum application. The asylum seeker can invoke the application of family unity criteria within the timeframe for sending the Dublin request to another Member State i.e. three months from the asylum application.

The dependent persons and discretionary clauses were not used in 2019.

- AIDA, Country Report Slovenia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Switzerland:** In 2019, the SEM applied the sovereignty clause in 859 cases, compared to 875 cases in 2018, and 845 cases in 2017. These numbers show that, like the family criteria, the humanitarian clause and the sovereignty clause are only rarely applied by Switzerland. Despite continuous joint efforts by a large number of Swiss NGOs, united under the “Dublin Appell” coalition, the application of the humanitarian clause or the sovereignty clause to cases of vulnerable asylum seekers remains extremely restrictive.

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

## Dublin transfers

**Austria:** 2019 was marked by another decrease of Dublin transfers as only 1,346 Dublin were carried out, thus representing a decrease of 31,1% compared to 2018 where 2,285 Dublin transfers had been carried out.

- AIDA, Country Report Austria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_at\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_at_2019update.pdf)

**Bulgaria:** In 2019, 33 outgoing transfers were carried out compared to 80 requests, indicating a 41% outgoing transfer rate. Moreover, in 2019, Bulgaria received 3,097 incoming requests and 73 incoming transfers. The number of Dublin returns actually implemented to Bulgaria decreased by 15% compared to 2018. Overall, the percentage of actual transfers remains quite low (2.3%) compared to the number of incoming requests.

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Hungary:** In 2019, Hungary issued 200 outgoing requests and carried out 28 transfers, thereby indicating a 14% transfer rate. Moreover, one asylum seeker was transferred from Austria to Hungary.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Poland:** According to the Border Guard, 2,580 persons were expected to be transferred and eventually 702 persons were transferred to Poland. Asylum seekers are transferred under escort only when there is a risk of absconding or they have already absconded before. In 2019, the Border Guard informed that they transferred 66 persons under coercion (down from 95 in 2018).

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Romania:** Romania issued 239 requests and implemented 16 transfers in 2019, thereby indicating a transfer rate of 6.6%. 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 is approximately 3 months. 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 being in Bucharest and Giurgiu, where according to the JRS representative the transfers were carried out in maximum 2 weeks and 6-9 months respectively.

- AIDA, Country Report Romania, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ro\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ro_2019update.pdf)

**Switzerland:** The ratio of Dublin transfers carried out compared to outgoing requests reached 36% in 2019 (1,724 transfers and 4,848 requests), compared to 25.8% in 2018. Only a bit more than one third of requests made by Switzerland result in actual transfers. According to SEM statistics, 3 persons were transferred to Greece under Dublin and 21 persons were transferred under the readmission agreement in 2019. The Swiss Refugee



Council will continue to document transfers to Italy in 2020 within the framework of the Dublin Returnee Monitoring Project (DRMP).

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

## Dublin procedure

**Bulgaria:** Following recommendations from EASO, information relevant to Dublin procedures is gathered during the initial registration interviews with asylum seekers in a separate checklist, which mainly focuses on eventual family members in other Member States. Many problems are still created by the fact that the decision-making process remains multi-staged and centralised as far as the Dublin decisions are concerned, as such decisions can be issued only by the State Agency for Refugees (SAR)'s Dublin Unit, which is located in the headquarters of the SAR in Sofia. This creates problems with respect to observation of the 3-month deadline under the Dublin Regulation for issuing a request, as sometimes the congested communication between the Dublin Unit and the local reception centre where applicants are accommodated can consume time before all relevant documentation is prepared in order to make a proper Dublin request. The draft proposal of the Law on Asylum and Refugees (LAR) tabled at the end of 2019 aims to address this problem by removing the requirement of a formal decision at different phases of the Dublin procedure and rendering an automatic legal effect to the majority of acts.

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**France:** In 2018, the Ministry on Interior has implemented a regionalisation plan for the Dublin procedure whereby the Dublin procedure is carried out by one Prefecture (pôle régional) per region, with a view to ensuring higher convergence across the French territory. This plan was consolidated in 2019. According to this plan, only one Prefecture per region is now responsible for the implementation of the Dublin procedure for the applications registered in its respective region. Whereas the registration of applications is still carried out by all GUDA, all administrative formalities related to the Dublin procedure are conducted by only one Prefecture in each region.

As a result of the regionalisation plan, the Ministry of Interior has advised that reception conditions should be provided close to the competent Prefecture: asylum seekers should be accommodated in places located close to that Prefecture or, if not yet accommodated, they should register with a PADA near the Prefecture. In some regions, a regional scheme regarding accommodation has been established. In Auvergne-Rhône Alpes for example, this scheme (which is not published) nominates certain PADA and accommodation centers near Lyon, to which all asylum seekers of the region falling under the Dublin procedure must be oriented.

The regionalisation plan creates difficulties for asylum seekers who have no means of travelling to the competent Prefecture after receiving a Dublin notice document, as missing an appointment led to reception conditions being withdrawn and applicants becoming exposed to destitution. The Council of State clarified, however, that where the applicant is required to travel from his or her place of residence to appear before the pôle régional, the transport costs have to be borne by the Prefecture. However, problems persisted throughout 2019 as transport vouchers were sometimes delivered too late. As a result, asylum seekers were not always able to attend their appointment.

- AIDA, Country Report France, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Poland:** The average time for the appeal procedure in Dublin cases in 2019 was 110 days (up from 45 days in 2018). In 2019 the Refugee Board issued 33 decisions (down from 13 in 2018) in Dublin proceedings, none of which overturned the decision of the first instance authority.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Switzerland:** According to the SEM, in 2019 it took on average 10.54 days to take a Dublin decision after the receipt of a positive answer from the requested Member State. According to the same source, on average another 335.13 days passed between the Dublin transfer decision and the actual transfer. One reason for this

long delay could be the prolongation of the transfer deadline in case of a suspension of the execution because of an appeal. The transfer could then be further delayed if the Federal Administrative Court sent the case back to the SEM for additional clarifications and a new decision, which in turn can be appealed again.

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

**United Kingdom:** At the beginning of 2019, the Court of Justice of the European Union (CJEU) ruled that the UK's notification of intention to leave the EU does not entail an obligation on other Member States to make use of the sovereignty clause or to take into consideration the best interests of the child and to examine asylum applications themselves. (CJEU, Case C-661/17 M.A., Judgment of 23 January 2019.)

There has been much discussion about the future of the family unity clauses in the Dublin Regulation once the UK leaves the EU; the Withdrawal Act of 2019 compelled the UK government to negotiate a 'replacement mechanism'. Legislation in the UK Parliament in early 2020 revoke this, replacing it with a requirement for the UK government to make a statement in this regard by 22 March 2020. AIDA, Country Report United Kingdom, 2019 Update, available at:

[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_uk\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_uk_2019update.pdf)

### Individualised guarantees

**Bulgaria:** Bulgaria does not seek individualised guarantees ensuring that the asylum seekers will have a adequate reception conditions upon transfer in practice. Outgoing transfers relating to vulnerable groups were only carried out with respect to unaccompanied children in the course of 2016, 2017, 2018 and 2019. Since all transfers were based on family reunification and consent from the children and family members, the Dublin Unit did not request guarantees from receiving countries.

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Romania:** In a first instance decision of 6 August 2019 concerning an asylum seeker from Iran, the General Inspectorate for Immigration – Directorate for Asylum and Integration (IGI-DAI)'s Regional Centre of Şomcuta Mare denied access to the asylum procedure to an applicant in Romania and ordered his transfer back 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 their application: "The access to 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 provided by IGI-DAI for the transfer decision. The asylum seeker challenged the decision of IGI-DAI, but eventually withdrew his appeal and returned to his country of origin.

A similar case was reported at IGI-DAI's Regional centre of Ciurgiu, where an asylum applicant from Afghanistan was denied access to the asylum procedure on 21 November 2019. The transfer decision to Bulgaria 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 which was widely used in Dublin decisions in 2018 and also mentioned in the decision above.

- AIDA, Country Report Romania, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ro\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ro_2019update.pdf)

**Sweden:** The Migration Agency does not seek individualised guarantees prior to a transfer. In March 2019, it confirmed in its legal guidance regarding Dublin returns to Italy that no guarantees need be sought in advance when transferring families since the Italian authorities have reissued guarantees. It stated that: "Italy has, in a new circular to the Member States, provided new general guarantees regarding the reception of families of children transferred under the Dublin Regulation. It is the Migration Agency's opinion that these guarantees are sufficient for transfers of families with children according to the Dublin Regulation to be made without individual guarantees being obtained."

- AIDA, Country Report Sweden, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_se\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_se_2019update.pdf)

**Switzerland:** So far it is not transparent how the individual guarantees for families will actually be implemented after transfer. In order to document the proceedings in individual cases, in 2016 the Swiss Refugee Council and the Danish Refugee Council started a joint monitoring project (Dublin Returnees Monitoring Project, DRMP), to follow up on what happens to individual families and vulnerable persons after their transfer to Italy. The DRMP will continue without participation of the Danish Refugee Council at least until the end of 2020, focusing on the effects of the legislative changes for persons returned to Italy under the Dublin Regulation.

- AIDA, Country Report Switzerland, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

## 5) Special procedures (including border procedures, procedures in transit zones, accelerated procedures, admissibility procedures, prioritised procedures or any special procedure for selected caseloads)

### Border procedure

**ECRE Policy Note:** ECRE published a Policy Note on border procedures which assesses the proposals for increasing or mandatory use of border procedures and provides relevant information on current practices in Member States.

See: ECRE, *Border procedures: Not a panacea*, July 2019, available at: <https://www.ecre.org/wp-content/uploads/2019/07/Policy-Note-21.pdf>

**ECRE fact-finding visit to Germany:** Following a fact-finding visit conducted by ECRE in Germany, we published a report on the use of airport procedures in the country and examined gaps and compliance with relevant procedural guarantees. Among other concerns, the report highlights that asylum seekers navigate highly truncated procedures without comprehensible information and an adequate interpretation. The BAMF is reported to make superficial and inadequate assessments of the reasons for flight from the country of origin and maintains a restrictive stance aimed at filtering out claims, going beyond the scope of cases that should be deemed “manifestly unfounded” in line with the German Asylum Act. Furthermore, applicants with special procedural needs such as pregnant women or persons with disabilities are subjected to lengthy interviews with the BAMF without benefitting from “adequate support” guaranteed to them by the recast Asylum Procedures Directive. Finally, the report emphasizes that procedural deficiencies are exacerbated by the conduct of the entire airport procedure in a regime of de facto deprivation of liberty, without effective access to means of communication or remedies against arbitrary detention.

See: ECRE, *Airport procedures in Germany: Gaps in quality and compliance with guarantees*, May 2019, <http://www.asylumineurope.org/sites/default/files/airportproceduresgermany.pdf>

**Spain:** For the first time, the Government applied the border procedure to asylum seekers who had jumped the fence at the enclaves of Ceuta and Melilla. The Asylum Law foresees the application of the border procedure to asylum claims lodged at airports, maritime ports, land borders and expulsion centers (CIE), but it had never been applied before in such a situation.

In 2019, the NGO CEAR reported that, out of the total of asylum applications lodged in Spain until October 2019, only 6% were lodged at the border. This results from the difficulties faced by asylum seekers in accessing the asylum procedure at borders as well as from the persisting push-back practices in Ceuta and Melilla. Other concerns raised include the lack of access to legal assistance for people who arrived by sea as well as a lack of identification mechanisms of persons victims of human trafficking.

- AIDA, Country Report Spain, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

**Poland:** There is no border procedure in Poland. However, in January 2017, the Minister of the Interior and Administration presented a draft amendment to the Law on Protection, which introduces a border procedure for granting international protection. The Commissioner for Human Rights, as well as the main NGOs in Poland, have criticized the draft law for failing to provide sufficient safeguards including limited access to effective remedies and for introducing detention for the duration of the border procedure. The proposal was

updated in February 2019. According to the new proposal, if the decision issued in the border procedure is negative, the Office for Foreigners will also decide on return in the same decision. There would be 7 days to appeal this decision to the Voivodship Administrative Court (not to Refugee Board competent for the regular procedure) and the appeal will not have automatic suspensive effect. The draft law also provides for the adoption of a list of safe countries of origin and safe third countries. The Commissioner for Human Rights and NGOs sent their statements about the draft law. As of February 2020, the draft was still under discussion.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Portugal:** Portugal has 36 external border posts, of which 8 are air border posts and 28 are maritime border posts. The SEF is responsible for border controls, including for refusing entry and exit from the territory. The overwhelming majority of border procedures in 2019 were conducted at Lisbon Airport. The statistics provided by the SEF indicate a total of 408 border procedures, but do not include a breakdown per border post. The information collected by CPR suggests that at least 347 procedures were conducted at Lisbon Airport in 2019, compared to 376 in 2018.

- AIDA, Country Report Portugal, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pt_2019update.pdf)

**Croatia:** At the moment the border procedure provided under the Law on International and Temporary Protection (LITP) is still not applied in practice. According to information provided by the Ministry of Interior at the beginning of 2019 it was still not clear when the implementation of the border procedure would start. However no information is available whether this has changed in the course of 2019.

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

**Switzerland:** Since the introduction of the new asylum procedure on 1 March 2019, persons who apply for asylum at the airport and are confined in the transit area systematically. They have access to a free legal representation like all other asylum seekers. The organisations mandated for the region Zurich (RBS Bern) and West Switzerland (Caritas Suisse) have access to the transit zones and have a regular presence there. In 2019, 219 requests of entry were lodged, out of which 93 in the airport of Geneva and 126 in Zurich. The main countries of origin were Iraq, Turkey, Venezuela, Colombia and Afghanistan. The SEM issued 157 authorisations to enter Switzerland and rejected 62. For more details on the functioning of the airport procedure in Switzerland, please refer to the AIDA report under Border procedure.

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

### Accelerated procedure

**Switzerland:** In March 2019, the accelerated asylum procedure came into force in Switzerland. All asylum applications submitted from 1 March 2019 onwards will be processed according to this procedure. The majority of the procedures will be decided within 140 days and will be decentralised to six asylum regions. Under the new asylum procedure, asylum seekers also receive free counselling and legal representation.

Asylum-seekers whose asylum application cannot be decided immediately after the interview because further clarification is needed will be channelled to the extended procedure. The Confederation assigns these persons to a canton which is responsible for their accommodation and care during the further course of the procedure. During this procedure, the asylum seeker can turn to a legal advice centre in the relevant canton or to his or her existing legal representation at the Federal Asylum Centre free of charge for certain so-called 'decision-relevant' procedural steps for advice and representation. This extended procedure is to last a maximum of one year and is concluded with an asylum decision in the first instance.

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

**Cyprus:** Although an accelerated procedure was foreseen in national legislation for many years, in practice it had never been used. In 2018 in view of the sufficient rise in asylum applications there were discussions on implementing the accelerated procedure and in 2019 for the first time a Ministerial Decision was issued

determining Georgia as a safe country of origin. From then on, the accelerated procedure is being piloted for Georgian nationals only, but a wider expansion is likely to occur in mid-2020.

- AIDA, Country Report Cyprus, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**Bulgaria:** In 2019, 828 asylum applicants have been rejected under the accelerated procedure. Of those, 566 came from Afghanistan, 76 from Iraq, 74 from Pakistan, 45 from Iran and 67 from other nationalities. More notably, 50 of them were processed in conditions of detention, of which 14 concerned asylum seekers in closed reception facilities, but 36 related to asylum seekers in pre-removal detention centres, in violation of the law.

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**France:** According to Ministry of Interior statistics, 50,750 asylum applications were filed in accelerated procedures at the end of 2019, representing 33% of all caseloads.

- AIDA, Country Report France, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Poland:** The statistics obtained from the Office for Foreigners show that, in 2019, 162 applications were channelled in accelerated procedures. For a detailed breakdown per ground for initiating the accelerated procedure, please refer to table provided in the AIDA report under Accelerate procedure.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Romania:** IGI-DAI reported 315 applications processed under the accelerated procedure in 2019, up from 167 in 2018 and down from 382 in 2017. For additional details on the use of accelerated procedures per Regional centre, please refer to the AIDA report.

- AIDA, Country Report Romania, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ro\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ro_2019update.pdf)

### Subsequent applications

**Bulgaria:** In 2019, 103 subsequent applications were dealt with in an admissibility procedure, of which 79 were declared inadmissible and 24 were granted access to further determination.

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Cyprus:** Following an opinion issued by the Attorney General in 2019, it was determined that the Asylum Service is the competent authority to receive and examine subsequent applications and/or new elements or findings on a claim. Based on this, the Asylum Service set up a procedure for the submission of subsequent applications, new elements or findings and introduced a form which applicants are required to submit. Given the rise in the numbers of subsequent applications, processing times remained very lengthy.

- AIDA, Country Report Cyprus, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**France:** OFPRA received 9,084 subsequent applications in 2019, representing 6.8% of the total number of applications registered, compared to 9,421 subsequent applications in 2018.

- AIDA, Country Report France, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Hungary:** In 2019 there were 32 subsequent applicants. Given the lack of clear and publicly available guidelines, the NDGAP may interpret the concept of “new facts or circumstances” in a restrictive and arbitrary way. Example of such arbitrary interpretation occurred in 2019. An Afghan family received an inadmissible decision, based on Serbia being a “safe transit country” and the court confirmed the decision. However, Serbia then explicitly refused to take back the applicants. The NDGAP refused to continue examining their application on the merits, but instead changed their expulsion order from Serbia to Afghanistan. The



applicants submitted another request for asylum, but the NDGAP rejected it as inadmissible subsequent application, since according to the NDGAP no new facts were provided. Refusal of Serbia to admit the applicants was not considered to be a new fact by the NDGAP. The decision was quashed by the Metropolitan Court and the Court explicitly stated that this is inappropriate use of subsequent procedures. (Metropolitan Court, 15.K.31.737/2019/17.)

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Netherlands:** As of 1 July 2019 a new procedure regarding lodging and assessing subsequent asylum applications is applicable. Regarding this new procedure the Aliens Circular has been adjusted and an IND Work Instruction has been introduced. Relevant is whether the asylum seeker has filled in a fully completed subsequent asylum application and whether the IND will not continue to examine the subsequent application because the asylum seeker lacks providing (sufficient) relevant information to the opinion of the IND. Another relevant adjustment is that an interview does not always take place when assessing a subsequent asylum application. This proposal is one of the measures concerning the Dutch asylum procedure laid down in the Coalition Agreement. The Dutch Council for Refugees is opposed to the abolition of the interview during a subsequent asylum procedure.

- AIDA, Country Report Netherlands, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_nl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2019update.pdf)

### Safe countries of origin

**Austria:** While Sri Lanka was deleted from the list of safe countries of origin, Namibia, Uruguay and South Korea were added to it. In 2019, 1,330 applications have been submitted by applicants originating from 17 different “safe countries of origins”, which represents 10.6% of the total numbers of applications for international protection. The largest numbers of applications were lodged by the following nationalities: Georgia (327), Ukraine (228) and Algeria (163). This marks a slight increase compared to 2018, where Austria had received a total of 1,190 applications for international protection lodged by asylum seekers origination from 16 different safe countries of origin, which represented 9% of the total number of applications in 2018.

- AIDA, Country Report Austria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_at\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_at_2019update.pdf)

**Cyprus:** The “Safe country of origin” concept was used for the first time in mid-2019 with the issuance of a Ministerial Decision determining Georgia as a safe country of origin, which subsequently triggered the accelerated procedure for the first time for Georgian applicants. There have been discussions on extending the list of safe country of origin to other countries, but this has not taken place to date.

- AIDA, Country Report Cyprus, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**France:** In October 2019, the Management Board of OFPRA decided to maintain the current list of safe countries of origin, but added that the situation in Benin will be reviewed within six months. In 2019, applicants from Albania and Georgia were among the top five countries of origin of asylum seekers in France.

- AIDA, Country Report France, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Netherlands:** In December 2018, the Secretary of Justice has reassessed the situation in Togo. Togo, which will be suspended as a safe country of origin during further (re)assessment of the security situation of the country in 2019. In September 2019 Serbia has been reassessed and it will remain a safe country of origin except for those who risk criminal detention, and special attention is needed for LGBT asylum seekers.

- AIDA, Country Report Netherlands, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_nl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2019update.pdf)

**Slovenia:** In June 2019, the Government amended the Ordinance and removed Turkey from the safe country of origin list and added Georgia, Nepal and Senegal. Therefore Albania, Algeria, Bangladesh, Bosnia and Herzegovina, Montenegro, Egypt, Georgia, Kosovo, Morocco, Nepal, Senegal, North Macedonia, Serbia and Tunisia were determined as safe countries of origin by the Government. In 2019, a total 2,183 nationals of

countries designated as safe countries of origin applied for asylum in Slovenia. However, all cases have been examined in regular procedures without applying the safe country of origin concept, as the concept was not used in 2018 or in 2019.

- AIDA, Country Report Slovenia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Sweden:** On 19 June 2019, the government ordered an investigation regarding the possibility to introduce a list of safe countries of origin. A government memorandum was published on 30 January 2020, which outlined the legislative changes necessary to achieve that aim. The government has expressed as a goal to implement the required legislative changes during the fall of 2020.

- AIDA, Country Report Sweden, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_se\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_se_2019update.pdf)

## 6) Reception of applicants for international protection (including information on reception capacities – increase/decrease/stable, material reception conditions - housing, food, clothing and financial support, contingency planning in reception, access to the labour market and vocational training, medical care, schooling and education, residence and freedom of movement)

### Material reception conditions

**Cyprus:** The law provides that material reception conditions are provided to applicants to ensure an adequate standard of living capable of ensuring the subsistence and physical and mental health. No other provisions are included in the law determining the conditions and level of assistance provided. A relevant Notification by the Council of Ministers was issued on 6 May 2019, revising the level of material reception conditions. The material assistance was thus increased in 2019 for the first time since 2013 following repeated criticism from NGOs, UNHCR and others as it was far from sufficient to cover the standard cost of living and housing in Cyprus. Such inadequacy still emerges when looking at the difference between the rent allowance amounts for nationals and asylum seekers, and undermines the obligation to ensure dignified living conditions for asylum seekers. Such difference is also evident in the case of the allowances for daily expenses, food and clothing. Property analysts and other stakeholders report an annual increase of 18% in rent prices, thus raising as to whether the revised amounts are sufficient and adequate to secure appropriate housing. The combination of highly restrictive policy relating to the level of allowance and sharp increase in rent prices has resulted in an alarming homelessness problem in Cyprus.

In practice, the insufficiency and inadequacy of resources cannot provide for a dignified standard living, which has been repeatedly raised by NGOs, and UNHCR, the Ombudsman Office and the Commissioner for Children's Rights in 2019. This has led to many asylum seekers including families with young children living in conditions of destitution and heavily relying on charities to cover basic needs such as food. The same applies for housing, as the sharp increase of rents in urban areas as well as the lack of networking capacity among newcomers, results in increased numbers of homeless people.

A number of other major obstacles are encountered by asylum seekers in accessing material reception conditions that ultimately hinder access to reception conditions. This includes, *inter alia*, systematic delays in examining the application and granting the assistance. Currently, the average processing time of the application for material reception conditions at Social Welfare Services is 2-3 months. This is due to various administrative difficulties, mainly staff shortages, and the requirement for Welfare Officers to go through a time-consuming procedure for all beneficiaries in order for the benefits to be approved every month. Delays in the issuance of the Alien's Certificate (ARC) by the Aliens and Immigration Unit of the Police also contribute to the delays, as persons not holding an ARC number, are not able to receive the amounts for the coverage of utility bills and minor personal expenses, until the ARC number is issued. Most delays involve the provision of rent subsidies (app. 1-2 months) and the issuance of the allowance to cover electricity, water and minor expenses. During 2019, delays were also observed in the issuance of vouchers.

- AIDA, Country Report Cyprus, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**Hungary:** In Balassagyarmat until 30 April 2018, asylum seekers were provided with hygienic items and food in kind. After that, over the course of 2018 and 2019 asylum seekers were given either food allowances or food and hygienic items in kind. However, Menedék Association reported that in 2019 food was provided again in kind. According to them despite the law giving the opportunity to the asylum seekers to choose from the forms of food provision, in practice beyond a certain number of applicants reception facilities leave no choice and provide food exclusively in kind. Cooking was also a possibility for residents in Balassagyarmat.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Ireland:** In July 2019 the Irish Refugee Council published a report analysing the transposition of the recast Reception Conditions Directive one year later. Particular concerns were the absence of a vulnerability assessment and the rapid increase in the number of people dispersed to ad hoc emergency accommodation premises. Moreover, in 2018, building on the Report on the Working Group to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers, the Working Group on National Standards produced a draft document consisting of a set of proposed national standards for accommodation centres in Ireland. The National Standards aim to introduce further reforms of the Direct Provision system. The National Standards were subject to a public consultation process which closed on 25 September 2018. The final draft of the Standards were published in August 2019.

In December the Joint Committee on Justice and Equality of the Oireachtas published the 'Report on Direct Provision and the International Protection Application Process December 2019'.

- AIDA, Country Report Ireland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2019update.pdf)

**Malta:** People living outside of reception centres are usually not entitled to any form of allowance. However, in 2019 due to the lack of space in overcrowded reception centres and the impossibility to accommodate new arrivals AWAS decided to also provide this allowance to people left outside of the reception system. According to AWAS, any applicant duly registered with RefCom and holding the asylum-seeker certificate can apply to receive the allowance. NGOs indicated that all people referred to AWAS were provided with the allowance. However, since no information is provided to applicants about this possibility and since NGOs have limited resources, many applicants were left outside of the reception system and did not benefit from allowances for lack of information or documentation. Moreover, due to major delays in the registration process with RefCom, applicants often waited weeks or even months to have their certificate and therefore receive the per diem.

- AIDA, Country Report Malta, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_mt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_mt_2019update.pdf)

**Poland:** Given that, since 2019, the enforcement of negative asylum decisions is suspended as long as the appeal is pending at second instance, asylum seekers have access to material reception conditions during court proceedings.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Romania:** Although applicants are entitled to reception conditions from the moment they express the intention to seek asylum in accordance with national law, 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.

- AIDA, Country Report Romania, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ro\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ro_2019update.pdf)

**Croatia:** For those applicants who are accommodated in the Reception Centres for Applicants of International Protection, there is an obligation to inform the Head of the centre if they want to stay out for one or more nights, as they have to return to the centre by 23:00. According to the recent amendments of the Ordinance on the Realisation of Material Reception Conditions, the applicant may stay outside the Centre for more than 24 hours with the prior approval of the Reception Centre and for a maximum of 15 days. In this case (except in certain cases such as lack and occupancy of accommodation facilities), the allocated room will be kept. For

any stay longer than 15 days, the applicant must submit the appropriate documents and register his / her residence at a new address.

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

**Sweden:** On 1 January 2020, a new provision came into force which limits the right of asylum seekers to choose housing during the asylum proceedings. An asylum seeker forfeits the right to a daily allowance if he or she independently arranges housing, and the housing is located in a part of a municipality which at the time of moving in, and during the time the asylum seekers resides in it, is considered to have social and economic challenges. The government may issue regulations on which parts of a municipality that should be considered to have social and economic challenges. However, this provision does not apply if it is obviously unreasonable to withhold the economic assistance.

- AIDA, Country Report Sweden, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_se\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_se_2019update.pdf)

### Access to reception centres & reception capacity

**ECRE/AIDA comparative report:** A comparative report published by AIDA provides an update to ECRE's analysis of reception capacity for asylum seekers in Europe, through an assessment of major developments in the reception systems of the 23 countries covered by AIDA with a particular focus on management of reception capacity in light of varying pressure on the asylum systems, as well as the implications of the continued residence of beneficiaries of international protection in facilities for asylum seekers.

See: ECRE/AIDA, *Housing out of reach? The reception of refugees and asylum seekers in Europe*, April 2019, available at: <https://bit.ly/38LeRpx>

**Cyprus:** During 2019, Social Welfare Services engaged in identifying private housing for homeless or at risk of becoming homeless beneficiaries, due to the very high number of beneficiaries being in that situation. This practice is not uniform across districts, and at certain times during the year, was disrupted. The increased demand for housing options for asylum seekers has prompted local landlords to engage in offering apartments to asylum seekers, often contacting the Social Welfare Services in order to inform them about vacancies.

Social Welfare Services' housing arrangements mainly involve newly arrived families with minor dependants. Placements are usually in budget hotels and apartments/house in both urban and rural areas. Persons are usually placed for a short period of time and the cost of the hotel was deducted from the already low amount allocated for covering their reception conditions. In certain instances it was observed that referrals/placements included premises with very low standards or unsuitable especially for families, poor infrastructure and lack of necessary equipment/amenities.

- AIDA, Country Report Cyprus, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**France:** France is still failing to meet its obligation to provide accommodation to all asylum seekers as less than 50% of asylum seekers were accommodated at the end of 2019. In absolute numbers, this represents a total of 151,386 asylum seekers who were eligible for accommodation in 2019, for a total of 98,564 places available. Out of the available places, only around 70,000 were occupied by asylum seekers, while the other places were occupied by rejected asylum seekers and/or refugees and/or not occupied at all.

Due to the lack of places, several informal camps are still present in Paris as of early 2020, despite many dismantlement operations by the authorities. In Calais, police evictions have increased to record levels according to a report published in 2019.

- AIDA, Country Report France, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Ireland:** In November 2019 the government announced a new expert advisory group to look at a 'long term approach to how people seeking asylum are accommodated and supported. The group, which is being chaired by former European Commission secretary general Catherine Day, will report to the Government on potential long-term approaches to accommodating asylum seekers by the end of 2020.

- AIDA, Country Report Ireland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2019update.pdf)

**Malta:** In 2019, due to a significant influx of asylum-seekers arriving by boat, the whole Maltese reception system, not sufficiently resourced to deal with such high numbers, was under extreme pressure. Due to the lack of space available in overcrowded reception centres, the authorities decided to detain all applicants arriving irregularly in Malta.

- AIDA, Country Report Malta, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_mt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_mt_2019update.pdf)

**Netherlands:** Due to the long waiting times at the IND, applicants spend longer periods in the reception centres. The Central Agency for the Reception of Asylum Seekers (COA) has announced that they will need 5,000 extra places in 2020 due to this development. At the end of 2019, the State Secretary announced she wanted to open separate reception locations for applicants originating from safe countries of origin. However, at this point there have been no concrete plans for these locations.

Moreover, in the course of 2019 there has been some discussion about whether asylum seekers, whose application is deemed inadmissible because they received protection in another EU-country, had the right to reception directly after submitting a request for a provisional measure. According to COA this was not the case because the *Gnandi* judgment was not applicable since there was no return decision involved and the return directive was therefore not relevant to these cases. However, various courts have countered this argument and decided that there was a right to reception after submitting a request for a provisional measure.

- AIDA, Country Report Netherlands, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_nl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2019update.pdf)

**Spain:** Following judgments of the Superior Court (*Tribunal Superior de Justicia*, TSJ) of Madrid, the Ministry of Labour, Migration and Social Security (DGI/AH) issued instructions in January 2019 to ensure that asylum seekers returned under the Dublin Regulation are guaranteed access to reception. The Reception Handbook was amended accordingly.

Overall, efforts have been made during 2019 to shorten waiting times to access reception which often reached 1 month cases have been reported where asylum seekers had to wait up to 2-3 months.

- AIDA, Country Report Spain, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

**Sweden:** The continuing drop of asylum seekers in the reception system has led to further reductions in the number of places in Migration Agency accommodation to 20,332 places by the end of 2019. This number has been steadily reduced over the past years: from 76,721 places in 2016 to 47,034 places in 2017, and to 26,307 places in 2018. By the end of 2019, 16,739 persons were staying in the available 20,332 places.

- AIDA, Country Report Sweden, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_se\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_se_2019update.pdf)

**Switzerland:** As asylum claims have notably decreased since 2016, the situation seems to have improved as the average occupancy rate at the end of 2019 was 52% in the six asylum regions. For a detailed overview of the different types of centres, please refer to the AIDA report under Housing.

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

## Reception centres

**ECRE fact-finding visit to Germany:** Following a fact-finding visit conducted in Germany, ECRE published a report analysing the model of Arrival, Decision and Municipal Distribution or Return (“AnKER”) centres implemented in the Federal State of Bavaria since August 2018. In particular, the report identified risks undermining asylum seekers’ access to a quality asylum procedure and adequate reception conditions. See: ECRE, *The AnKER centres: Implications for asylum procedures, reception and return*, April 2019, available at: [https://www.asylumineurope.org/sites/default/files/anker\\_centres\\_report.pdf](https://www.asylumineurope.org/sites/default/files/anker_centres_report.pdf)



**Austria:** During a short period in 2019, the “initial reception centres” had been re-named into “departure centres”. However, following massive criticism from civil society organisations and given the lack of legal basis for that change, these are still called “initial reception centres” in accordance with national law. Moreover, due to the low number of asylum seekers two more federal centres have been closed in 2019. As of July 2019, there were thus 11 federal reception centres with a total capacity of 2,203 places, out of which only 868 were in use in July 2019.

- AIDA, Country Report Austria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_at\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_at_2019update.pdf)

**Belgium:** Despite the numerous warnings of the federal reception agency for asylum seekers Fedasil as well as civil society actors, a new reception crisis emerged in 2019. Fedasil had to look for 750 extra places each month over the past year, due to an increasing shortage of places for asylum seekers. This is due to the government's scaling down of capacity to adapt reception systems to a drop in asylum applications in recent years, which was therefore not able to address the increase of applications for international protection in 2019. Moreover, as a result of the lack of staff within the determining authority, asylum procedures took longer and asylum seekers had to remain in reception centers for longer periods. On 18 of November 2019 for example, 65 people were not allowed to apply for asylum due to a lack of reception space and had to come back on the following day.

- AIDA, Country Report Belgium, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_be\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_be_2019update.pdf)

**Bulgaria:** During most of 2019 and at the time of writing, the national reception centers operated a round or below 10% of their capacity. The Vrazhdebna shelter in Sofia, which re-opened in May 2019 for the visit of Pope Francis, began to regularly accommodate asylum seekers only as of the end of June 2019. With the exception of this centre, the conditions in national reception centres remained poor; i.e. either at or below the foreseen minimum standards.

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Cyprus:** The Emergency Reception Centre in Kokkinotrimithia (Pournara) is being converted into a First Registration Reception Center, expected to be concluded in April 2020. Throughout 2019 the Centre underwent construction to upgrade the existing infrastructure with the replacement of tents with prefabricated constructions. During this time the Center continued to be used as the construction is carried out on one section at a time. The current capacity is 350-400 places. With the expansion, capacity will reach approximately 800 persons, with some 530 in prefabricated containers and the rest, need be, in tents. Regarding referrals to the Center, throughout 2019 all asylum seekers that have presented themselves to the Aliens and Immigration Unit in Nicosia are transferred to the Center. In 2020 and upon completion of the Center the aim is for all asylum seekers that have recently arrived in the country to be transferred to the Center, however in efforts to take preventive measures against the Corona virus in early March 2020 and before completion of construction all new arrival in the country are being referred to the Center. Currently the services provided in the Center include identification, registration and lodging of asylum applications as well as medical screening and vulnerability assessment. Movement is restricted within the premises of the Center supposedly for 72 hours, until the results of the tests are concluded. If asylum seekers have negative results as regards the medical test they will leave in 5-7 days. If positive the duration of stay may be longer as they will be re-tested and if found positive referred for medical treatment. Due to the high numbers of applicants in 2019 the tuberculosis screening and re-examination in cases of a first positive often led to delays and there were instances where asylum seekers stayed in the Center for 1 month.

- AIDA, Country Report Cyprus, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**Croatia:** In accordance with the Ministry of Interior's decision from 2018, the Government of the Republic of Croatia planned to build a Reception Centre for asylum seekers near Petrinja, in Mala Gorica. However, in 2019, following the resistance of the local population, it was decided that the funds would be invested in the existing reception centres in Zagreb and Kutina instead of building new Reception Centre in Mala Gorica. As regards the reception centre in Zagreb, renovations have been finalised in 2019 and the Croatian Red Cross confirmed that the living conditions had greatly improved following the renovations.

According to the Ministry of Interior's information from previous years, the total capacity in both Reception Centres currently stands at 700. Both reception centres are managed directly by the Ministry of Interior. The centre in Kutina is aimed at the accommodation of vulnerable applicants, however in 2019 mainly persons who came through resettlement were accommodated in Kutina. At the end of the year, when all resettled persons were relocated in other cities and provided with paid apartments it was decided that vulnerable applicants would again be accommodated in Kutina.

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

**Hungary:** The centres are managed by the asylum authority. Until the end of 2018, the reception centres operated financially under the direction of the Director-General as an independent department structurally being a part of the regional directorates and perform their professional tasks under the supervision of the Refugee Affairs Directorate of the former IAO. As of 1 January 2019, the reception facilities and detention centres fall under the exclusive management and supervision of the central Refugee Affairs Directorate of the NDGAP.

This being said, the reception facilities are not efficiently used. This is shown by the visible discrepancy between the numbers of occupancy and the maximum capacity of reception facilities, as the majority of the asylum seekers are being detained in transit zone. In 2019, the majority of asylum seekers (433 persons) were placed in the transit zones, while only a few applicants were waiting for their first instance asylum decision in one of the open reception facilities in 2019. According to the NDGAP, on 31 December 2019 there were altogether only four asylum seekers in Vámoszabadi and one asylum seeker in Balassagyarmat.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Ireland:** Overcrowding and a lack of space in the Direct Provision estate has led to the use of emergency accommodation. The Minister may, exceptionally provide the material reception conditions in a manner that is different to that provided for in these Regulations where (a) an assessment of a recipient's specific needs is required to be carried out, or (b) the accommodation capacity normally available is temporarily exhausted. Emergency accommodation can be hotels or B and Bs. As of December 2019 1,559 persons were residing in 37 hotels and guest houses, procured as emergency capacity. The amount spent on hotel and guest house beds in emergency locations up to end of November 2019 was €27.14m. The exact location of emergency accommodation is not publicly available in order to protect the identity of international protection applicants. In 2019, requests for re-entry into Direct Provision under the Regulations – by people who had not taken up an initial offer of accommodation or have since experienced a change in their circumstance – have been refused on the ground of a lack of accommodation or have been subject to considerable delays. The personal circumstances of persons living outside Direct Provision are generally unknown and figures are not maintained by IPAS. As of November approximately In terms of people who lived in Direct Provision and then subsequently left it for whatever reasons whilst their asylum application was pending, for example to live with family members, a partner or friends, it is very difficult to access the Direct Provision system again, should their situation change.

- AIDA, Country Report Ireland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2019update.pdf)

**Poland:** Poland has ten reception centres which altogether provide 1,962 places. At the end of 2019, 1,295 asylum seekers were residing in the centres. Another 1,640 asylum seekers were receiving assistance outside the centres. There is no problem of overcrowding in these centres. As of 31 December 2019, the occupancy rate was 48,18% in first reception centre in Biała Podlaska, 65,45% in Dębak and between 44,54% and 96,79% in the accommodation centres.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Slovenia:** The increase of asylum seekers continued to affect pre-reception conditions. The lack of capacity in case of large number of arrivals resulted in lower hygienic standards and health risks.

- AIDA, Country Report Slovenia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Spain:** Shortcomings in the reception system have been registered during 2019, leading the Spanish Ombudsman to characterise the system as “meagre”. In November 2019, the employees of the Samur Social of Madrid (the Social Service for the Municipal Assistance to Social Emergencies) organised a strike to denounce the fact that many asylum seekers, including children, did not have access to accommodation for months and were thus obliged to sleep on the street in front of the Samur Social. Around 30 asylum seekers filed, in cooperation with the church San Carlos Borromeo, two requests to the Municipality of Madrid and the Ministry of Work, Migration and Social Security, urging them to comply with their obligations to accommodate asylum seekers. Similarly, the Spanish Ombudsman urged the competent authorities to provide asylum seekers who are homeless with reception solutions. It further recommended the creation of proper reception facilities and called for more flexibility in the current reception system.

In order to solve the lack of sufficient reception places for asylum seekers, in January 2020 the newly appointed Ministry of Inclusion, Social Security and Migration started to negotiate with a private company (*Sociedad de Gestión de Activos procedentes de la Reestructuración Bancaria - Sareb*) the possibility of using empty apartments for the reception of asylum seekers and undocumented migrants.

- AIDA, Country Report Spain, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

**Portugal:** Following steady increases in the number of asylum applications in recent years, CPR has established a new reception centre with the financial support of the Council of Europe Development Bank and in partnership with the Ministry of Home Affairs. The new Reception Centre for Refugees (CAR II) is located in S. João da Talha, Municipality of Loures, has a maximum capacity of 90 places, of which 30 are dedicated to unaccompanied children. The remaining 60 places are dedicated to the transitory accommodation of resettled refugees. The new centre was inaugurated in December 2018 and started to operate in 2019.

- AIDA, Country Report Portugal, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pt_2019update.pdf)

**Romania:** Applicants may be transferred to different reception facilities for reasons of capacity. In practice, asylum seekers are transferred most often from Timișoara to other Regional Centres. This occurs due to the fact that most of the asylum seekers arrive from Serbia, even though the number of arrivals in 2019 decreased in comparison with 2017, and the limited capacity of the Regional Centre of Timișoara. 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. In practice, asylum seekers are not informed beforehand about the transfers. They are woken up in the morning of the transfer by IGI-DAI officers jointly with special police forces. 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. According to IGI-DAI, in 2019, 39 decisions assigning a specific residence, reception centres, for the asylum seekers, were taken, according to article 19<sup>4</sup> of the Asylum Act.

- AIDA, Country Report Romania, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ro\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ro_2019update.pdf)

**Switzerland:** The new legislation of March 2019 introduced a legal basis for the creation of specific centres for uncooperative asylum seekers. Article 24a AsylA states that asylum seekers who endanger public security and order or who by their behaviour seriously disrupt the normal operation of the federal asylum centres may be accommodated by the SEM in special centres that are set up and run by the SEM or by cantonal authorities. Although applications cannot be lodged in those centres, procedures are carried out according to the same rules than in the usual federal asylum centres. At the time being, no such centre is operating, the only one ever opened in Les Verrières, Canton of Neuchâtel was temporarily closed on 1 September 2019 after nine months with an average two inhabitants. Plans for a second specific centre were put on hold because of the low numbers of asylum applications.

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

**United Kingdom:** Following a tender process new contracts to provide accommodation were approved in January 2019 for a ten-year-period. One of the previous providers has not received a contract this time. In

March 2019 the government responded to the Parliamentary Committee's report about this process and its recommendations for smooth transition.

- AIDA, Country Report United Kingdom, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_uk\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_uk_2019update.pdf)

### Conditions in reception centres

**Austria:** In June 2019, several persons accommodated in this federal centre in Tyrol entered in a hunger strike which caused public uproar. The Ministry of Interior subsequently conducted a human rights assessment in cooperation with UNHCR concerning the reception conditions of the centres in Tyrol and Schwechat, which mainly host rejected asylum seekers who cannot be deported. In these centres, the persons receive regular counselling concerning voluntary return.

Following the assessment, the Ministry of Interior published recommendations and several objectives. This includes no longer accommodating children in these two centres and introducing more frequent shuttle services to the village. The system of isolating rejected asylum seekers in this centre was criticised heavily and had proven to be inefficient as only 18 persons have left the country out of the total of 65 persons accommodated in the first half of 2019. Moreover, it has been reported that the recommendations were not strictly applied in practice by the Ministry of Interior, as some children were reportedly still being accommodated in Schwechat. According to officials of the Federal Office for Immigration and Asylum (BFA), these recommendations are considered as non-binding.

- AIDA, Country Report Austria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_at\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_at_2019update.pdf)

**Belgium:** The extensive closure and re-opening of reception places throughout 2019 caused many problems. This includes poor reception conditions as it mainly involves tents and containers as well as poor quality of services provided during the asylum procedure and at reception centres as unexperienced social workers have been recruited, while the contracts of the experienced social workers were not prolonged. Due to a lack of staff at the Immigration Office and the CGRS, the asylum procedure takes longer and subsequently asylum seekers stay longer in reception centres.

- AIDA, Country Report Belgium, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_be\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_be_2019update.pdf)

**Croatia:** In 2019 social activities and psychosocial support were provided by the Croatian Red Cross 7 days a week in the reception Centres of Zagreb and Kutina. However, it was challenging to encourage applicants to join the activities. Also, most of the applicants did not stay long in the Reception Centres as they were in transit. In addition Croatian Red Cross reported that applicants were not interested in some activities (such as health and hygiene educations and language course).

Moreover, UNICEF reported that at the end of 2019 a short-term contract was signed with JRS (valid until April 2020) which provides funding for re-establishment of a child-friendly space (CFS); e.g. through appropriate educational activities for children, psychosocial support with a special focus on child protection, establishing effective cooperation with other competent services for the treatment of children in accordance with their best interests etc. Currently, up to 45 children participate in the work of the CFS daily. UNICEF advocates that special attention should be paid to the needs of children when organizing and planning services in the Reception Centres, and that funding should be provided through the AMIF for the functioning of the CFS.

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

**Hungary:** Social workers of the former NDGAP (the IAO) used to organise different activities for asylum seekers in the reception facilities e.g. drawing, music activities, movie clubs, cooking or sport events. In Vámoszabadi, they used to even organise a small library and Hungarian language classes, as well. However, in 2018 and 2019, there was no regular program provided to asylum seekers by social workers who were mainly burdened by administrative tasks. The withdrawal of the AMIF calls affected the number of the social workers and their activities as well. Many of them lost their job after 30 June 2018. Furthermore, due to the institutional transformation of the asylum authority, there were several employees whose employment ceased by July 2019. Consequently, in 2018 and 2019 community activities were exclusively provided by NGOs

in the reception facilities however, the number of these organizations on the field due to funding troubles has also decreased.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Malta:** In 2019, the conditions in the reception centres continued to deteriorate significantly, due to over population and lack of resources. Issues include lack of cleaning, difficult access to bathrooms, very limited hot water, or air conditioning and heating not being available. Group evictions also led to tensions which culminated in October 2019 when riots broke out in Hal Far Tent Village, the main reception centre of the island. It is estimated that 300 residents were involved and 107 people were arrested. Some police officers were slightly injured, several cars burnt and some buildings of the centre sustained substantial damage. These incidents led to strong reactions from all actors involved in the field.

The Home Affairs Minister said that “as a democratic country, peaceful protests can take place, but breaking the law is not allowed and it applies to everyone even migrants”, mainly underlining the damages caused by migrants. UNHCR Malta further stated that “resorting to violence can never be a solution as it puts both the residents and staff at risk”. Nevertheless, UNHCR also referred to the deteriorated conditions in open centres, “falling far short on acceptable standards” and urged the Maltese government to “take immediate action in improving the conditions in the centres”.

- AIDA, Country Report Malta, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Slovenia:** In 2019, due to a large number of arrivals, the Asylum Home could not accommodate all of the persons waiting to lodge their application. Due to the lack of space in the reception area of the Asylum Home, individuals who had not lodged their applications were also accommodated in the room intended for common activities or on the hallways of the Asylum Home. For that purpose, beds were brought into the common room or the hallway. Hygiene standards were not adequate and people could not have any privacy. The number of people accommodated in the reception area of the Asylum Home often exceeded the number of available accommodation places. Due to the overcrowding of the accommodation spaces in the reception area of the Asylum Home, people were also accommodated in containers in Logatec. During the winter they were accommodated in one part of the centre. Although the conditions were not appropriate for longer stays, people had to wait to lodge the application for up to 15 days.

- AIDA, Country Report Slovenia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Spain:** In the Migrant Temporary Stay Centre (CETI) in Ceuta and Melilla, situations of overcrowding persisted in recent years, including 2019, which led asylum seekers and migrants to substandard reception conditions. Besides shortcomings due to their usual overcrowding, attention was paid to the fact that CETI do not provide satisfactory conditions for family units and overall for families with minors. In fact, there are no available places for family units, due to which families are separated and children stay with only one of their parents. In both centres, the shortage of interpreters and psychologists has also been criticised.

In July 2019 incidents were reported at the CETI in Melilla, when police services removed a Moroccan family whose asylum claim had been rejected. A witness reported the mistreatment suffered by the parents, including the pregnant wife, and the fact that the removal had been carried out in front of the children and other children living in the centre.

At the beginning of January 2020, the human rights activist José Palazón, president of the Melilla-based NGO Prodein reported, that a young man had been expelled from the CETI in Melilla for creating disorder. Residents of the centre, however, stated that the young man is suffering from mental health disorders and that the CETI did not provide him with adequate assistance. The activist added that, since the beginning of the year, different asylum seekers, mainly originating from Mali, Tunisia and Algeria were denied access to and support at the CETI. He also reported that 7 Moroccan families with 22 children have been expelled from the CETI without receiving their documentation back and were thus forced to sleep on the street. The majority of them had applied for asylum for having participated to the protests in the Rif region.

- AIDA, Country Report Spain, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)



**Serbia:** Reception conditions in Asylum Centres can be considered as satisfying in all except in the largest Asylum Centre in Krnjača. On the other hand, living conditions in almost all Reception Centres cannot be considered as adequate for the purpose of longer stay. The conditions in Adaševci, Šid, Obrenovac and several other Reception Centres are completely unacceptable and should be improved without a delay. The lack of security in many reception facilities is a serious concern, and the presence of organized crime groups involved in smuggling and potentially human trafficking is evident. This has a particularly negative effect on UASC who are exposed to harmful environment and practices in almost all reception facilities.

- AIDA, Country Report Serbia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_sr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_sr_2019update.pdf)

**Switzerland:** Centres are located in extreme remote areas. The centres in Boudry and Chevrières for example are characterised by their respective isolation. The Boudry centre is located in a complex that includes the asylum processing centre and a psychiatric hospital. It is several kilometres away from the surrounding village and about 15km from the city of Neuchâtel. The waiting and departure centre of Chevrières is much more isolated. In order to get there by public transport, it is necessary to take a 20-minute bus ride from the city of Fribourg. Once arrived in the village of Chevrières, it still takes a 20-minute walk to reach the centre. There are two buses per hour driving to both centres, asylum seekers receive every week a single ticket to go to Neuchâtel or Fribourg and 3 CHF of pocket money per day, with the exception of persons from EU/EFTA countries or countries exempt from the visa requirement who don't receive any pocket money.

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

### Access to the labour market

**Austria:** Asylum seekers can carry out non-profit activities and receive an acknowledgment of their contributions. The amount of this remuneration was debated throughout 2018 and 2019. The Ministry of Interior lowered the maximum remuneration to €1,50 by way of decree. This decree was revoked by the interim government in May 2019, thus re-instating the former regulation which foresees that asylum seekers are allowed to earn up to €110 per month

- AIDA, Country Report Austria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_at\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_at_2019update.pdf)

**Belgium:** Until the end of 2018, asylum seekers needed a work permit C to be able to work, but since January 2019 the right to work is mentioned directly on their temporary residence permit (orange card). A separate work permit is no longer needed and asylum seekers can work in the area he or she wishes.

- AIDA, Country Report Belgium, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_be\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_be_2019update.pdf)

**Hungary:** As a result of the rules applicable in times of state of crisis due to mass migration, asylum seekers had no longer access to the labour market. They were neither entitled to work in the premises of the reception centres nor at any other work place. This regulation was clearly in violation of Article 15 of the recast Reception Conditions Directive. Furthermore, it had been introduced with an *ex tunc* effect, thus it is applicable also in cases that had started prior to the adoption of the amendment

This provision was amended with the effect of January 2019 in a way that it currently applies exclusively to those staying in the transit zones. In contrast to that, applicants staying at private accommodation have again the right to work after 9 months have passed by since the start of their procedure. In practice, however, Menedék Association reports that the modification did not result in a real change, since employers are not willing to offer jobs to people in possession of a residence permit (i.e. humanitarian residence permit) with a 2-3-month-long definite time of validity.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Ireland:** Following the transposition of the recast Reception Conditions Directive and the decision of the Supreme Court in *the N.V.H. case*, access to the labour market is granted for a six-month period (renewable) once an asylum seeker has been waiting over 9 months for a first instance decision. The impact of this change is felt by newly-arrived asylum seekers rather than those who have already received a first instance decision

and are currently in the appeal process. For this category who remain unable to access the labour market, their time living in Direct Provision is not considered residency for the purposes of accruing entitlements to social welfare assistance. As of November 2019 a total of 5,027 applications for access to the labour market were received by the Department of Justice and Equality. 1,452 applications were refused. 3,438 applications for a labour market access permission were granted. 1,708 applicants have indicated they have commenced employment or self-employment. 1,208 are living in accommodation provided by IPAS.

- AIDA, Country Report Ireland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2019update.pdf)

**Malta:** A recent report from UNHCR Malta highlighted the challenges encountered by migrants in employment. The lack of clarity or information and administrative challenges when applying for work permits is said to constitute a significant obstacle, along with the difficulty with recognition of qualifications and skills, and language and cultural barriers. The report also documented the situation of beneficiaries with protection in another Member States, especially Italy, coming to Malta and being denied the possibility to work. The report also confirmed that, among the beneficiaries of international protection, female participation in the labour market is considerably low. UNHCR also noted that many service-providers, such as unions, recruitment agencies and employers' associations, are extending their services to refugees and have recognised the importance of reaching out to them.

A number of vocational training courses are available to asylum seekers some also targeting this specific population group.

- AIDA, Country Report Malta, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_mt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_mt_2019update.pdf)

**Poland:** Access to employment is not limited to certain sectors, but can be problematic in practice. Many employers do not know, that the above mentioned certificate with a temporary ID document gives an asylum seeker a right to work or do not want to employ a person for such a short time (i.e. up to 6 months, as the employers are unaware that the procedure will actually take longer than the validity of a single temporary ID document), which causes that those certificates have no practical significance. Secondly asylum seekers often live in centres which are located far away from big cities and in the areas where there is high level of poverty and unemployment in general, which makes it difficult to find a job in practice. Moreover, most asylum seekers do not know Polish well enough to get a job in Poland. Asylum seekers also face a problem of a limited recognition of education and skills acquired outside Poland, so they are often underemployed. Moreover, foreigners endure a discrimination in an employment, e.g. they are offered lower salary than nationals.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Slovenia:** In practice, asylum seekers face systematic and practical obstacles when searching for work and employment such as the language barrier, cultural differences, lack of certificates bringing evidence of education, lack of work experience, medical problems, discrimination, structural imbalances in the labour market and lack of employers' trust.

- AIDA, Country Report Slovenia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Portugal:** Asylum seekers and beneficiaries of international protection face many challenges in securing employment that are both general and specific in nature. Even though the economic situation of the country has improved from pre-crisis levels, in October 2019 the unemployment rate still stood at around 6.5% for the general working population. This adverse context is compounded by specific fragilities that include poor language skills and professional skills that are misaligned with the needs of employers.

- AIDA, Country Report Portugal, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pt_2019update.pdf)

**Spain:** Labour integration supportive schemes offered to hosted asylum seekers include services like personalised guidance interviews, pre-employment training, occupational training, active job seeking support. However, asylum seekers face many obstacles to accessing the Spanish labour market in practice. Many of them do not speak Spanish at the time they receive the red card. In addition to that, the recognition

of their qualifications is a long, complicated and often expensive procedure. Last but not least, they face discrimination due to their nationality or religion.

- AIDA, Country Report Spain, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

**Switzerland:** As of 1 March 2019, asylum seekers staying in a federal processing centre are no longer allowed to engage in a gainful employment. Nevertheless, asylum seekers who are entitled to pursue gainful employment in accordance with the immigration provisions or who participate in charitable occupational programmes, are not subject to the ban on employment.

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

**United Kingdom:** A campaign was launched in 2018 to 'lift the ban' which refers to the above policy; the main campaign aims are for the government to reduce the waiting time to get permission to work to six months and to allow access to all vacancies, not those on the shortage occupation list. The campaign has many members from refugee and other sectors and has some parliamentary support, leading to debates, a short Bill and an amendment to the Immigration and Social Security Co-ordination (EU Withdrawal) Bill during 2019. The main obstacle is that since these occupations are so narrowly defined, the chances that an asylum seeker will qualify are quite low. The asylum seeker's residence status does not change as a result of obtaining permission to work. They remain on bail and subject to conditions which may include residing at an address that they give. There is no special access to re-training to enable access to the labour market.

- AIDA, Country Report United Kingdom, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_uk\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_uk_2019update.pdf)

### Access to vocational training

**Austria:** In 2018, the government had abolished the access to a apprenticeship for asylum seekers with the aim to prevent an overlap between migration and asylum policies. However, given that around 1,000 asylum seekers who had received a negative decision on their asylum claims were already in apprenticeship, a civil society initiative led to an amendment of the Aliens' Law in December 2019. The latter foresees that rejected asylum seekers working are allowed to finish their vocational training until a negative decision is issued. However, the concerned asylum seekers are not granted a legal and their situation can not be regularised upon termination of the apprenticeship.

- AIDA, Country Report Austria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_at\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_at_2019update.pdf)

### Access to health care

**Belgium:** On 29 October 2019, the Federal Knowledge Centre for Health Care (KCE) published the results of a field survey on the provision of health care to applicants for international protection. It shows that the organisation of health care in Belgium is unequal and not efficient. This leads to different treatment of asylum seekers although they are in the exact same procedural situation, purely on the basis of their place of residence. This makes the system non-transparent and complicated for social workers but also for the service provider themselves, as they have their own administration, control mechanisms and decision-making structure; thus resulting in a lack of coordination and cooperation. Access to specialised care also appears to be difficult for all asylum seekers due to a slow and complex administration that has to grant permission first. The KCE also identified other various thresholds that hamper access to health care, such as language barriers, a lack of interpreters and limited transport possibilities. The KCE proposes that the financing of health care for all asylum seekers should be included to a global envelope, which includes services for prevention, health promotion and support in terms of translation and/or transportation etc. The report identifies several avenues in this regard. For example, all asylum seekers could be covered by compulsory health insurance, or Fedasil could manage care centrally. The report analyses the advantages and disadvantages of these options, and the conditions for their implementation. Fedasil stated that consultations with different actors and authorities are ongoing to create a more equal system for all asylum seekers.

- AIDA, Country Report Belgium, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_be\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_be_2019update.pdf)

**Cyprus:** As of 1 June 2019, a National Health System (GESY) is in effect for the first time in Cyprus, introducing major changes in the provision of Health Care services. The new system introduces the concept of the personal general practitioner (GP) in the community as a focal point for referrals to all specialised doctors. A network of private practitioners, pharmacies and diagnostic centers has been set-up in order for health services to be provided, and in June 2020. A number of private hospitals are also expected to join the new health system for purposes of in-hospital treatment. For the most part of the population (Cypriots and EU citizens) in Cyprus, health services are now provided almost exclusively under this new health system.

However, asylum seekers, along with other segments of migrant population, are not included in the provision of GESY. Their access to health services continues under the provisions of the previous system, which basically entails treatment by public, in-patient and out-patient depts. of the public hospitals. The transition to the new health system impacted access of asylum seekers to those services, as, until the 18 December 2019 (when a relevant decision by the Council of Ministers was issued) there were not official decisions on the exact procedures regarding asylum seekers' access to health services.

Thus, the transition in the new system created vast confusion among medical and hospital staff in regards to asylum seekers' rights to health care. In various instances across Cyprus, and as it was reported to Cyprus Refugee Council and other NGOs, persons were denied access to treatment in the hospital and were asked to register with GESY instead, scheduled appointments with doctors who in the meantime had joined GESY were cancelled, access to particular medicine was restricted. Although the situation at present is better, further monitoring is required.

- AIDA, Country Report Cyprus, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**Croatia:** In a report published in February 2019, Médecins du Monde (Mdm) highlighted that mental health support is lacking, especially for asylum seekers returned to Croatia under the Dublin Regulation. It demonstrates the level of psychological distress, anxiety, depression and post-traumatic symptoms on the sample of asylum seekers that have been interviewed and highlights the fact that asylum seekers who have been returned to Croatia under the Dublin Regulation have shown more pronounced depressive symptoms and subjectively assessed the lower quality of life as well as lower levels of satisfaction with their own sense of safety in the future.

Moreover, since July 2019, Mdm has recorded a significant increase in the number of initial medical examinations. In addition, a situation of fluctuation in which applicants have been staying very shortly at the Reception Centre in Zagreb was observed. Due to a large increase in the number of newly arrived applicants, a significant increase in the number of children, women, pregnant women, infants and families in general has been observed. Likewise, there was a significant increase in the incidence of infectious diseases associated with long-term stay in poor living and hygiene conditions of the camps in Bosnia and Herzegovina.

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

**France:** Since January 2020, a 3 months residence requirement applies to all asylum seekers before they can benefit from the universal healthcare insurance (PUMA). This severely restricts their access to health care.

- AIDA, Country Report France, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Hungary:** In 2018 and 2019, the Cordelia Foundation was present in both operating reception facilities, namely in Vámoszabadi and Balassagyarmat. In the latter site, it was present on average once in a fortnight and this frequency applied to the other centre too. However, as a result of the low number of asylum seekers (and beneficiaries of international protection), the regularity of the visits of psychiatrists and psychologists similarly to 2018 remained hectic throughout the year, even though the Foundation would have had the capacity for regular visits on fortnightly basis. Upon the increase of the number of residents in the autumn, the NGO was present more frequently again. The same applies to Fót where they were also present on an ad hoc base. The Foundation also plays a key role in the lives of asylum seekers (and of those migrants who have

a “refugee story”, for instance students from Syria) who are placed in private accommodation, mainly in Budapest.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Poland:** In the centres for asylum seekers, the duty hours of general practitioners were reduced in 2019. Nevertheless, a pediatrician is now available in all reception centres, thus allowing asylum-seeking children to have a direct access to specialised doctors.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Slovenia:** In 2019, during the increase of arrivals, hygiene conditions were low in the pre-reception area of the Asylum Home which was overcrowded, as well as the common activities area where they were temporarily accommodated. Due to the backlog of applications, people waited to lodge the applications for up to 15 days. Since the medical examination is normally conducted one day before they lodge the application, the medical examination was also not performed for several days in which time they were in contact with asylum seekers and employees of the Asylum Home. The circumstances represented a health risk for both the asylum seekers and people working in the Asylum Home. In order to prevent overcrowding in the pre-reception area of the Asylum Home, people can be accommodated in Logatec, where they are accommodated until they lodge their application.

- AIDA, Country Report Slovenia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

### Access to education

**Cyprus:** In the context of primary education, 2 additional books for learning Greek as a second language were disseminated by the Ministry of Education in 2019 to all enrolled children with a migration background and additional hours of Greek language learning were arranged at schools where the number of non-Greek speaking children was deemed particularly high.

- AIDA, Country Report Cyprus, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**Hungary:** In 2019 asylum seeking children who arrived around June and in autumn of 2019 were not enrolled in school. In respect to the first half of the year however, children could attend school. Those unaccompanied minors who were under a Dublin procedure to unite with family members staying in other EU countries were never enrolled in formal education. By the time appropriate steps could be taken – mostly by NGOs – to that end, their transfers were completed.

In Balassagyarmat there was no Hungarian language class provided in 2019 to asylum seekers, however according to the Menedék Association one applicant commuted from the facility to Budapest in order to attend a language class that was organised by the NGO and a language school.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Ireland:** The Irish Refugee Council and other organisations raised concern about access to education for children living in emergency accommodation. In November 2019 the Newstalk radio station reported that up to 30 children living in emergency direct provision accommodation have not been attending school. The station reported that there were over 100 people living in emergency direct provision at The M Hotel in Carrickmacross, Co Monaghan. Over 20 of them are children of all ages - and for the past two months, none of these children have been attending school. The Irish Refugee Council, stated, in their report on their report ‘Reception Conditions Directive: One Year On report’ called on the Minister for Education to ensure children in emergency centres are enrolled in school, and it said the use of B&Bs and hotels to accommodate asylum seekers should be phased out as soon as possible. When asked, in December 2019, about the issue of children in emergency accommodation not receiving education, the Minister for Education stated that children of international protection applicants are required to receive an education within a three month period following their arrival in this State, allowing for school holiday period and that the Department of Education



has seconded an official to the Department of Justice and Equality to deal with any queries that schools who are enrolling children from accommodation centres may have.

Moreover, in order to ameliorate the hardship associated with the high fees which place third level education beyond the reach of many young people in the Direct Provision system, a pilot support scheme was introduced in September 2015, following the publication of the Working Group Report. The scheme provides supports in line with the current Student Grant Scheme to eligible school leavers who are in the international protection system (other than those at the deportation order stage) and who are either: asylum applicants; subsidiary protection applicants; or Leave to remain applicants. The eligibility requirements are stringent and mean that the vast majority of students do not satisfy the conditions set by the Department of Education. As a result, uptake has been very low, despite clear interest in further and higher education. Concerns were raised that the pilot scheme is so restrictive in nature that it may be very difficult to access. The Irish Refugee Council recommended that the criteria be amended to reduce the five-year requirement. The Irish Human Rights and Equality Commission (IHREC) also recommended that the pilot support scheme for free fees be altered to remove the criterion of having spent five years in the Irish education system as this presents for many an insurmountable barrier to accessing affordable third-level education. For academic year 2019-2020 the scheme continued. The Irish Refugee Council welcomed an amendment to the Scheme which reduced from five years to three years the number of years education in the Irish school system. This is similar to the residency requirement of the statutory-based Student Grant Scheme operated by SUSI.

A number of Irish Universities have taken steps to improve access for asylum seekers. A total of six out of the eight Irish universities offered full-time scholarships. Eight of the 11 institutes of technology also offer scholarships or access support. The Irish Refugee Council's Education Fund, using donations from members of the public, makes grant to support access to higher education. In academic year 2019-2020 the Fund granted to 65 people in 16 counties.

- AIDA, Country Report Ireland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2019update.pdf)

**Poland:** There are different obstacles to accessing education in practice. The biggest problem is a language and cultural barrier. Children do not know Polish but they are obliged to participate in classes in Polish. However, in all centres courses of Polish language for children are organised. Since recently, the compensatory classes are also being organized in the centres. The Office for Foreigners emphasizes that teachers working in the centres are in contact with the schools in order to gather the information on the real needs and problems of their pupils, to adapt the lessons accordingly. Moreover, material reception conditions for asylum seekers include basic supplies necessary for learning Polish. Furthermore, asylum-seeking children should receive the allowance 'Good start' (300 PLN) that according to the law should be granted once a year for every child that begins a school year in Poland. However, the LIA SIP informs that asylum seekers have problems with receiving this support. The refusals result from the internal incompatibility of the law in this regard.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Malta:** The Ministry for Education and Employment recently established a Migrant Learners' Unit which seeks to promote the inclusion of newly arrived learners into the education system. They provide guidance and information about the Maltese educational system to help migrants.

- AIDA, Country Report Malta, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_mt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_mt_2019update.pdf)

**Spain:** In practice, asylum seeking children are usually put in school, even during the first phase in which they are accommodated in asylum facilities. Nonetheless, shortcoming concerning asylum seeking minors accessing education have been reported concerning children hosted in the CETI in periods of overwhelmed conditions due to extreme overcrowding. Moreover, in August 2019, the association of immigration lawyers published a press release denouncing the deliberate lack of schooling for children in Melilla.

- AIDA, Country Report Spain, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

## Social benefits

**Austria:** The Austrian law passed in June 2019 foresaw that social benefits could be cut when a certain level of German language skills is not reached. It also regulated that families with more children should get less money per subsequent child (first 25%, second 15%, third and other 5%). However, in December 2019, the Constitutional Court ruled that these provisions were unconstitutional.

- AIDA, Country Report Austria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_at\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_at_2019update.pdf)

**France:** Since November 2019, the credit card on which the financial allowance is being provided to asylum seekers can no longer be used for withdrawing cash. The card can only be used for payments, both online and in shops. This limits the possible use of money by asylum seekers, and has been strongly criticized by NGOs.

- AIDA, Country Report France, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Poland:** The amount of social assistance that asylum seekers receive is generally not sufficient to ensure an adequate standard of living in Poland. With only PLN 750-775 per month, it is very difficult or even impossible to rent an apartment or even a room in Warsaw, where most asylum seekers stay during the procedure, particularly taking into account that owners are often unwilling to rent an apartment to foreigners, especially asylum seekers, and tend to increase a rent or deposit in such situations. As the amount of financial allowance is insufficient for renting separate accommodation, asylum seekers are often forced to live in overcrowded and insecure places. Many of them sleep in overcrowded apartments, where they have to share beds with other people or where living conditions do not provide privacy and personal safety. Social assistance for families of four amounts to PLN 1,500 per month and in practice it may be enough only to rent an apartment, however with a great difficulty. Insufficient social assistance forces asylum seekers to work in Poland illegally in order to maintain and pay the rent.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

## Reduction/withdrawal of reception conditions

**Belgium:** Since 7 January 2020, Fedasil no longer provides reception for two categories of applicants of international protection:

- a) applicants for international protection who have received an Annex 26 quater on the basis of the Dublin III Regulation, but for whom Belgium becomes responsible by default due to failure to transfer within the six months deadlines (Article 29(2) Dublin III Regulation).
- b) applicants for international protection who make a first application in Belgium but who already have an international protection status (i.e. refugee or subsidiary protection status) in another EU Member State.

This measure is based on an instruction of Fedasil of 3 January 2020 which was communicated to the reception network on 6 January 2020. In January 2020 alone, more than 80 persons have subsequently been refused reception, including some single women with minor children.

This instruction has no legal basis and violates national and European law as it excludes categories of individuals from reception beyond the ones foreseen by Article 20 of the recast Reception Conditions Directive. Moreover, these decisions are standard decisions issued systematically to the persons falling within these two categories, without any individual assessment taking into account the specific situation and/or vulnerability of the concerned person.

- AIDA, Country Report Belgium, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_be\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_be_2019update.pdf)

**Malta:** The Reception Regulations state that reception conditions may be withdrawn or reduced where the asylum seeker abandons the established place of residence without providing information or consent or does not comply with reporting duties or with requests to provide information or to appear for personal interviews concerning the asylum procedure. In 2019, due to the lack of space in reception centres, it had been noticed by NGOs that the authorities acted in a stricter manner with people who did not respect the centres' rules and did not sign as required.

Moreover, in 2019, evictions from reception centres were stepped up in order to make space for the applicants released from detention. However, the number of people evicted for 2019 is not known. According to NGOs assisting migrants, evictions are conducted in a seemingly random way and no organisation or pattern was noticed. According to AWAS, applicants are allowed to stay between 9 and 12 months in the reception system. In previous years, as space was available, applicants were allowed to stay longer until they find private accommodation. Now, after 9 months they are at risk to be evicted from the centres even though their application for international protection is still on-going. The authorities usually provide a written decision one month before the eviction. People are entitled to challenge it with AWAS, with no formal procedure. According to NGOs, AWAS might reconsider such decision on a case by case basis depending on the vulnerability of the applicant.

Evictions started in the summer 2019, when AWAS evicted dozens of migrants from the Hal Far Tent Village, one of the main reception centres on the island, in order to make way for new arrivals. Authorities explained at the time that reception centres are meant to facilitate migrants' transition into society and not to provide permanent hospitality.

These evictions are a major problem in Malta where accommodation is very hard to secure due to high prices in a largely unregulated private rental market and the fact that landlords are usually extremely reluctant to rent accommodation to asylum-seekers. These evictions often resulted in homelessness.

In July 2019, the police discovered around 100 migrants living in stables transformed into illegal dwellings by landlords in an ever-increasing black-market sector. After their eviction, it was reported that these people ended up living in the streets.

Moreover, NGOs reported that it is now difficult for asylum-seekers to have access to shelters and centres run by Appogg.

- AIDA, Country Report Malta, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_nl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2019update.pdf)

**Slovenia:** The only form of reception conditions that can be withdrawn is the monthly allowance of 18 €. This can occur if the applicant stays the night outside of the Asylum Home without prior permission. The monthly allowance can also be withdrawn or reduced to compensate for damage purposely caused to the accommodation facility. In 2019 the withdrawal or reduction of the monthly allowance to asylum seekers became a regular practice and the Office for Support and Integration of Migrants (UOIM) issued 115 decisions to withdraw the monthly allowance.

- AIDA, Country Report Slovenia, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Romania:** According to IGI-DAI, 639 withdrawal of reception conditions decisions were taken in 2019. 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. 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.

The decision on reduction or withdrawal of reception conditions may be challenged. In 2019, the first and only appeal was drafted, but it was not lodged by the applicant.

- AIDA, Country Report Romania, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ro\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ro_2019update.pdf)

## House rules

**Belgium:** As a sanction for having seriously violated the house rules, and thereby putting others in a dangerous situation or threatening the security in the reception facility, the right to reception can be suspended for a maximum of one month. This measure was taken against 133 persons in 2019, for a period varying between 3 and 30 days.

- AIDA, Country Report Belgium, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_be\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_be_2019update.pdf)

**Netherlands:** In 2019, asylum seekers aged 16 or more who seriously violate the house rules of reception centres or who otherwise demonstrate aggressive behaviour could be transferred to Extra Guidance and Supervision Locations (*Extra begeleiding en toezichtlocaties, EBTL*). Until April 2019 around 322 asylum seekers have been transferred to the EBTL (10% of them twice) – most of them being Dublin transfers and originating from North African countries. At the end of 2019 an evaluation of the EBTL took place. It concluded that this type of reception has not been effective in changing the behaviour of violent applicants. This is partly due to the fact that these applicants often have mental disorders and psychiatric problems.

At the end of 2019 the State Secretary has announced that the EBTL will be closed and decided to open a so-called Enforcement and Supervision Location (*Handhaving and Toezichtlocatie, HTL*) for asylum seekers that seriously violate the house rules of the reception centres. The difference with the EBTL is that in this reception centre they will not try to change the behaviour of the applicant, but rather isolate them from asylum seekers in the regular structures. Applicants placed in the HTL will get a stringent area ban and a compulsory day program. Further information about the implementation of the HTL and specific limitations or obligations for the applicants placed in this facility are currently unknown. These facilities are to be distinguished from Freedom restrictive location (VBL) or Family housing (GL), where persons subject to return proceedings may be housed.

- AIDA, Country Report Netherlands, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_nl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2019update.pdf)

**Poland:** After the CJEU's case in *Haqbin*, the Office for Foreigners stopped applying the legal provision which was foreseeing the deprivation of material reception conditions to asylum seekers who violate the rules in the centre and/or act violently towards inhabitants and/or employees of the centre.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

## 7) Detention of applicants for international protection (including detention capacity – increase/decrease/stable, practices regarding detention, grounds for detention, alternatives to detention, time limit for detention)

### Detention grounds

**Netherlands:** The Bill regarding return and detention of aliens was introduced in 2015 but is still being debated and will enter into force once it is accepted by the Senate. In 2019 the file was still pending. The Bill stresses the difference between criminal detention and detention of aliens which does not have a punitive character. It proposes an improvement in detention conditions for aliens who are placed in detention at the border and on the territory. For instance, aliens would be free to move within the centre for at least twelve hours per day.

Moreover, when an asylum application has been rejected at the border the detention of an asylum seeker at the border can be continued. However, the Council of State ruled that, following the *Gnandi and C.S.J.* judgments of the CJEU, the present legal basis for continuing the detention at the border after the rejection of an asylum application at least during the period for lodging an appeal is not valid. (Council of State, decision no 201808923/1/V3 and 201808670/1, 5 June 2019). In this regard a bill has been presented at Parliament to adjust the Aliens Act to make it possible to continue the detention of rejected asylum seekers at the border. Until the Aliens Act has been amended in this respect the rejected asylum seekers have to be placed in an open reception facility.

- AIDA, Country Report Netherlands, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_nl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2019update.pdf)

**Greece:** The International Protection Act (IPA), in effect since 1 January 2020, has introduced “extensive provisions for the applicants to be detained”, thus threatening to undermine the principle that detention of

asylum seekers should only be applied exceptionally and as a measure of last resort. *Inter alia*, the IPA provides for:

- The possibility of detaining asylum seekers even when they apply for international protection when not detained, on the basis of any of the grounds provided by Directive 2013/32/EU;
- Extending the maximum duration of detention. The detention of an asylum seeker can be imposed for an initial period up to 50 days and it can be successively prolonged up to the maximum time limit of 18 months. Furthermore, the detention period in view of removal (return/deportation etc) is not calculated in the total time, and thus the total detention period of a third country national within the migration context may reach 36 months (18 months while the asylum procedure + 18 months in view of removal).
- Abolishing critical guarantees, including automatic (ex officio) judicial examination of the decision imposing/prolonging the detention of asylum seekers and the obligation of issuing a recommendation by the Asylum Service on the continuation of a detention measure prior to detention.

In addition, the Greek government announced a dramatic increase of the detention capacity in November 2019. According to the Greek Authorities, more than 18.000 detention places are about to be created on the islands, while every newly arrived person would be subject to automatic detention upon arrival.

For detailed statistics on detention, please refer to the AIDA report.

- AIDA, Country Report Greece, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_gr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf)

**Malta:** In the vast majority of cases, the detention of asylum-seekers is not in line with the EU Reception Directive. Throughout 2019 Malta relied on national health legislation to deprive asylum-seekers of their liberty, on the ground that there is reasonable suspicion that they might spread contagious diseases – Article 13 of the Prevention of Disease Ordinance (CAP. 36). This article provides that: “Where the Superintendent has reason to suspect that a person may spread disease he may, by order, restrict the movements of such person or suspend him from attending to his work for a period not exceeding four weeks, which period may be extended up to ten weeks for the purpose of finalising such microbiological tests as may be necessary.”

No form of assessment is conducted and applicants are only provided with a document – often in a language the applicant does not understand – stating that they are detained for a period of four weeks that might be extended up to ten weeks under the Health Regulations.

NGOs immediately condemned this new detention regime and expressed a series of concerns, namely:

- The suspicion that a disease may be spread is not a valid ground for detaining asylum-seekers under international, EU and national law;
- Even in such situation, the authorities should not be entitled to deprive someone’s of his/her liberty, as the Health Regulations do not authorise detention but merely restriction of free movement;
- No effective legal remedy is available and the applicants have no way to challenge such decision.

UNHCR also condemned this new policy, describing the reintroduction of automatic detention as a big “setback”, commenting on the very poor conditions of the detention centres and underlining the fact that UAMs were being unlawfully detained with adults.

No data has been made available on the number of applicants detained under this new policy in 2019.

- AIDA, Country Report Malta, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_mt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_mt_2019update.pdf)

**Slovenia:** No legislative changes were made in 2019, however the Supreme Court decision on the provisions of the Slovenian International Protection Act (IPA) in March 2019 suspended the detention of asylum seekers due to the lack of provisions defining the ‘risk of absconding’.

- AIDA, Country Report Slovenia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)



**Croatia:** Attorneys at law and one legal representative from NGO reported that decisions on restriction of freedom of movement do not contain reasoning behind the individual assessment, but merely states that the individual assessment has determined that detention is necessary because other measures cannot achieve the purpose of restricting freedom of movement.

Moreover, several organisations have faced obstacles in accessing detention centres in 2019 and there was thus a lack of information on the number of persons detained as well as on detention conditions.

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

## Detention centres

**Belgium:** Since 2017 and including in 2019 the government continued its engagement to increase detention. An open reception centre (Holsbeek) has thus been turned into a closed centre for women and two additional detention centres will open in Zandvliet and Jumet. While the current detention capacity is 660 places, these plans will bring Belgium's detention capacity to 1,066 places by 2022.

- AIDA, Country Report Belgium, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_be\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_be_2019update.pdf)

**Bulgaria:** In previous years, the detention centres were frequently overcrowded due to the increase of the number of asylum applications and to the delayed release for registration of detained asylum seekers. In 2019, the capacity of pre-removal detention centres was not exceeded, while the overall number of persons in detention gradually reduced from 204 persons at the end of January 2019, to 119 at the end of the year.

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Croatia:** During 2019, reports of the existence of a garage inside of the police station compound as informal and unsanitary site of detainment for large groups of apprehended people-in-transit before their push-backs, have occurred.

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

**Hungary:** Detention has become a frequent practice rather than an exceptional measure in Hungary, although most of asylum seekers are detained in the transit zones and not in officially recognized places of deprivation of liberty – asylum detention centres. There were 40 asylum seekers detained in the Nyírbátor asylum detention centre in 2019. Kiskunhalas and Békéscsaba are closed.

In 2019, 7 cases concerning arbitrary detention of asylum seekers were communicated by the ECtHR. (Ahmed AYAD v. Hungary and 4 other applications, Appl. Nos. 7077/15, 26250/15, 26819/15, 32038/15, 48139/16, <http://bit.ly/36bs0a2>; S.B. v. Hungary, Appl. No. 15977/17, <http://bit.ly/2uYkvC7> and Dragon DSHJRI v. Hungary, Appl. No. 21325/16, <http://bit.ly/2uYkvC7>)

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

## Greece:

- **Pre-removal centres:** Eight pre-removal detention centres were active at the end of 2019. The total pre-removal detention capacity is 4,683 places. A ninth pre-removal centre has been legally established on Samos but was not yet operational as of February 2020. According to information provided to the Greek Council for Refugees (GCR) by the Hellenic Police, the capacity of the pre-removal detention reaches 4,983. For a detailed breakdown of capacity per pre-removal detention, see the table provided in the AIDA report. The functioning of these pre-removal facilities has been prolonged until 31 December 2022 under a Joint Ministerial Decision issued at the end of 2018. According to this Decision, the estimated budget for the functioning of the pre-removal detention centres is €80,799,488.
- **Closed reception centres:** The IPA has introduced a new category of detention facilities for asylum seekers. These are referred to as "Closed Temporary Reception Facilities" (Κλειστές Δομές Προσωρινής Υποδοχής) or "Closed Reception Centres" (Κλειστά Κέντρα Υποδοχής).

On the one hand, the law provides that the Closed Temporary Reception Facilities are managed by the Reception and Identification Service (RIS), the authority responsible for RIC and other facilities. On the other hand, it specifies that the Closed Temporary Reception Facilities are to be developed on the model of pre-removal detention centres, managed by the Police. It should also be noted that Article 47(1) IPA only refers to pre-removal centres as facilities in which asylum detention is implemented. No such facilities have been established as of the end of March 2020.

- **Police stations:** Apart from the aforementioned pre-removal facilities, the law does not expressly rule out detention of asylum seekers in criminal detention facilities. Despite commitments from the Greek authorities to phase out detention in police stations and other holding facilities, third-country nationals including asylum seekers and unaccompanied children are also detained in police stations and special holding facilities during 2019. As confirmed by the Directorate of the Hellenic Police, there were 1,021 persons in administrative detention at the end of 2019 in facilities other than pre-removal centres, of whom 212 were asylum seekers.

The ECtHR has consistently held that prolonged detention in police stations *per se* is not in line with guarantees provided under Article 3 ECHR. In June 2018, it found a violation of Article 3 ECHR in *S.Z. v. Greece* concerning a Syrian applicant detained for 52 days in a police station in Athens. In February 2019, it found a violation of Article 3 ECHR due to the conditions of “protective custody” of unaccompanied children in different police stations in Northern Greece such as Axioupoli and Polykastro. (ECtHR, *H.A. and others v. Greece*, Application No 19951/16, Judgment of 28 February 2019, EDAL, available at: <https://bit.ly/2FCoVFP>.)

In June 2019, the Court found that the conditions of the detention of 3 unaccompanied minors under the pretext of protective custody for 24 days, 35 days and 8 days at Polikastro police station, Igoumentisa port police station and Filiatra police station and Agios Stefanos police station and the cell of the Police Directorate of Athens respectively, were not in line with Art. 3 ECHR. (*Sh.D. and Others v. Greece, Austria, Croatia, Hungary, North Macedonia, Serbia and Slovenia* (application no. 14165/16).

AIDA, Country Report Greece, 2019 Update, available at:

[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_gr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf)

**Slovenia:** Asylum seekers can be detained in the Aliens Centre or in the Asylum Home. Most asylum seekers are generally not formally detained. In 2019, only 22 asylum seekers were detained in the Aliens Centre and no one was detained in the Asylum Home. The main category of asylum applicants who were detained were persons in the Dublin procedures. The decision on detention of asylum applicants is taken by the Migration Office.

Apart from asylum applicants, the Aliens Centre also detains aliens in return procedures, which is the main purpose of the institution. In 2019, 1,422 foreigners were detained in the Aliens Centre including 31 minors and 287 unaccompanied minors. According to the official statistics, the top five nationalities of the detained foreigners were Pakistani, Turkish, Afghani, Syrian and Bengali. At the end of the year, 10 people were detained in the Aliens Centre.

- AIDA, Country Report Slovenia, 2019 Update, available at:

[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Spain:** There have been several developments with regard to Detention Centres for Foreigners (CIE). In July 2019, the CIE of Sagonera La Verde in Murcia has been provisionally closed, because of the malfunction of the refrigeration system, thus affecting the wellbeing and health of detained migrants. However, the Government reopened the CIE of Barranco Seco in Gran Canaria on 27 November 2019, and has announced the reopening of the CIE of El Matorral in Fuerteventura (on the Canary Islands) in December 2019 due to the increase of boat arrivals on the islands during 2019 (2,600 persons).

- AIDA, Country Report Spain, 2019 Update, available at:

[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

**Sweden:** A new detention centre was opened in Ljungbyhed in southern Sweden. There are now six detention centres in 2019 (Gävle, Märsta, Flen, Kålleröd, Ljungbyhed and Åstorp) with a total of 16 units and an overall

capacity of 528 persons. The places in the detention centres have been almost fully occupied throughout 2019.

- AIDA, Country Report Sweden, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_se\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_se_2019update.pdf)

**Switzerland:** According to Article 81(2) Foreign Nationals and Integration Act (FNIA), “detention shall take place in detention facilities intended for the enforcement of preparatory detention, detention pending deportation and coercive detention. If this is not possible in exceptional cases, in particular because of insufficient capacity, detained foreign nationals must be accommodated separately from persons in pre-trial detention or who are serving a sentence”. This new formulation was introduced on 1 June 2019 to align national law with the EU Return Directive and sets a clearer framework for immigration detention, which requires specialized facilities. However, the administrative detention of asylum seekers and other foreigners in prisons also used for criminal imprisonment is allowed in exceptional cases and is currently still the most frequent solution adopted by cantons.

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

### Detention conditions

**Austria:** There were still important differences between the detention facilities in 2019. While no major dysfunction or maladministration was reported in Vordernberg, there have been only few positive developments in the two major Viennese detention facilities. Of particular concern is the fact that people are still being detained in cells during the day, instead of open areas.

Moreover, in June 2019, a Hungarian national died in the detention centre of Vienna-Hernalser Gürtel. He was 58 years old and in a critical health situation. Criminal proceedings against the officials and doctors employed in the concerned detention centre have started.

- AIDA, Country Report Austria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_at\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_at_2019update.pdf)

**Bulgaria:** The latest report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published in July 2019 stressed that some improvements were observed by the delegation at Busmantsi and Lyubimets centers since the CPT’s previous visit in 2018, but this is mainly due to the fact that both establishments were operating well below their official capacities. However, the CPT found that accommodation continues to be dilapidated and that the large-capacity dormitories offer no privacy. It stated the following: “Communal toilets for men are still run down and dirty in Lyubimets. In both detention centers, the lack of access to a toilet at night for most of the detainees forces them to use bottles or buckets, or to urinate out of the windows. The accommodation areas were inadequately heated (especially in Busmantsi) and, in both detention centers detained foreign nationals complained that were not being provided with clothing and shoes adapted to the season. Many complaints also related to the food, especially its quality, and about the prohibition for detainees to cook their own meals”.

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**France:** For a very detailed overview of detention conditions in each CRA, see the table provided in the AIDA report. Other relevant (selected) developments are as follows:

- In a report published after an unannounced visit to an administrative detention centre in Lyon, the Controller General of places of deprivation of liberty highlighted a number of shortcomings in the detention conditions. These include insufficient information on the house rules, no systematic medical checks upon admission, and limited access to a psychiatrist. In practice, however, nothing has changed in 2019.
- The practical problems observed regarding access to healthcare relate to a lack of consideration for psychological or psychiatric problems of the detainees, which was highlighted recently by the General Controller of Places of Detention (CGLPL). Dozens of suicide attempts are reported each year in these centres. In some detention centres, the lack of continuing presence of medical units leads police officers to assess the needs of patients, as is the case for example in Guadeloupe. In

Bordeaux, in only one occasion a detainee has been released for medical reasons whereas many of them suffer from physical or psychological pathologies.

- More than 20 civil society organisations sent an open letter to the Minister of the Interior, raising concerns about the increasing number of suicides, hunger strikes and self-harm in immigration detention centres; the increase in the occupancy rate of the centres; and the difficulties in accessing care, especially psychiatric care
- AIDA, Country Report France, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Hungary:** Asylum seekers whose claims were dismissed under the new inadmissibility ground entering into force in July 2018 were denied food in the transit zones. The IAO, the former NDGAP, only provided food after the ECtHR issued interim measures under Rule 39 of the Rules of the Court. The NDGAP still does not provide food to adults in alien policing procedure held in the transit zone. The HHC obtained 12 interim measures under Rule 39 in such cases in 2019.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Greece:** As noted by UNHCR in May 2019 “conditions and procedural safeguards continue to be problematic ... Some of the main deficiencies of concern to UNHCR include:[...] seriously substandard conditions of detention in the pre-removal centres, in particular in P. Ralli in Athens and Fylakio at Evros”.

In June 2019, the Committee of Ministers of the Council of Europe, within the framework of the supervision of the execution of the M.S.S. and Rahimi group of judgments “invited the authorities to give effect to the recommendations made by the CPT and to improve the conditions in immigration detention facilities, including by providing adequate health-care services.

Official statistics demonstrate that the situation has worsened in 2019 and that pre-removal centres continue to face even more substantial medical staff shortage. At the end of 2019, there were a mere four doctors in total in the detention centres (1 in Amygdaleza, 1 in Korinthos, 1 in Xanthi and 1 in Fylakio). There was no doctor present in Tavros and Paranesti on the mainland. Moreover on the Eastern Aegean islands PRDFs (Lesvos PRDF and Kos PRDF), i.e. where persons are detained inter alia in order to be subject to readmission within the framework of the EU-Turkey Statement, there is no doctor, no interpreter and no physiatrist present.

- AIDA, Country Report Greece, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_gr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf)

**Malta:** The conditions in detention centres in 2019 deteriorated and became extremely challenging with severe overcrowding, insanitary conditions, limited availability of shared toilets and showers, no privacy. Applicants enjoy limited time in the open, or with access to fresh air and sunlight. They also have hardly any contact with the outside world. There is also a serious lack of access to healthcare and doctors.

This led to several protests by detainees over the course of the year. In September 2019, some migrants scaled fences and set mattresses on fire demanding to be released from detention. Several police and army units were sent on site to stop the protests and several migrants were arrested. Later that month, migrants protested again against their continued detention. They started shouting and demanding to be set free. Migrants held up signs saying “4 months in detention Why?”.

In October and December 2019, peaceful protests were also organised sometimes escalating in violent confrontation with detention service staff. Each time, migrants were arrested and immediately taken to Court. Following these events, 34 NGOs reiterated that the detention of these migrants is unlawful. They raised the fact that some migrants had been kept detained for more than six months when the Health Regulations provide for a restriction of movement up to ten weeks. They explained that migrants protested for freedom since there was no lawful reason for them to be detained. Moreover, NGOs raised the lack of information on how long individuals are to be detained, the lack of accessible effective remedies, the fact to be held in crowded, insanitary conditions.

Similar incidents were reported at the beginning of 2020 (see AIDA Report).

- AIDA, Country Report Malta, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_mt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_mt_2019update.pdf)

**Poland:** As of 31 December 2019, 91 asylum seekers were in detention out of 184 persons in detention at that moment. Given that 4,095 persons applied for asylum in Poland in 2019, it cannot be said that the majority of asylum seekers in Poland are detained. There were no cases of overcrowding in detention centres during that year. Foreigners are obliged to pay for their stay in a detention centre calculated on the basis of algorithm, set in the Polish law.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Spain:** Following an unannounced visit carried out in March 2019 by the Spanish Ombudsman at the Madrid Barajas Airport, the institution expressed serious concerns about the deplorable conditions of the transit zone. This includes *inter alia* a lack of space for asylum seekers which does not comply with the required minimum standards, the lack of hot water in female toilets, the lack of access to daylight as well as the lack of medical services and medicine, etc.

Moreover, CIEs have been the object of high public scrutiny and have attracted media and NGO attention during 2019 due to several incidents that took place throughout the year. Following (selected) incidents were reported in Valencia, Madrid and Barcelona:

- On April 2019, 69 detained individuals at the CIE of Madrid were forced out of the centre to be checked one-by-one by the police, despite the bad weather conditions. Following a complaint filed by the detained individuals, the investigation indicated acts of torture, disproportionate actions of the police officers and the violation of the detainees' dignity. The surveillance judge referred the case to the Chairman of the Court of Madrid (Juzgado Decano), in order to investigate the facts and the responsible persons.
- On May 2019, 101 individuals detained at the same CIE further signed a complaint addressed to the surveillance judge, denouncing the serious human rights violations occurring at the centre. Following issues were raised: inhumane treatment and continuous aggressions which remain unpunished; scarce medical assistance and lack of access to medicine; lack of psychological support; irregularities in expulsion procedures (i.e. no or limited information on deadlines as well as unjustified isolation); obstacles and/or denial of access to the asylum procedure; arbitrary access of family members or relatives for the purpose of visits. Different NGOs, who regularly visit the centre (i.e. SOS Racismo, Pueblo Unidos, Plataforma CIEs No Madrid, etc.) supported the complaint. In June 2019, more than 100 NGOs called for the resignation of the director of the CIE of Aluche in Madrid on the ground of serious human rights violations in the centre.
- In July 2019, a 25-years-old man originating from Morocco committed suicide at the CIE of Valencia. He had been put in isolation following a fight that broke out in the centre a few hours earlier. The Court of Valencia decided to investigate the causes of the death. It seems that the man had informed the director of the centre that he was in deep pain following the fight, and that it took almost 20 minutes to the guards of the centre to intervene following the suicide. The Spanish Ombudsman, which received a complaint lodged by the Campaña CIEs No (Campaign CIEs No), also initiated an investigation to clarify the circumstances and responsibilities of the case.
- In December 2019, a person being detained at the same CIE secretly recorded videos demonstrating the inhumane conditions of the facility and denouncing its prison-like conditions. The videos show black-coloured water leaking from the showers, dirty and non-functioning toilets, as well as dark cells with many bunk beds. The supervising judge of the Court of Valencia carried out a visit to the centre and conducted interviews with the detained individuals.
- At the beginning of January 2020, different individuals detained at the same CIE started a hunger strike to protest against their deprivation of liberty and against the detention of children and ill persons. The Ministry of Interior, which had already announced renovations of the centre at the beginning of 2019, reiterated in January 2020 that these would take place and would last at least until March 2020.

Moreover, the annual report of the Jesuit Migrants Service on the CIE in Spain contains relevant information on conditions and their situation, thanks to the visits that the organisation carries out. In its report of June 2019, which summarises findings of visits carried out in 5 CIE (in Barcelona, Madrid, Valencia, Algeciras and



Tarifa), the NGO highlights the discrimination faced by Algerians and Moroccans, who represent two third of the detained population.

- AIDA, Country Report Spain, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

**United Kingdom:** In 2019 three inspection reports relating to Immigration Removal Centres were published. The inspection of the Immigration Removal Centre (IRC) of Campsfield had taken place just prior to its closure and Inspectors reported that conditions were deteriorating, likely due to its impending closure. In Colnbrook, in addition to the aforementioned ‘prison like’ conditions, an excessive use of security measures (locking detainees in rooms and unnecessary handcuffing) was reported, as well as insufficient care of vulnerable detainees. Brook House was also inspected and whilst improvements since the Panorama scandal were noted, Inspectors noted that detainees had little to do to fill their time.

- AIDA, Country Report United Kingdom, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_uk\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_uk_2019update.pdf)

### Duration of detention

**Austria:** In 2019, the average time of a person kept in detention centre was 28.9 days.

- AIDA, Country Report Austria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_at\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_at_2019update.pdf)

**Bulgaria:** The delays in the release and registration of asylum seekers applying for international protection while in pre-removal detention centres significantly increased. While delays in the release amounted to 1 day in 2018, it reached 4 days in 2019 and registrations took around 12 calendar days / 10 working days. Moreover, since the introduction of closed centres for asylum seekers in 2015, 32 asylum seekers have been subject to detention orders pending their status determination. However, the length of detention in these cases exceeded by far the purpose and limits laid down in law. While the duration of detention decreased from 196 to 150 days on average during the period 2016- 2019, it remained very long by reaching 109 days on average in 2019.

The average asylum detention duration in 2019 decreased to 109 days compared to 196 days in 2018, but this remains far from the legal standard set in the law according to which detention should last for the “shortest period possible”.

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Cyprus:** Since 2017, a new practice has been implemented whereby - once a person that is already detained applies for asylum - a new detention order is issued under the Refugee Law under the presumption that that the person is submitting the application for international protection merely in order to delay or frustrate the enforcement of the return decision. This led to an increase in the number of asylum seekers in detention, reaching an average of 70-75 asylum seekers from an average of 45 asylum seekers. Moreover, an increase in the duration of detention was noted in 2019, reaching an average of 5-6 months, with certain cases exceeding this. This included asylum seekers who had recently entered the country and had applied for asylum. There was no indication that the change in practice discouraged persons in detention from applying for asylum.

- AIDA, Country Report Cyprus, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**France:** In 2019, the maximum length of detention has been extended from 45 to 90 days. As a result, tensions and violence in detention centres are increasing.

- AIDA, Country Report France, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Hungary:** In 2019, the average period of asylum detention was 68 days. According to the statistics of the NDGAP, there were no families with children placed in asylum detention.

The HHC further calculated the average time spent in the transit zones for all our clients, whose cases were either initiated after 1 January 2019 or that were initiated before 1 January 2019 but are still pending on 16

December 2019. The average length of stay of this asylum-seeking population (altogether 363 persons) in one of the transit zones is 188 days. This statistical average includes asylum-seekers who applied for asylum in 2018 but their asylum procedure is still pending on 16 December 2019, as well as those who applied for asylum in November 2019 and their asylum procedure is still pending, therefore the data is characterised by significant deviation. Some very disturbing facts are the following:

- Average length of stay during the asylum procedure in one of the transit zones of those who applied for asylum in Q1 of 2019 or before, but their asylum procedure is still pending on 16 December 2019, is 309 days.
- Average length of stay during the asylum procedure in one of the transit zones of unaccompanied children whose asylum procedures were initiated after 1 January 2019, calculated on 16 December 2019, is 289 days.
- Average length of stay during the asylum procedure in one of the transit zones of families with 4 or more children, whose asylum procedures were either initiated after 1 January 2019, or before 1 January 2019 but are still pending on 16 December 2019, calculated on 16 December 2019, is 198 days.
- In none of the asylum procedures conducted in the transit zone in 2019 where the HHC provided legal representation did the asylum authority release the applicant within 28 days. The shortest time an asylum-seeker represented by the HHC had to stay in one of the transit zones until their release was 57 days. The longest time an asylum-seeker represented by the HHC has been staying in the transit zone in their still pending asylum procedure is 474 days as of 16 December 2019.

AIDA, Country Report Hungary, 2019 Update, available at:

[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Greece:** Until the end of 2019 the maximum period allowed for detention of an asylum seeker applying from detention was 3 months. The IPA has now laid down an initial 50-day duration for asylum detention, which can be further prolonged by 50-days duration decisions up to 18 months, notwithstanding previous periods spent in pre-removal detention.

- AIDA, Country Report Greece, 2019 Update, available at:

[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_gr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf)

**Poland:** According to the Office for Foreigners, the asylum cases of asylum applicants placed in detention are prioritised but it does not mean that they are examined more quickly when the cases are complex. In practice it means that asylum seekers have only 3 days to present additional evidence in their case, before an asylum decision is made. In addition, NGOs claim that in the case of detained asylum seekers, the Refugee Board does not conduct evidentiary proceedings. The interview is conducted through videoconference in the presence of a psychologist (e.g. in the detention centre in Ketrzyn). According to NGOs, sometimes psychologists are only available in the premises of the Head of the Office for Foreigners and not in the centre where the individual is detained. Additionally, asylum seekers complain about poor quality of the videoconference.

- AIDA, Country Report Poland, 2019 Update, available at:

[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Malta:** Applicants formally detained in line with the grounds of the Reception Conditions Directive are usually released after two or three months and placed under alternatives to detention.

Applicants detained in terms of the Health Regulations are kept in detention until there is space available in open centres. Therefore, applicants can remain in detention several months, even though they have been medically cleared and no valid ground for their detention remains or ever existed.

- AIDA, Country Report Malta, 2019 Update, available at:

[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_mt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_mt_2019update.pdf)

**Slovenia:** PIC has not detected cases where the maximum detention duration for asylum seekers – four months – would be exceeded. In 2019, the average duration of detention of asylum seekers in the Aliens Centre was 19 days. The average duration of detention of other foreigners was 4 days. The average duration of detention of minors was 1.6 days and the average duration of detention of unaccompanied minors was 3.4 days.

- AIDA, Country Report Slovenia, 2019 Update, available at:

[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Sweden:** The average period of detention in 2019 was 27.8 days, down from 29.2 days in 2018. The average length of detention for men was 28.3 days and 21.4 days for women in 2019.

- AIDA, Country Report Sweden, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_se\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_se_2019update.pdf)

### Detention of persons falling under the Dublin procedure

**Belgium:** On 19 July 2019, Article 51/5/1 of the Aliens Act entered into force and implements the relevant articles on detention of the Dublin III Regulation for applicants who did not apply in Belgium.

A worrying practice was also noticed regarding ‘implicit asylum applications’, whereby the authorities consider that an application has been “implicitly” lodged by persons falling under the Dublin procedure, thus enabling them to detain them for the purpose of the Dublin transfer in accordance with the Dublin Regulation. The European commissioner for Migration stated that it is highly doubtful that this practice is in line with the recast Qualification Directive.

- AIDA, Country Report Belgium, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_be\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_be_2019update.pdf)

**Netherlands:** The Secretary of State has submitted a Bill which provides a legal basis for apprehending and detaining asylum seekers who have a lawful residence in the Netherlands, such as asylum seekers awaiting their Dublin transfer. The Bill was passed and was enacted in February 2019. It amended the Aliens Act 2000 and provided a legal basis for stopping and transferring asylum seekers awaiting transfer to another Member State, for the purpose of detention.

- AIDA, Country Report Netherlands, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_nl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2019update.pdf)

**Poland:** In September 2017 the Commissioner for Human Rights published a report within the National Mechanism for the Prevention of Torture, in which cases of improper detention of Dublin returnees with PTSD were described. According to the report, the problems occurred due to numerous procedural shortcomings during the transfer of a family to Poland by the German police, as well as the lack of appropriate operational algorithms that should have been implemented in order to promptly identify victims of torture and violence as well as persons whose mental and physical condition rule out their placement in detention. After visits in detention centers in 2018 and 2019, the Commissioner for Human Rights confirmed that the problem persisted. Although the Border Guard implemented guidelines on how to deal with persons requiring special treatment, they address treatment in detention, rather than providing that the person identified as a victim of violence should be released from detention (as required by the law). NGOs add that the system in place is not effective because a person who is a victim of violence should not be put in detention at all, so identification should be conducted before placing in detention and not in detention.

In 2019, the Border Guard reported that 63 persons were transferred under Dublin from detention centres. Moreover, 134 detainees were transferred under the Dublin Regulation from other countries beforehand. No information about the legal grounds of the detention was provided.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Malta:** In 2019, NGOs assisting migrants reported that most Dublin returnees who flee Malta were detained upon return.

- AIDA, Country Report Malta, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_mt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_mt_2019update.pdf)

**Slovenia:** A pending Dublin procedure constitutes the main ground for detention in Slovenia. However in March 2019 the Supreme Court ruled, in accordance with the CJEU judgment C-538/15, *Al Chodor*, that the provisions of the IPA regarding detention in the Dublin procedure are not in accordance with the Dublin Regulation, since the IPA does not contain the definition of the “risk of absconding” and the objective criteria needed to establish the risk of absconding in an individual case. The Supreme Court, therefore, ruled that detention in the Dublin procedure is not lawful since the IPA does not contain the proper legal ground for

detention. Since the provisions of the IPA regarding detention have not been amended, asylum seekers in Slovenia cannot be detained in the Dublin procedure or on any other ground that requires the risk of absconding to be established. Following the judgment of the Supreme Court asylum seekers in the Dublin procedure are, therefore, not detained in Slovenia pending their Dublin procedure. (Supreme Court Decision, X Ips 1/2019 from 13 March 2019, available at: <https://bit.ly/39Gd4mV>)

- AIDA, Country Report Slovenia, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Switzerland:** Detention under the Dublin procedure can no longer be ordered by SEM, which means that all review procedures are now carried out at the cantonal level. Prior to the new asylum system which entered into force on 1 March 2019, the Federal Administrative Court was competent for the judicial review of Dublin detention when ordered by SEM. As a result, cantonal practice is very diverse with regard to judicial review. National legislation provides for important safeguards, but compliance with these safeguards is not guaranteed in all cantons. Detainees under the Dublin procedure have thus limited access to legal assistance in comparison with detained asylum seekers falling under the regular procedure.

- AIDA, Country Report Switzerland, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

### **De facto detention**

**Hungary:** Detention still remains a frequent practice rather than an exceptional measure in Hungary. The vast majority of the people are detained in the transit zones of Röszke and Tompa. The fact that asylum seekers inside the transit zones are deprived of their freedom of movement is confirmed by the UNWGD, CPT, UNHRC, UN High Commissioner for Human Rights, UN Special Rapporteur on the human rights of migrants, European Commission and Commissioner on Human Rights of the Council of Europe.

On 14 March 2017, the ECtHR in the *Ilias and Ahmed v. Hungary* case confirmed its established jurisprudence that confinement in the transit zones in Hungary amounted to unlawful detention and established the violation of article 5(1), of article 5(4) and of article 13 in conjunction with article 3 ECHR due to the lack of effective remedy to complain about the conditions of detention in the transit zone. However, in the Grand Chamber judgment of the ECtHR of November 2019 the ECtHR did not agree with the Chamber's unanimous decision concerning the nature of the placement in the transit zone and ruled that the applicants were not deprived of their liberty within the meaning of article 5 ECHR.

However, several reports and UN Treaty bodies, also published in 2019, keep reiterating the dire circumstances of deprivation of liberty in the transit zone and the HHC believes that the factual and legal situation since March 2017 is completely different than at the material time of *Ilias and Ahmed* case and therefore the findings of the Grand Chamber are not applicable. Such understanding has been confirmed also by the Szeged Administrative and Labour Court (Szegedi Közigazgatási és Munkügyi Bíróság), which on 18 December 2019 initiated two preliminary reference procedures before the CJEU, which among others concern the qualification of the transit zone placement as deprivation of liberty. CJEU will give priority to these cases.

- AIDA, Country Report Hungary, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Greece:** Throughout 2019, cases of alleged pushbacks at the Greek-Turkish land border have continued to be systematically reported. As it emerges from these allegations, there is a pattern of de facto detention of third-country nationals entering the Evros land border before allegedly being pushed back to Turkey. In particular, as reported, newly arrived persons are arbitrarily arrested without being formally registered and then de facto detained in police stations close to the borders. The UN Working Group on Arbitrary Detention (UNWGD) following its visit to Greece in December 2019 stated that: "Pushback practices are not permitted under Greek law and are contrary to the right to seek asylum. The Working Group is therefore of the view that detention for this purpose has no legal basis. The Working Group urges the Government to put an immediate end to pushbacks and to ensure that such practices, including any possible acts of violence or ill-treatment that has occurred during such incidents, are promptly and fully investigated."

- AIDA, Country Report Greece, 2019 Update, available at:

[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_gr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf)

**Slovenia:** A regime of *de facto* detention is applied to all newly arrived asylum seekers. Upon arrival in the Asylum Home, applicants are held in the reception area of the building without free access to its other parts. The Migration Office began a practice of locking up this area due to a high number of people absconding from the procedure prior to lodging applications and giving fingerprints for Eurodac. In 2019, due to the increase in numbers of asylum seekers, applicants were waiting up to 15 days to lodge their applications. While waiting to lodge the application, they were *de facto* detained on the premises of the Asylum Home or its branch. The rooms in the pre-reception areas were often overcrowded and did not guarantee any privacy to the individuals.

- AIDA, Country Report Slovenia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Spain:** Asylum seekers may also be *de facto* detained in “areas of rejection at borders” (*Salas de Inadmisión de fronteras*) at international airports and ports for a maximum of 8 days, until a decision is taken on their right to enter the territory. A total of 7,020 persons applied at a border post or transit zone in 2019.

- AIDA, Country Report Spain, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

**Serbia:** Detention for the purpose of asylum procedure is still rarely used. However, the practice of unlawful and arbitrary deprivation of liberty at the transit zone of “Nikola Tesla” airport prevails. The Constitutional Court of Serbia does not consider placement in the transit zone premises for the period of 28 days, without a decision and possibility to lodge an appeal as a practice that undermines Article 27 of the Constitution (equal to Article 5).

- AIDA, Country Report Serbia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_sr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_sr_2019update.pdf)

**Switzerland:** In Switzerland, there are ongoing discussions on the distinction between deprivation and restriction of liberty. The term *de facto* detention has not yet been used in case law. As said before, there are good legal reasons for considering the accommodation in the transit zone during the airport procedure as *de facto* detention. Indeed, legally speaking, this form of accommodation needs to be qualified as deprivation of liberty. The same could be said for asylum centres in remote locations, which provide for limited possibilities of access and movement outside the centres. In the past, several authors dealt with the different restrictions imposed on the asylum seekers’ freedom of movement and, in particular, with the framing of their accommodation from a legal perspective. This definition effort is particularly relevant following the entry into force of the new legal provisions on 1st March 2019, which entail new forms of accommodation. As asylum seekers now stay in federal centres for longer periods, the maximum length being fixed at 140 days (Article 24(4) of the Asylum Act), the conditions of their stay become all the more relevant.

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

### Judicial review of detention

**Poland:** The right of defence is not fully observed. Foreigners are not heard in person at the court proceedings for the purpose of the extension of their detention. They do not receive a notification from Border Guard’s regarding the prolongation of their detention and they are not frequently informed about the date of the court hearing. Therefore, they are unable to fill a motion to the court to appoint a legal representative in their case.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Croatia:** As decisions are written in complex legal language, the majority of applicants do not understand the reasons for their detention. In practice, the interpreter present at the delivery of the decision reads decision to them, although an attorney reported in 2019 that client was not informed about the reasons of detention. One attorney at law reported that in some cases hearings are not held in due time before the Administrative Court, while other attorneys reported that courts do not act urgently in most cases of the restriction of



movement i.e. the measure has already expired, so hearings are held pro forma. Another attorney reported that some detained clients were not invited at the hearings before the Administrative Court, only attorney. The average duration of the judicial review of detention procedure in 2019 was 43 days (21 days in cases of citizens of Syria, Afghanistan and Iraq) before the Administrative Court of Zagreb.

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

**Switzerland:** Appeals to the Federal Administrative Court are not possible anymore since federal authorities (SEM) are not competent anymore in the ordering of detention since 1 March 2019. Appeals must be done at the cantonal level first, and only then to the Federal Court.

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

**Malta:** The vast majority of migrants are now detained in application of Health Regulations. This is not a formal detention regime where applicants are issued a detention order. Therefore they do not benefit from effective remedies and are not entitled to appeal against the decision, in contravention with the Reception Conditions Directive. Nevertheless, in October 2019, Aditus Foundation and JRS Malta assisted six migrants who had been detained for more than ten weeks under the above-mentioned Health Regulation to challenge their detention by filing Habeas Corpus proceedings. Lawyers raised several arguments to prove the detention unlawful:

- They indicated that these individuals, upon arrival, were only provided with a document titled 'Restriction of Movement for Public Health Reasons' signed by the Superintendent of Public Health. In this document applicants were not identified by their name but merely by their Immigration Number and no interpreter was present during their interview with the Malta Police Force to explain the contents of the document provided.
- Furthermore, at no stage were the applicants informed as to what elements pertaining to their specific individual situation led to the conclusion by the Superintendent that "they may spread disease" in terms of Health Regulations.
- The applicants were escorted to a Health Centre to undergo medical screenings almost immediately following their arrival in detention but were never provided with the results even months after.
- On the basis of the fact that they are wholly impeded from any form of free movement, it cannot be said that their movements are being merely 'restricted'. On the contrary, they were entirely deprived of their personal liberty.
- These applicants had been detained for more than ten weeks.

The Court declared the ongoing deprivation of personal liberty unlawful and ordered their immediate release. The six asylum-seekers were released the same day but left with no support or accommodation provided by the authorities, relying entirely on NGOs and community for immediate assistance. This refrained NGOs from initiating similar proceedings for other applicants.

- AIDA, Country Report Malta, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_mt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_mt_2019update.pdf)

## Alternatives to detention

**Cyprus:** Since 2019, a new policy applies whereby all detainees, regardless of the initial basis for detention, once applying for asylum are issued a detention order under the Refugee Law, including persons with criminal convictions. The detention order is issued automatically without reviewing less coercive measures as was raised in two recent decisions issued by the International Administrative Court of International Protection where it was stated that.

The latest report of the Committee Against Torture (CAT) on Cyprus confirmed that 'the Committee remains concerned by the criminalisation and routine detention of irregular migrants, the extended periods of detention of such migrants and the functioning of the migration detention facilities throughout the country'. Furthermore it is stated that 'In addition, the Committee is concerned that no comprehensive identification procedures are in place to ensure the sufficient and timely identification of vulnerable persons prior to ordering detention'. Recommendations include for Cyprus to 'Adopt regulations to fully and consistently implement the provisions of the Refugee Law providing for alternatives to detention, establish

comprehensive procedures for the determination and application of alternatives to detention and ensure that these be considered prior to resorting to detention, as part of an overall assessment of the necessity, reasonableness and proportionality of detention in each individual case;’.

The UN Human Rights Council in their Universal Periodic Review (UPR) in 2019 also recommended to the Cypriot Government to “facilitate the integration of migrants and persons under international protection residing in Cyprus, put in place alternatives to long-term detention of asylum seekers, including those whose request for asylum has been rejected”.

Since July 2019, the Cyprus Refugee Council is implementing a third EPIM-funded project on alternatives to detention (ATD) in Cyprus named “Safeguarding Alternatives to Detention: Implementing Case Management in Cyprus”. It builds on the progress and achievements established under the 2017-2019 Pilot, with the main objectives of reducing immigration detention, promoting engagement based ATD and contributing to the growing evidence and momentum on ATD at a national and regional level. In regards to activities, the Project team provides individualised Case Management to persons that are in detention and/or at risk of detention including asylum seekers, rejected asylum seekers, irregular TCNs and non-removables.

- AIDA, Country Report Cyprus, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**France:** In 2019, many Prefectures systematically continued to impose house arrest as soon as asylum seekers are placed in the Dublin procedure, without conducting an individualised assessment to establish whether an alternative to detention is required.

- AIDA, Country Report France, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Hungary:** In 2019, asylum detention was hardly used, whereas alternatives to detention were not applied at all. Most asylum seekers (93,5% of the total) were de facto detained in the transit zones, for which no alternative is prescribed in the law.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Greece:** Alternatives to detention are systematically neither examined nor applied in practice. As noted by UNHCR in May 2019 “there is no consideration of alternative measures to detention”.

When issuing recommendations on the continuation or termination of detention of an asylum seeker, the Asylum Service tends to use standardised recommendations, stating that detentions should be prolonged “if it is judged that alternative measures may not apply”. Thus, the Asylum Service does not proceed to any assessment and it is up to the Police to decide on the implementation of alternatives to detention. It has to be stated that the IPA, in force from 1/1/2020, has repealed the condition of a prior recommendation from the Asylum Service (article 46(4)) requiring solely the notification (ενημέρωση) from the Asylum Service.

- AIDA, Country Report Greece, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_gr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf)

**Malta:** According to the authorities, 1,358 asylum seekers in 2019 were released from detention and placed under alternatives to detention. They were requested to report regularly at a police station, to reside at an assigned place and to deposit some of their documents. Moreover, it seems like some groups of asylum-seekers were imposed more restrictive measures such as signing in the reception centre several times a day, which prevented them from working full-time. It seems that these distinctions depended on the applicants’ nationalities, This practice was noticed in relation to Bangladeshi applicants.

Moreover, many applicants were released and placed under ATD when there was no valid ground for detention or when such grounds never existed, as in the case of applicants detained under the new regime, on the basis of the Health Regulations. It looks like the authorities do not use this provision as an actual alternative to detention but rather as a way to monitor applicants once released from detention.

NGOs reported that there is no clear pattern on the reason, when and why ATD are applied to asylum-seekers.

Following release from detention, applicants face difficulties retrieving the possessions the Immigration Police would have confiscated from them immediately following their arrival. These possessions include money, jewellery and mobile phones. Applicants are often required to rely on the intervention of NGOs to reclaim their possessions, at times months after their release from detention.

- AIDA, Country Report Malta, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_mt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_mt_2019update.pdf)

**Poland:** Border guards (SG) can use more than one alternative in the case of any foreigner. Alternatives can be applied by the SG which apprehended the asylum seeker concerned or by the court (subsequent to a SG's decision not to apply alternatives and who has submitted a motion for detention to the court). An asylum seeker can be detained only if the alternatives to detention cannot be applied. In practice asylum seekers are placed in detention, and alternatives to detention are not considered, properly justified and explained. In 2019, 1,650 foreigners were subject to alternatives to detention.

- AIDA, Country Report Poland, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Slovenia:** The law does not regulate alternatives to detention. Moreover, the law also does not contain provisions that require proof that the alternatives cannot be effectively applied nor provisions that detention can be applied only as a measure of last resort. In practice, individual circumstances are often not properly justified in the detention decision and the necessity and proportionality test is not implemented sufficiently.

- AIDA, Country Report Slovenia, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Spain:** In practice detention orders are issued solely for persons coming from Morocco and Algeria, to which expulsion is generally executed. Thus, the lack of individualised assessment of necessity and proportionality of detention may predominantly concern persons coming from those two countries. This was still the case in 2019.

- AIDA, Country Report Spain, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

**Switzerland:** Although some alternative measures exist in law, they are still rarely implemented in practice, and a wide divergence can be asserted though between the practices of different cantons. The National Council Control Committee has stated in a 2018 report that the significant differences among cantons in the rate of detention orders signifies that the cantons apply differently the principle of proportionality, raising fundamental questions in terms of equality of treatment.

- AIDA, Country Report Switzerland, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

## 8) Procedures at first instance (including relevant changes in: the authority in charge, organisation of the process, interviews, evidence assessment, determination of international protection status, decision making, timeframes, case management - including backlog management)

### Determining authorities

**Comparative report:** For a comprehensive overview of the structure, composition and functioning of asylum authorities at first instance, see our comparative report: ECRE, *Asylum authorities: An overview of internal structures and available resources*, October 2019, available at: <https://bit.ly/2Q13wLy>. The report analyses the institutional architecture of determining authorities and the administrative arrangements that have been set up to carry out the asylum procedure efficiently. It further looks at the implementation of the legal guarantees foreseen by the EU asylum *acquis*, as Member States are required to provide asylum authorities with appropriate means, including competent personnel. The report thus sheds light on the financing, staffing and training of asylum authorities as well as on the tools used to examine and decide on applications for international protection. A final part analyses the quality assurance and control mechanisms that have been established in certain countries with a view to continuously improve the quality of decisions.

**Hungary:** On 1 July 2019, the Asylum and Immigration Office (IAO) ceased to exist and the National Directorate-General for Aliens Policing (NDGAP) was established taking over the responsibility for asylum and aliens policing matters. The Directorate continues to be under the supervision of the Ministry of Interior and having its own budget, but operating as a law enforcement body under the Police Act. The IAO's transformation into a branch organisation of the Police meant that asylum officers needed to receive training and pass physical and psychological exams in order to be appointed as police officers. All these factors led to increased delays in decision-making and standstills in several cases.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Greece:** In Greece, the Ministry for Migration Policy, responsible for the Asylum Service, was subsumed under the Ministry of Citizen Protection in July 2019. The latter is primarily responsible for internal security, public order, natural disasters and border security. This institutional reform has led to strong criticism from civil society organisations, who raised concerns with regard to the fact that asylum and migration will no longer be treated as a separate portfolio, as was the case under the previous Ministry of Migration Policy. The latter had been established in 2016 specifically with the aim to centralise all activities and policies on asylum and migration, which had been welcomed by several international actors. NGOs have further expressed their fear that allocating the responsibility for asylum to a Ministry primarily in charge of public order and security-related issues will contribute to stigmatise asylum seekers and puts them at risk of violent racist acts.

- AIDA, Country Report Greece, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_gr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf)

**Croatia:** Until March 2019, asylum matters were under the responsibility of the Administrative and Inspection Affairs Directorate of the Ministry of Interior, within which the Service for Aliens and Asylum was the organizational unit that, among other departments, included the Asylum Department and the Reception Centre for Asylum Seekers. Following the introduction of amendments to the Decree on the internal structure of the Ministry of Interior in March 2019, asylum matters are now under the responsibility of the Directorate for immigration, citizenship and administrative affairs, which has a dedicated Sector for foreigners and international protection divided into (i) a service for international protection and (ii) a service for reception and accommodation of applicants for international protection.

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

## Registration and procedure at first instance

**Switzerland:** Swiss Asylum Law has undergone a series of changes in the last few years and substantial modifications have entered into force in March 2019. The Asylum Act and the Federal Act on Foreign Nationals and Integration as well as different relevant ordinances have been revised entirely or partially. Overall, the restructuring of the asylum system aims to significantly speed up the progress of asylum procedures. To this end, the reform brings together all the main actors of the procedure “under the same roof”. Asylum procedures are carried out in federal centres located in six defined regions in Switzerland. The reform sets up several procedures (accelerated, extended, Dublin) strictly limited in time. The processing times for asylum applications and the time taken to appeal have been significantly shortened. In order to ensure fair procedures according to the rule of law, asylum seekers whose application is examined within the accelerated procedure are entitled to free counselling, as well as free legal representation from the very beginning of the procedure.

Before the entry into force of the new asylum system throughout the country in March 2019, SEM implemented a test phase in the federal asylum centre of Zurich (with a centre without processing facilities in Embrach) between 2014 and March 2019. Thereafter, a second test phase was conducted in Boudry (with a centre without processing facilities in Chevrolles) from April 2018 to February 2019, in order to set up the appropriate processes and test the new accelerated procedures.

For a detailed explanation of the new asylum procedure, please refer to the AIDA Report.

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

**Austria:** The clear division of tasks between the police - which has the duty to assess the identity, personal data and the travel route of the applicant - and the officials of the BFA for assessing the facts on which the application is based is not always respected in practice, however. In 2019, the police continued to ask questions relating to the reasons for applying for international protection in certain cases. As a result, the reasons for fleeing the country of origin may be found not credible at the interview stage before the officials of the BFA if the asylum seeker has based the application for international protection on other reasons than those stated immediately upon arrival. In this regard, Article 19(4) AsylG explicitly foresees that, in the admission procedure, the asylum seeker shall also be informed that his or her own statements will be accorded increased credibility

- AIDA, Country Report Austria, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_at\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_at_2019update.pdf)

**Bulgaria:** The Migration Directorate within the Ministry of Interior (MOI) continued to refuse to release first-time asylum applicants from pre-removal centers in cases where they are deemed “deportable”, i.e. when they possess valid documents or such documents can be obtained without great obstacles. As a result, the State Agency for Refugees (SAR) continued to conduct asylum procedures in pre-removal centres in violation of national law, and courts continued to ignore such violations. In total, 2.8% of first-time applications for international protection were examined in the MOI’s pre-removal centers in 2019, which marks a 0.3% increase compared to 2018. Although this percentage might seem insignificant, it indicates a serious violation whereby the authorities are able to organise the deportation of applicants even though the determination procedure is still pending. The fairness and legality of these procedures is highly questionable as it seems like the SAR is expected to reject these applications for international protection for the sole purpose of deportation. In fact, 100% of asylum seekers whose applications have been examined in MOI’s pre-removal centers are subject to a negative decision in an accelerated procedure.

Moreover, one of the most disputed administrative arrangements relates to the possibility for the caseworkers’ superior to request a re-examination of an asylum claim where he or she disagrees with the proposed decision. This request does not need to be motivated, nor to follow a specific written procedure. Moreover, in cases where a re-examination has been ordered, there will not be any trace or record in the applicant’s file, thus raising concerns as regards transparency and compliance with relevant safeguards against bias and corruption.

- AIDA, Country Report Bulgaria, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Cyprus:** In 2018, a new practice was implemented whereby the registration and lodging of asylum applications were considered as discrete procedural stages. Upon registration of the application by EASO or the Aliens and Immigration Unit, the asylum seeker receives an A4 paper form entitled “Verification of intention to apply for International Protection”, which indicates personal details such as name, date of birth and date of request. The asylum seeker is given an appointment date to reappear before the police in order to lodge their asylum claim and provide fingerprints. However the practice was not uniform throughout the country according to the monitoring carried out by the Cyprus Refugee Council. In 2019 and as of March 2020, this practice has been abandoned in most cities except for arrivals at the Pafos airport. For persons arriving at the Pafos airport and stating their intention to apply for asylum they are provided with the “Verification of intention to apply for International Protection”.

- AIDA, Country Report Cyprus, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**France:** The average waiting time for appointments at the Single desk for asylum seekers (GUDA) from the local competent orientation platform (PADA) has decreased since 2018. In 2019, the average time at national level was 5.8 days. However, during specific periods (especially during summer) and in some cities (e.g. in Caen, Lille, Marseille and Nantes) the waiting time sometimes exceeded 30 days. In July 2019, the Council of State has recognised that the waiting time for appointment remained a current issue and urged the authorities to take appropriate measures to comply with the legal time foreseen before January 2020. (Council of State, 31 July 2019, Decision 410347, available in French at: <https://bit.ly/38iVdRHsee> - see national jurisprudence below)



Moreover, since May 2018, the French Office of Immigration and Integration (OFII) operates a telephone appointment system in this region, whereby applicants obtain an SMS appointment to appear before a PADA, which in turn books them an appointment with the GUDA to register their application. The telephone appointment system therefore constitutes an additional administrative layer in the registration process. NGOs have criticised the telephone platform as inefficient, referring to people unsuccessfully attempting to call several times, or waiting for over half an hour on the phone before speaking to OFII. In addition, despite initial announcements of free-of-charge access, calls to the telephone platform are charged 0,15 to 0,19 € per minute by phone operators. The cost can be exorbitant for asylum seekers given that they have no access to reception conditions before their claim is registered and are often destitute.

In February 2019, following an urgent action (référé-liberté) brought by several civil society organisations, the Administrative Court of Paris ordered OFII to deploy at least two more full-time staff members until the end of February 2019 so as to reinforce the capacity of its telephone platform. For the asylum seekers directly concerned by the action, the Court ordered OFII to grant appointments within 48 hours. The Court acknowledged the efforts of OFII to overcome delays and avoid physical queues before the different PADA in Paris. However, it held that the technical and practical obstacles to access to the telephone platform have resulted in “virtual queues” of asylum seekers who do not manage to receive a response despite repeated attempts during several days.

In November 2019, another legal action was filed by several NGOs. The Administrative Court of Paris ordered the Prefecture to increase the number of daily appointments up to 100 for the Ile de France region and urged the OFII to take the necessary steps to set up a free phone number. However, the Court did not order to provide another way to obtain an appointment in this region.

Between 2 May 2018 and 7 January 2020, OFII had granted 110,468 appointments to PADA via its telephone service. The majority of asylum seekers using the service came from Afghanistan, followed by Somalia and Côte d’Ivoire.

- AIDA, Country Report France, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Hungary:** 2019 is characterised by a very low recognition rate (rejection rate is 91.5%) and extremely lengthy procedures, during which the asylum seekers have to stay in the transit zone, which amounts to *de facto* detention. Most of the asylum applications were rejected at the first instance, then quashed at the appeal stage and returned to the first instance for new examination.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Malta:** NGOs started to express concerns over the application of inadmissibility procedures since this procedure does not provide for an effective remedy but only a 3 days review with the Refugee Appeals Board which does not allow the applicant to provide written submissions or to be heard. The decisions are found to be a mere confirmation of the first administrative decision without any examinations of points of facts or law.

- AIDA, Country Report Malta, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_mt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_mt_2019update.pdf)

**Netherlands:** In January 2019 the State Secretary of Justice introduced a new policy regarding the registration procedure. At the start of the registration procedure every asylum seeker has to complete an extensive form and a (extensive) interview. The first interview at the start of the asylum procedure has become a so-called verification interview.

- AIDA, Country Report Netherlands, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_nl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2019update.pdf)

**Slovenia:** Due to the increase of asylum seekers in 2018, the waiting period for registration was still up to one week and in rare cases exceeded 10 days. The trend continued in 2019 with asylum seekers waiting up to 15 days to lodge the application.

- AIDA, Country Report Slovenia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Spain:** In February 2020, the Spanish Government announced that it is working on a new asylum law that will introduce restrictions to the right to asylum, in line with the EU trends and policies (i.e. by introducing a deadline for applying to asylum since a person arrival, or a 10-days deadline for personas detained at CIE since they are informed on their right to asylum, etc.).

- AIDA, Country Report Spain, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

**Serbia:** The 2019 was a year in which significant progress was detected in the practice of the Asylum Office, which delivered 26 decisions granting asylum to 35 persons. The safe third country concept practice dropped to 10% of all of the decisions. This means that for the first time in the history of Serbian asylum system, the vast majority of asylum applications were decided in merits. Still, it is necessary for the Asylum Office to harmonize its practice and to establish a unique approach towards all applications of identical or similar nature. Thus, the inconsistency in practice was detected in relation to asylum applications of Afghani nationals, Iranian converts from Islam to Christianity and UASC. The first instance asylum procedure still lasts unreasonably long. The quality of the reasoning and the decision making process was also improved.

- AIDA, Country Report Serbia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_sr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_sr_2019update.pdf)

### Evidence assessment

**Belgium:** Between March 2019 and January 2020, three friendly settlement on asylum applications were concluded by Belgium at the level of the European Court of Human Rights (ECtHR). In all three cases (two of which concerned subsequent asylum applications), the applicants complained about the lack of a rigorous examination of the evidence and facts of their respective cases. Through the friendly settlements, the government ensured that it would examine a new application for international protection by conducting a rigorous examination of all available evidence. In this way, the Belgian State avoids a (possible) negative ruling by the ECtHR and the applicants save both time and strength. The Belgian government has guaranteed that the CGRS would examine a possible new asylum application in accordance with the procedural obligations of Article 3 ECHR.

Moreover, since February 2019, the CGRS mentions in its negative decisions the deadlines for appeals and whether they have suspensive effect or not, when this information can not be clearly derived from the letter notifying the decision. Therefore, an additional paragraph was added in the conclusion of the following decisions:

- Decisions taken under an accelerated procedure when the time limit for an appeal is reduced to 10 days. The 10-day period for an appeal in the accelerated procedure is only applicable if the CGRS has taken the decision within 15 working days of receipt of the file. As this information is difficult to access, and the solution adopted so far is not sufficiently clear, it has been decided to include explicit information on appeals in decisions.
- Decisions declaring the application inadmissible, especially subsequent applications. These decisions now include a paragraph on the suspensive nature or not of the appeal, as well as a paragraph mentioning the two periods of appeal that are applicable, depending on whether or not the applicant is being detained at the time of his or her application. Indeed, both the applicant and his or her counsel know whether or not this is the case. Both time limits will be mentioned in simplified language to make this information more accessible.

In practice, lawyers have reported that the mentioning of the correct deadline remains problematic.

- AIDA, Country Report Belgium, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_be\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_be_2019update.pdf)

**Bulgaria:** Notwithstanding the small number of asylum seekers who presented any evidence to support their claims, caseworkers continued to omit their obligation to collect these pieces of evidence with a separate

protocol, a copy of which should be served to the applicant. In 20% of the monitored cases in 2019, the evidence submission was not properly protocolled as one of the safeguards for proper credibility assessment.

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Romania:** In Rădăuți, there was a case where an asylum seeker received a decision on his application for international protection 2 days after the interview, even though he had been told by the caseworker at the interview that he could provide additional evidence within the next 3 days. This issue was also challenged in front of the the Regional Court of Rădăuți. (Decision 2207/17 September 2019, Regional Court of Ra dauti).

- AIDA, Country Report Romania, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ro\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ro_2019update.pdf)

**Sweden:** Credibility assessments is of great importance in the asylum procedure. The Swedish Refugee Law Center have carried out a study that examined which indicators the Migration Agency have used in their credibility assessment in decisions where the application has been rejected. The study covers 90 decisions from four different regions in Sweden. The Department of Psychology at Gothenburg University published a handbook on how to assess credibility in asylum cases, which served as solid basis for the study, notably to assess whether or not each indicator is suitable.

Sufficiency of detail and internal consistency were found to be the two most common indicators. These are suitable credibility indicators according to the handbook. However, other less suitable indicators seemed to be also common, such as reasonableness of the story. The study further identified three indicators that aren't mentioned in the handbook but are quite frequently used by the Migration Agency. These three are speculations, hearsay and lack of subjective fear. These indicators have in common that they do not have any scientific support for them being suitable to use in credibility assessments.

- AIDA, Country Report Sweden, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_se\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_se_2019update.pdf)

**United Kingdom:** A report entitled “Lessons not Learned: the failures of asylum decision-making in the UK” documents flawed credibility assessments and finds that the current system places an unrealistic and unlawful evidential burden on asylum applicants. It compiles findings from over 50 publications issued over the last fifteen years on the quality of decision-making processes in the UK Home Office. Built on an analysis of over 1,800 asylum cases and 140 interviews, the report charts the consistent failure of the Home Office to implement recommendations to improve procedures.

- AIDA, Country Report United Kingdom, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_uk\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_uk_2019update.pdf)

### Backlog of cases and average processing times

**Comparative report:** The comparative report on asylum authorities (ECRE, *Asylum authorities: An overview of internal structures and available resources*, October 2019, available at: <https://bit.ly/2Q13wLy>) provides statistics on the number of backlog and average processing times in selected Member States (see in particular p.34-36).

**Austria:** In 2019, the average duration of the asylum procedure at first instance amounted to 2.3 months, compared to 6.6 months at the beginning of 2018 and 14 months at the beginning of 2017. While the average time of 2.3 months in 2019 refers to all asylum procedures at first instance, the Ministry of Interior had stated that the average duration was 6 months for regular procedures and 27 days for fast track procedures (which concerned 750 cases) in 2018. A breakdown of average length depending on the applicable procedure was thus not made available for the whole year 2019, but in the first ten months of 2019, 493 fast track procedures were conducted and the average length for these fast-track cases was 18 days.

- AIDA, Country Report Austria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_at\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_at_2019update.pdf)

**Belgium:** In 2019, there has been a significant delay in the processing of asylum applications. The period between the lodging of the asylum application until the first interview at the Immigration Office may take more than four months. Some asylum seekers are proposed a new date for an interview up to 5 to 6 times

without being provided further information. This delay is mainly due to a lack of resources and staff. Although extra staff has been recruited within the Immigration Office, the CRGS and the Council of Alien Law Litigation (CALL), the Immigration Office – who has received the least additional staff – stated that this number is insufficient to address the current backlog of cases.

- AIDA, Country Report Belgium, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_be\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_be_2019update.pdf)

**France:** In 2017, the French Presidency set a target processing time of 2 months for asylum applications examined by OFPRA. However, the average first-instance processing time for all procedures was 161 days in 2019, up from 150 in 2018 and thus reflecting a consistent increase in the length of the procedure.

- AIDA, Country Report France, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Malta:** In 2019, the fact that the vast majority of applicants for international protection were detained upon arrival affected the registration process by the Refugee Commissioner (RefCom), creating major delays whilst asylum-seekers remained detained for up to several weeks or months pending registration of their applications. Since June 2019 RefCom is supported by EASO to register applicants within the premises of the detention centres, however it seems that detained applicants anyway need to be taken to RefCom for the final registration.

- AIDA, Country Report Malta, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_mt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_mt_2019update.pdf)

**Hungary:** In 2019, the delays in the asylum procedure grew significantly compared to previous years. The reasons behind this may vary significantly. On the one hand, the reorganisation of the asylum and immigration authority put a heavy burden on the staff and management. Several case officers would rather quit than work for the Police, which they considered to be in contrast with the nature of the asylum authority. The NDGAP's asylum units in regional directorates were terminated and their decision-making competence was transferred to the Budapest asylum unit. Furthermore, the IAO's transformation into a branch organisation of the Police meant that asylum officers needed to receive training and pass physical and psychological exams in order to be appointed as police officers. All these factors inevitably led to increased delays in decision-making and standstills in several cases.

The HHC further observed the general practice that decisions were not notified in time (3 days) after their issuance, which is contrary to the Asylum Act. This occasionally still occurred in 2019 and the NDGAP had to pay a fine of approximately 30 EUR (i.e. 10,000 HUF) for breaching this deadline.

According to the NDGAP, the average length of an asylum procedure, from submitting the application for asylum until the first instance decision is delivered was 82 days in 2019. In case of Syrian asylum seekers, this time was shorter, a total of 69 days, while the applications of Afghan applicants were decided in 78 days. In case of Iraqi asylum seekers, the average length of the asylum procedure was longer than the average for all asylum seekers, lasting for a total of 87 days.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Austria:** At the end of 2019, a total of 27,156 cases were pending, out of which 4,014 cases were pending at first instance and 23,142 cases were pending at second instance, thus demonstrating the importance of the volume of pending cases at second instance. In comparison, there were 7,535 cases pending at first instance in 2018; 32,241 cases pending at first instance in 2017 and 63,912 cases pending at first instance in 2016.

- AIDA, Country Report Austria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_at\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_at_2019update.pdf)

**Netherlands:** As a general rule, the rest and preparation period takes six days after which the actual asylum procedure starts. In 2018, this period has been considerably extended. In fact due to capacity problems within the IND, the current rest and preparation period takes about 12 months before the general asylum procedure starts. This has not changed in 2019. The rest and preparation period still takes about 12 months (in general 47 weeks) before the general asylum procedure takes place. In February 2020, almost 9,000 asylum seekers were still waiting – some of them for almost two years – the start of their asylum procedure. The Secretary

of State of Justice announced that it will be difficult to reduce the delay in 2021, but measures are being taken to limit the delay.

- AIDA, Country Report Netherlands, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_nl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2019update.pdf)

**Poland:** The time limit set in law for the Head of the Office for Foreigners to make a decision on the asylum application is 6 months. This period can be prolonged to 15 months if the case is considered complicated, if there are many asylum seekers applying at the same time or if the asylum seeker did not fulfil the obligation of presenting all the evidence and documents or attending the interview. The OFF stressed that there are no formal guidelines on what is considered to be a “complicated case” and that decisions in this regard are taken on a case-by-case basis. In 2019 the average processing time for a decision on the merits was 152 days. The longest processing time took 2,023 days and the shortest 1 day. Moreover, as of 31 December 2019 there were 3,364 persons whose cases were pending before the OFF.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Slovenia:** The lengthiness of the procedure increased significantly. 3,821 applications were lodged in 2019. At the end of the year the cases of 329 asylum seekers were pending. In 2019 the number of people waiting for the first instance decision increased with approximately 30% of asylum seekers waiting for their first instance decision for more than 6 months. According to the official statistics, the average duration of the procedure in 2019 was 44 days, however this includes procedures that were stopped due to the absconding of the applicants and Dublin procedures. Due to a high absconding rate (93%) and Dublin procedures the number is significantly lower than the actual duration of the regular procedure

- AIDA, Country Report Slovenia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Spain:** Due to the increase in asylum applications made in Spain in recent years, leading to a slowing down of responses by the Spanish asylum system, applicants wait long periods of time before getting an appointment to be interviewed by the OAR. This being said, the situation has slightly improved in 2019, as long waiting periods to access the asylum procedure have not been reported. At the time of writing, the average waiting time for an appointment is 6 months, even though delays vary depending on the province. Waiting times can range from 8 months to more than 1 year. Beyond the mainland, most shortcomings concerning the registration of asylum claims in Spain relate to the autonomous cities of Ceuta and Melilla, due to the difficulties relating to the access to the Territory.

- AIDA, Country Report Spain, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

**Romania:** According to IGI-DAI statistics, the average duration of the asylum procedure in 2019 was 60 days in case of regular procedure and 9 days in case of accelerated procedure, compared to 50 days in 2018. In case of Syria, Iraq or Afghanistan nationalities the average procedure was 60 days.

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 from the moment the case officer receives the file is respected in practice. In exceptional cases, the 30-day deadline to issue a decision was extended in 2 cases in Galați, where the asylum seekers, brothers, 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 pre-conditions for this extension, neither if the asylum seekers were informed of the delay or the reasons for the delay.

- AIDA, Country Report Romania, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ro\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ro_2019update.pdf)

**Switzerland:** Under the former asylum system, the length of the asylum procedure at first instance diverged significantly from what was foreseen by law. In 2019, the average duration was 340.5 days compared to 465.7 days in 2018, and an average of 339.8 days in 2017. As regards the new asylum procedure, a first assessment was conducted covering the period from March to December 2019. The SEM indicated that Dublin procedures last on average 35 days, while national procedures last on average 50 days in the accelerated procedure and 100 days in the extended procedure, before a decision is issued. In contrast to the very positive initial



assessment made by the SEM, several organisations, including OSAR, stressed the need to ensure that the speeding up of procedures is not at the detriment of the quality of the examination and decision-making on the application for international protection.

A total of 8,377 applications were pending at first instance on 31 December 2019.

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

**United Kingdom:** There is no enforceable time limit for deciding asylum applications, but the immigration rules say that the decision must be taken ‘as soon as possible’. The target to deal with ‘straightforward’ applications was six months, or 182 days, although in February 2019 the government announced that this strict target had been abandoned, no replacement has yet been agreed, although discussions between UKVI colleagues and NGOs took place in early 2019. Statistics were regularly published as to the performance of the UKVI against the six month target and how many cases were pending after being in the system for more than six months. At the end of December 2019, it had reached a record level of 22,549.

- AIDA, Country Report United Kingdom, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_uk\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_uk_2019update.pdf)

## Interview

**Bulgaria:** Since January 2019, the SAR abandoned the standard set of questions used during eligibility interviews and relied entirely on caseworkers’ ability to structure the interview on open questions. However, there are no guidelines or a code of conduct for asylum caseworkers to elaborate on the methodology for conducting interviews specifically. Similarly, there are currently no gender-sensitive mechanisms in place in relation to the conduct of interviews, except for the asylum seekers’ right to ask for an interpreter of the same gender. This has resulted in a poor quality of examination of asylum claims; i.e. little investigation of the individuals’ statements and refugee stories.

Moreover, while interviewers used to have the opportunity to ask applicants open questions and to allow them to clarify potential contradictions, a unified interviewing process was put in place in 2019, limiting to a great extent the possibility for the caseworker to investigate in depth the grounds for their applications

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Cyprus:** In 2019 one case was identified where the interview of a deaf applicant from Syria was omitted, due to extreme difficulties in communication and the absence of knowledge of a language.

- AIDA, Country Report Cyprus, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**Hungary:** Asylum seekers in the transit zones complained to the HHC of the fact there were armed security guards present during the interviews, standing or sitting behind their backs. This made the asylum seekers feel extremely intimidated. Moreover, interviews are extremely lengthy and tiring. There are many introductory questions regarding the personal data of the applicants and their travel route and by the time the questions reach the reasons of fleeing, the applicants are already very tired and they just want to be done with the interview and therefore they do not give enough details.

The quality of the asylum interviews highly depends on the personality of the case officer. Although in most cases, the interview records – especially when legal representative is not present – are vague and lack the resolution of contradictions, the HHC is also aware of an extremely punctual and detailed interview technique applied in Budapest. Accordingly, the case officer conducts extensive interviews and usually holds two hearings with the aim that at the second time contradictions are clarified in the light of the country of origin information obtained by then.

The interviewer usually does not ask anything concerning the IPA (internal protection alternative) and does not even tell the asylum seeker that they are examining the possibility of the IPA. Or when there are contradictions, the interviewers usually do not try to resolve them at all, or sometimes just partially, but never fully.

In 2019, the NDGAP conducted a total of 549 personal interviews.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Malta:** The new Refugee Commissioner, appointed in October 2019, expressed her willingness to revise the interview and assessment templates in order to process cases more efficiently and in line with accepted standards. These changes should be seen in 2020.

- AIDA, Country Report Malta, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_mt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_mt_2019update.pdf)

**Poland:** The Office for Foreigners does not collect data on the numbers of interviews. Nevertheless the Office for Foreigners confirmed that in 2019 there were cases where the interview was not conducted because the applicant was not fit for interview.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Portugal:** While the SEF stated in 2019 that there were no cases where a decision was taken without a personal interview, according to information available to CPR, not all asylum seekers were provided a personal interview in the framework of Dublin procedures in 2019.

- AIDA, Country Report Portugal, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pt_2019update.pdf)

### Recording and report

**Bulgaria:** The law provides for mandatory audio or audio-video tape-recording of all eligibility interviews as the best safeguard against corruption and for unbiased claim assessment. The practice in this regard continued to improve in 2019, as 100% of all monitored interviews were tape-recorded. This being said, the benefits of such a procedure are biased by the fact that, in practice, caseworkers take a decision based on their own notes rather than the actual audio recording.

However, in 46% of the procedures monitored by the HHC, the interview or the registration reports were not read out to asylum seekers before being served for signature, in clear violation of EU standards. Therefore practices in 2019 continue to worsen in comparison with previous years, as this omission was made in 36% of monitored cases in 2018 and in 26% of the cases in 2017. Under such circumstances, the information recorded in the report of the interview could be prone to potential manipulation, and the applicant would require a phonetic expertise requested in eventual appeal proceedings in order to validly contest the content of the report in case of inaccuracies. Court expertise expenses in asylum cases have to be met by the appellants, however.

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Romania:** 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 terminate cases. For additional details on the use of videoconferencing across the Regional centres, please refer to the AIDA report, under the section Recording.

- AIDA, Country Report Romania, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ro\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ro_2019update.pdf)

## 9) Procedures at Second Instance (including organisation of the process, hearings, written procedures, timeframes, case management - including backlog management)

### Second-instance authority

**Cyprus:** In order to ensure that asylum seekers in Cyprus have a right to an effective remedy, the relevant authorities had taken steps to modify the asylum procedure as follows; abolish the Refugee Reviewing Authority (RRA), which is a second level first-instance authority that examines recourses (appeals) on both facts and law, but is not a judicial body, and instead provide judicial review on both facts and law before the Administrative Court. In 2018, due to the heavy caseload before the Administrative Court, it was decided that

a specialised court would take on the cases related to international protection and a new court was established, named the International Protection Administrative Court (IPAC). In June 2019 the started operating. Furthermore in July 2019 the RRA ceased receiving new applications and will examine the backlog by the end of 2020 after which it will cease operations.

- AIDA, Country Report Cyprus, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**Croatia:** Each asylum case is examined by a single judge. Judges are not specialised on asylum neither specifically trained in asylum law, although from time to time some trainings are organised for judges (usually by UNHCR and NGOs). In 2019 for example, the Croatian Law Centre, in cooperation with the Judicial Academy and UNHCR, prepared a one and a half-day seminar on “the burden and standards of proof in the administrative procedure and administrative dispute” for judges of the Administrative Courts in Zagreb, Osijek and Split.

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

**France:** In 2019, the National Court of Asylum (CNDA) registered 59,091 appeals and took 66,466 decisions, compared to 58,671 appeals and 47,314 decisions in 2018. The average processing time for the CNDA to take a decision increased to 7 months and 5 days in 2019 compared to 6.5 months in 2018, due to a rise in the number of appeals registered and to strikes. For the regular procedure, the average processing time was 9 months and 20 days. The increase in the number of decisions and the length of processing times is due to the fact that strike actions had stopped the activity of the court during several weeks in 2018.

The appeal is processed by a Court panel in the regular procedure, while in the Admissibility Procedure and Accelerated Procedure only one single judge – either the President of the CNDA or the President of the section – rules on the appeal. In 2019, the CNDA took 31,102 decisions in collegial function, up from 20,771 collegial decisions in 2018. During that year, it further took 35,362 single-judge decisions following a hearing or by order, compared to 26,543 in 2018.

- AIDA, Country Report France, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Hungary:** The Szeged Administrative and Labour Court had jurisdiction over the asylum cases in the transit zone until February 2019. From then on, all decisions in asylum cases have been issued in Budapest and therefore the Metropolitan Court of Budapest has jurisdiction to adjudicate the cases from the transit zone. This will however change again, when the amendments to the Code of Administrative Court Procedure will enter into force (April 2020), following which the administrative branches of the district courts will have jurisdiction.

There were 166 appeals submitted against the decisions of the NDGAP in 2019. The courts issued a total of 255 decisions in asylum cases in 2019. In 57 cases, the courts rejected the appeal of the asylum seekers while in 173 cases the courts annulled or overturned the decisions of NDGAP and ordered them to conduct a new procedure or granted international protection. In 17 cases courts terminated the judicial procedure and in 7 cases rejected the appeals as inadmissible.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

## Appeal procedure

**Cyprus:** Since July 2019, an appeal is submitted only before the IPAC, within 75 calendar days, and this is included in the first instance decision issued by the Asylum Service. Decisions issued by the RRA can also be appealed within 75 days before the IPAC, which is again communicated in the negative decision issued by the RRA. The appeal before the IPAC has suspensive effect and examines both facts and points of law. There is no specific time limit set for the issuance of a decision but rather the law provides that a decision must be issued as soon as possible.

All decisions issued by the IPAC can be appealed before the Supreme Court within 42 days. The onward appeal before the Supreme Court examines only points of law and does not have suspensive effect. Furthermore it is not communicated in the decision that rejects the appeal before the IPAC.

- AIDA, Country Report Cyprus, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**France:** Since 1 January 2019, the CNDA may use videoconferencing even without the consent of the applicant, to ensure “a proper administration of justice”. The interpreter sits in a room together with the asylum seeker; if this is not possible, he or she is present from the side of the Court. Where videoconferencing is used, the CNDA shall prepare two transcripts, one in the seat of the Court and one in the hearing room where the applicant is present.

The CNDA held 223 video hearings in 2019, up from 153 in 2018. In practice, videoconferencing has only been applied to appeals lodged overseas, where it replaced mobile court hearings. It has not been applied to mainland France in 2019, although a recent CNDA decision provides that videoconferencing will be established in the premises of the Administrative Court of Appeal of Lyon and Nancy for all appeals lodged after 1 January 2019. The 2018 reform has been severely criticised in this regard, with practitioners referring to technical deficiencies in the videoconferencing system in Lyon which would prevent quality hearings. This measure has been suspended, and a mediator was appointed to find a solution that would suit both the Court and the lawyers. At the end of 2019, no solution had been found yet and the use of videoconferencing was therefore still suspended.

- AIDA, Country Report France, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Malta:** In 2019, the majority of decisions taken by the Refugee Appeals Board (55%) were review decisions (contrary to appeal decisions) made in the accelerated procedure which consist of a mere confirmation of inadmissible decisions made in the first instance without any further assessment. These decisions are taken usually the day after receiving RefCom’s decision, are only signed by the Chairperson and do not include any examination of all points of facts and law as required by the Asylum Procedures Directive.

- AIDA, Country Report Malta, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_mt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_mt_2019update.pdf)

**Poland:** The main development in 2019 concerns the onward appeal to the court in the international protection proceedings. The courts started to suspend the enforcement of negative decisions as long as the case is still pending at second instance, which means that the applicant is protected against refoulement during this time.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Romania:** In 2019, a total of 598 appeals against IGI-DAI decisions were filed before the Regional Courts. IGI-DAI statistics refer to 1 to 3 months average duration of the appeal procedure. In general, there are no problems in appealing a decision, if asylum seekers consult the legal counsellor of an NGO. Nevertheless, cases were reported in which the rejected asylum seekers did not know who to turn to for the drafting the appeal against the decision of IGI-DAI.

As regards hearings, it is not compulsory according to the Asylum Act - it is up to the judge to decide whether or not to hold a hearing. Some Regional Courts (Galați, Baia-Mare) systematically hear the asylum seeker *ex officio*. In Galați, however, a case was reported where the judge of the Regional Court refused to hear the asylum applicant, argued that it was unnecessary if the applicant has nothing to add.

Another issue reported relates to the access to the appeal decision. In 2019 the asylum cases reviewed by the Regional Court of Baia-Mare and the Tribunal of Maramureș could no longer be consulted by the asylum seeker because the file was no longer saved on the portal of the Court of Appeal. As a consequence, it is now difficult for the asylum seeker and NGO representatives to follow the cases. The JRS representative has to enquire that the Bar Association in order to provide additional details on the case.

- AIDA, Country Report Romania, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ro\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ro_2019update.pdf)

**Serbia:** Asylum Commission’s and Administrative Court’s practice remains unchanged, failing to have a corrective influence on the work of the lower instances. Thus, if the asylum application is not positively resolved in the first instance, it is highly likely that individual whose case was rejected in the first instance will eventually receive a final negative decision. These two bodies continued the negative trend with regards to

safe third country concept application. One of the rare examples of good practice was a decision granting subsidiary protection rendered by the Asylum Commission.

- AIDA, Country Report Serbia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_sr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_sr_2019update.pdf)

**Switzerland:** With the entry into force of the new Asylum Act in March 2019, time limits for appeals have been significantly shortened and depend on the type of the contested decision and proceedings in which the decision was issued. The time limit is five working days in the case of an inadmissibility decision, a decision in the airport procedure, or if the applicant comes from a so-called safe country of origin (according to the list of the Federal Council) and is obviously not eligible for refugee status and his or her removal is lawful, reasonable and possible. In accelerated procedures, the time limit for appeal is seven working days for substantive decisions and five days in case of incidental decision whereas it is 30 days for substantive decisions and 10 days for incidental decisions in extended procedure

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

### Backlog of cases and processing times

**Austria:** Following the increase of appeals and backlog of cases at second instance, judges from different fields of law have gradually been assigned to decide upon asylum procedures since 2017; despite their lack of expertise on asylum-related matters. In the first half of 2019, the Federal Administrative Court (BVwG) concluded 10,180 procedures concerning appeals against decisions of the BFA, taking around 11,700 decisions. Out of the 11,700 decisions at second instance, the BVwG dismissed or amended 4,610 decisions and confirmed 5,840 decisions of the BFA (rest are other decisions). For the year 2020, it is foreseen that 152 out of 236 judges of the BVwG will be assigned to take decision in asylum and alien's law cases.

As regards the average processing time for the appeal body to make a decision, the Ministry of Justice indicated that, in 2019, 33% of appeals challenging decisions of the BFA were concluded within 6 months, while 67% took longer than 6 months. Further details on these statistics are not available.

- AIDA, Country Report Austria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_at\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_at_2019update.pdf)

**Cyprus:** In 2017, due to the rising backlog, the processing time before the Refugee Reviewing Authority (RRA) has increased even more, with no improvements in 2018 or 2019. However, the RRA is expected to issue decisions on all cases by the end of 2020 when it will cease operations. If rejected by the RRA, an asylum seeker has the right to submit a recourse before the IPAC within 75 calendar days.

- AIDA, Country Report Cyprus, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**Croatia:** The average processing time of asylum cases by the Administrative Court in 2019 was 132 days in Zagreb, 32 days in Osijek, and 3 months in Rijeka. The Rehabilitation Centre for Stress and Trauma and the Red Cross expressed their concern regarding the increasing length of proceedings on asylum cases before the Administrative Court. The waiting time for a decision increased from up to five to between seven and ten months during the first three quarters of 2019.

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

**Hungary:** Section 68(3) of the Asylum Act provides that the court should take a decision on the request for judicial review within 60 days. However, in practice, the appeal procedure takes a bit longer, around 3 months or even more, depending on the number of hearings the court holds in a case. A preliminary reference was asked, whether the above deadline for the judges to decide is compatible with the requirements of an effective remedy. On 5 December 2019, the Advocate General in his opinion concluded that judges must disapply the applicable time limit if they consider that the judicial review cannot be carried out effectively. In practice, according to the HHC, the average length of an asylum procedure, including both the first-instance procedure conducted by the NDGAP and the judicial review procedure, is 3-6 months. In 2019, the HHC observed significantly extended asylum procedures. This is due to the fact that most of the negative decisions



are quashed at the court and the NDGAP has to conduct a new procedure that in many cases results in a further negative decision that is then quashed again by the court. The average therefore increased to 6 – 10 months.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Malta:** Processing times at the appeal stage continued to vary significantly. The majority (321 cases, 55%) of decisions taken in 2019 were under the accelerated procedure which provides for a 3- days review for all decisions deemed inadmissible by RefCom. The decisions taken through the regular procedure following a hearing and assessment can take up to several years.

In 2019, applicants channelled through the regular procedure saw their waiting time seriously increase, partially due to the suspension of one Chamber for several months following the resignation of one of its members. In 2019, 50 decisions were taken on appeals which were pending since 2014, 15 on appeals pending since 2015, 17 on appeals pending since 2016, 28 on appeals pending since 2017 and 92 on appeals pending since 2018.

- AIDA, Country Report Malta, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_mt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_mt_2019update.pdf)

**Poland:** In 2019, the average processing time for the Refugee Board to issue a decision in appeal proceedings was 131 days for the cases which started and finished in 2019. The longest processing time in 2019 took 327 days and the shortest - 1 day. In 21 cases (down from 35 in 2018) the Refugee Board decided to hear the applicant, and there were no cases of hearing a witness in 2019.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

## 10) Availability and use of Country of Origin Information (including organisation, methodology, products, databases, fact-finding missions, cooperation between stakeholders)

**ECRE/AIDA Comparative report:** On country of origin information and other relevant tools used by caseworkers to examine applications for international protection, please refer to Chapter III of our comparative report on asylum authorities (ECRE, *Asylum authorities: An overview of internal structures and available resources*, October 2019, available at: <https://bit.ly/2Q13wLy>). The Chapter provides an overview of these decision-making tools and looks at how they are implemented in practice.

**Hungary:** The HHC attorneys report that no COI is shared by the NDGAP with the applicants, before a decision in their asylum case is made. It is therefore not possible to provide any comments to the COI before the appeal phase. It is also quite common that nearly no COI is collected with regard to the reasonableness part of internal protection alternative (IPA). Or very often COI is just mentioned in the decision, but not quoted, only referred to in a footnote, only by a link and never by the exact location of the information in question (no pages are given). Furthermore, the NDGAP usually does not refer to COI from EASO and UNHCR and in those very rare cases when they do, they are presented selectively.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

## 11) Vulnerable applicants (including definitions, special reception facilities, identification mechanisms/referrals, procedural standards, provision of information, age assessment, legal guardianship and foster care for unaccompanied and separated children)

### Identification

**Bulgaria:** In 2008, the SAR and UNHCR agreed on standard operating procedures (SOPs) to be followed with respect to treatment of victims of Sexual and Gender-based Violence (SGBV). These SOPs were never applied in practice, however. A process for the revision of the SOPs has been pending since the end of 2013, which also aims to include new categories or vulnerable groups. However, as of 31 December 2019, the SOPs revision was still not finalised nor adopted by the SAR.

Nevertheless, monitoring in 2019 indicated improvements in the identification of vulnerable applicants in practice. In 72% of the 271 monitored cases by HHC, the applicants confirmed that they went through needs assessment during a social interview, while a follow-up assessment was ordered in 7% of the cases (i.e. 25 cases). However, complete assessment forms or templates could not be found in the applicants' individual files. In 100% of the monitored cases concerning unaccompanied children, the files completely lacked the mandatory social report by the respective statutory child protection service. It has been confirmed, however, ascertained that these reports are prepared in practice, but that they are never shared with the asylum authority SAR, which renders their preparation purely formal and useless.

Thus in 2019 significant progress was made with regard to the introduction of early vulnerability identification mechanisms, but their results and implementation were often not reported to case workers and therefore not taken into consideration during the assessment of the asylum claim.

The improvement of vulnerability identification mechanism resulted in a notable increase in the absolute number of asylum seekers formally recognised to have special needs. While this concerned 179 asylum seekers in 2016, 122 asylum seekers in 2017, and 99 asylum seekers in 2018; the number rose to 797 asylum seekers considered as vulnerable in 2019 (37% of all new applicants) .

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Cyprus:** In 2019 the Asylum Service carried out screenings of vulnerabilities at the First Registration Reception Center in Kokknotrimithia, however these were not full assessments and the results indicated that some vulnerability cases had not been identified. Since March 2019, the Cyprus Refugee Council also carries out vulnerability assessments at the Center using relevant UNHCR tools and subsequently identified a sufficient number of vulnerable persons that were referred to the responsible authorities. Such referrals led to cases of vulnerable persons being allocated to specialised examiners at the Asylum Service, as well as priority given to their cases. However, it is not clear if any other procedural guarantees are being applied. Furthermore it has not led to assessment and provision of any special reception needs.

Since mid 2019, efforts have been made by the Asylum Service and EASO in collaboration with UNHCR and the Cyprus Refugee Council to set up a comprehensive vulnerability assessment procedure at the First Registration Reception Center including the development of a common tool to be used for screening and assessment of vulnerable persons and a SoP. Due to the rise in the numbers of new arrivals this has been put on hold.

The lack of effective measures for identifying vulnerable persons was raised in the recent review on Cyprus by the UN Committee against Torture, specifically the lack of procedures to identify, assess and address the specific needs of asylum seekers, including survivors of torture.

- AIDA, Country Report Cyprus, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**Croatia:** While the Law on International and Temporary Protection (LITP) has introduced special procedural and reception guarantees, there is no further detailed guidance available in the law, nor an early identification mechanism in the form of internal guidance. Less evident vulnerabilities such as those relating to victims of torture or trauma, victims of trafficking or LGBTI persons are much less likely to be identified in current practice. The Rehabilitation Centre for Stress and Trauma reported that there was still no appropriate mechanism for the identification of torture victims .

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

**France:** The 2018 asylum and immigration reform provided for the creation of an automated data processing system for unaccompanied children, aiming at "better guaranteeing child protection and at the prevention of illegal entry and stay of foreigners in France". A Decree of 30 January 2019 has further detailed this database and the evaluation process for unaccompanied children. As a result, all young persons applying for support as unaccompanied children are from now on required to register at Prefectures their personal data, including fingerprints, photograph and documents, while Childcare Protection may ask the Prefecture for help in the evaluation process as regards the identity of a young person. This new system is applied very differently depending on the competent department. In certain circumstances it deteriorated the evaluation system by placing increased attention to control rather than protection needs, thus resulting in confusion for the young migrants and an unfavorable context for an assessment in confidence

- AIDA, Country Report France, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Hungary:** Throughout 2019, there were a total of 10 unaccompanied minors seeking asylum in Hungary in 2019. Out of the 10 children, 2 were between 16-17 years old placed in the transit zones, the others were less than 14 years old, therefore they were placed out of the transit zones, in Fót. The HHC is aware of 6 unaccompanied minors who applied for asylum in 2019 and were placed in the transit zone, however, some of them have other asylum seekers for guardians and therefore do not figure as UAMs in the official statistics, although their cases are run separately from their guardians.

Moreover, at the time of writing, there was one (former) unaccompanied minor in the transit zone of Tompa whose case represents the systematic delays and the NDGAP's attitude pretty well. He entered the transit zone of Rösztke originally together with his uncle and uncle's partner on 3 January 2019 and asked for asylum immediately. While his story was closely linked to that of his relatives who were granted international protection, his asylum application was rejected. This meant that the relatives were transferred to an open camp while the minor had to stay in detention, practically becoming an unaccompanied child. The first procedure lasted 3 months. The Metropolitan Court ordered the NDGAP to conduct a new procedure, which started in 19 July 2019 and ended on 4 December 2019, lasting nearly five months. In January 2020, the minor turned eighteen and therefore 'aged out' of the special legal protection afforded to unaccompanied minors.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Malta:** In 2019, all applicants rescued at sea and disembarked in Malta have been automatically detained without any form of assessment on the need to detain them under the Reception Conditions Directive. Therefore, vulnerable applicants, including minors, are still de facto detained. Referrals to the Agency for the Welfare of Asylum Seekers (AWAS) are possible by NGOs visiting detention and vulnerability assessment can be conducted by AWAS team. Depending on the availability of space in open centres, vulnerable applicants can be released from detention.

A persisting issue is that the reception system is only tailored for people arriving in Malta irregularly and referred to the IRC. Asylum seekers arriving regularly and therefore not accommodated in the IRC may never be assessed and their vulnerability may never be identified. A further concern is that, following their identification as vulnerable, individuals receive little or no support as they are required to access mainstream, and therefore non-specialised, support services as a matter of national policy.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Ireland:** As it stands, while the Regulations prescribe the Minister for Justice, the Minister for Health and the Health Service Executive as responsible for conducting vulnerability assessments in the reception context, in practice it is not clear which authority has responsibility. In the experience of Irish Refugee Council casework, as of January 2020, there is no systematic assessment – as envisaged in the Regulations – being carried out. The absence of a vulnerability assessment has been highlighted by organisations supporting people in the asylum process.

- AIDA, Country Report Ireland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2019update.pdf)

**Poland:** In 2019, the UN Committee against Torture raised concerns with regard to the appointment of experts to determine whether a foreigner is a victim of torture. Responding to the Committee, the Polish delegation stated that qualification as a victim of torture does not require an opinion from a specialist and is a part of specialised medical assistance provided during the refugee procedure. NGOs generally confirm that the system of identification envisaged in the law does not work in practice.

Moreover, the OFF does not collect statistics on the number of asylum seekers identified as vulnerable, which was confirmed during UNCAT report on Poland in 2019. According to a study from 2020 in which the Office for Foreigners representatives were interviewed, the largest group concerned are individuals who were subject to physical or psychological violence.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Portugal:** There are no (specific) mechanisms, standard operating procedures or units in place to systematically identify asylum seekers who need special procedural guarantees. However, the Asylum Act provides that the staff handling asylum applications of unaccompanied children must be specifically trained to that end. Moreover in 2018, the SEF/GAR has introduced two general questions in the questionnaire used in first instance asylum interviews that address the applicant's self-assessed health condition and capacity to undergo the interview, as well as a couple of questions in Dublin interviews on health-related vulnerabilities. According to CPR's observation, there is no clear link between the answer provided by the applicant and the adoption of special procedural guarantees in practice.

In 2019, of the 1,712 spontaneous asylum applicants whose cases were communicated by SEF, a total of 499 were identified as vulnerable.

- AIDA, Country Report Portugal, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pt_2019update.pdf)

**Romania:** IGI-DAI identified 213 as vulnerable asylum seekers according to article 5<sup>1</sup>(2) of the Asylum Act, between 1 January 2019 and 31 September 2019. Out of the total number of vulnerable asylum seekers 63 were minors, 96, unaccompanied minors, 5 persons with disabilities, 1 pregnant woman, 36 single parent families, 4 persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence

In case of vulnerable asylum seekers who are placed in specially designated closed spaces in the Regional Centres, the identity check and the assessment of their applications should be done with priority. This is not systematically carried out in practice, however.

- In Şomcuta Mare for example, 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).
- In Rădăuți, Giurgiu and 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. In Bucharest, however, efforts were made to prioritise the asylum applications of unaccompanied minors and in general they were assessed with priority. This being said, delays were also noted in such cases due to a lack of interpreters.

AIDA, Country Report Romania, 2019 Update, available at:

[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ro\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ro_2019update.pdf)

**Spain:** A report published by Accem in November 2019 underlines that the identification of trafficked persons is one of the main challenges existing in Spain, and that the procedure relies *inter alia* on the auto-identification by the same victim, as well as to the collaboration to the investigation and prosecution of the crime. Another report published by CEAR-Euskadi in June 2019 acknowledges that, despite certain improvements and the efforts of the OAR, the recognition rate of trafficked persons is still very low considering the dimension of the phenomenon in Spain

In order to improve the identification and referral of trafficked persons at the Madrid Barajas Airport, the Directorate-General for Integration and Humanitarian Assistance of the Ministry of Employment, Migration and Social Security signed the adoption of a specific procedure in October 2019, together with the State Delegation for Gender Violence of the Ministry of the Presidency, Relation with the Parliament and Equality. The new procedure also foresees a collaboration framework amongst NGOs working in the reception of asylum seekers and in the detection of - and assistance to - trafficked persons. The aim is to foster and guarantee a swift access to adequate support services, before and independently of their formal identification as victims of human trafficking. The NGOs participating to the procedure are the Spanish Red Cross, Proyecto Esperanza-Adoratrices, Association for the Prevention, Rehabilitation and Care for Women Prostituted (APRAMP), Diaconía and the Fundación Cruz Blanca. The idea is to extend the pilot project to other Spanish airports in the future, e.g. in Barcelona and Málaga.

However, at the end of October 2019, the NGO CEAR reported that, despite being detected as victims of human trafficking by a specialised NGO at the Madrid airport and despite the recommendations of the

Spanish Ombudsman to avoid their repatriation due to the risks they could face, two young Vietnamese girls had been returned back to their home country.

Another important issue relates to the registration of unaccompanied minors. In March 2019, the National Court ruled that the conditions for the registration of Spanish children at municipalities must be equally applied to foreign children. The claim had been lodged by the NGO Caritas-Spain. The Ombudsman has also raised concerns in June 2019 regarding the inaccuracy of the register of unaccompanied minors and highlighted the deficiencies resulting from age assessment procedures, in particular regarding girls. In September 2019, the Prosecutor General's Office (*Fiscalía General del Estado*) adopted an internal circular addressed to all public prosecutors regarding the grant of residence permits to unaccompanied children. The circular foresees the obligation for all public prosecutors to apply the law and thus to grant a residence permit to unaccompanied children at regional level and to lodge a claim against Delegations and Sub-delegations of the Government that, without justified reasons, refuse to submit such permits. Although the law foresees that unaccompanied children must be granted a residence permit upon their arrival in Spain, at least 10,000 unaccompanied children falling under the protection of the Autonomous Communities were found to be undocumented in 2019.

In October 2019, the Ombudsman highlighted the necessity to improve the protection of children who arrive in Spain irregularly and are accompanied by adults. The issues identified by the Ombudsman relate inter alia to the dysfunctions of the registration of children who arrive in Spain, the necessity to establish identification mechanisms for children at risk (e.g. of human trafficking) as well as the importance of establishing swift procedures facilitating the coordination amongst relevant authorities. The ten Spanish Ombudsmen and Ombudswomen agreed to sign a common declaration calling on the public authorities to implement a national strategic plan to assist migrant children.

- AIDA, Country Report Romania, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

**Switzerland:** The law does not specifically provide for the screening of vulnerabilities and there is no standard procedure in practice to assess and identify them. Furthermore, since March 1st, 2019 all but very complex asylum claims should be assessed and decided within 140 days. The fast-paced new procedure puts the administrative authorities and the legal representatives under increased pressure, which, coupled with the lack of standard identification tools, may result in overlooking potential fragilities.

Nevertheless, some international instruments signed by Switzerland specifically provide for the screening of some groups of asylum seekers. For a detailed analysis on the implementation of these instruments at national level and into the Swiss practice, please refer to the AIDA report under Guarantees for vulnerable groups.

It should be noted that GRETA highlighted cases in which victims of trafficking were not identified in the asylum process and received a negative decision regarding their asylum application. They remained in Switzerland as irregular migrants and subsequently came to the attention of outreach work organizations after having experienced further exploitation in Switzerland. GRETA expressed concern at the lack of early identification mechanism, because it reduces the possibilities for victims of trafficking to benefit from timely support in the asylum process, both with regard to procedure and reception conditions

- AIDA, Country Report Switzerland, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

**United Kingdom:** Research by Freedom from Torture (FFT) in 2016 showed evidence of errors by decision makers in deciding claims where there was a FFT medico-legal report. Errors identified included failing to apply the correct legal test and failing to recognise the expertise of those who prepared the reports. This remains a concern and is listed amongst concerns raised in a 2019 report, named '*Lessons not Learned; The failures of asylum decision-making in the UK*', relating to the standard of proof in asylum decision making published by FFT and seven other NGOs.

- AIDA, Country Report United Kingdom, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_uk\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_uk_2019update.pdf)

## Procedural safeguards



**Cyprus:** If requested, usually in writing a social advisor or psychologist can escort a vulnerable person to the interview however due to the low capacity of available services this is not utilised very often. Based on cases represented by the Cyprus Refugee Council such a request was made for two cases in 2019 and two cases in 2020 and permission was granted. The role of the social advisor or psychologist during the interview is supportive toward the applicant and does not intervene in the interview.

- AIDA, Country Report Cyprus, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**Croatia:** In 2019, guidelines on the treatment in the cases of sexual violence against women and children who are refugees and migrants was developed by Médecins du Monde (MdM). The guidelines are currently under review by the Ministry of Interior and UNHCR.

Moreover, in November and December 2019, UNHCR organised four workshops in Croatia on the practical implementation of the 2018 Protocol on procedures for unaccompanied children. The workshops were attended by 154 persons, including 71 police officers for irregular migration and 83 social workers and childcare professionals from centres for social welfare and children's facilities. The following topics were presented at the workshops: identification of UASC among groups of irregular migrants, initial health assessment, initial best interest assessment, access to international protection and accommodation to children's facilities, followed by casework and real-life story of an UASC. The topics of the workshops were designed by a Working Group comprising of representatives of respective ministries, international organisations and civil society organisations.

- AIDA, Country Report Croatia, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

**France:** According to a report by the Equality Council, OFPRA has marked notable improvements in terms of sensitivity and professionalism vis-à-vis claims by women. In addition, by the end of 2019, more than 9,000 were under OFPRA protection on grounds of risk of female genital mutilation (FGM).

In 2019, Forum refugees-Cosi further organised trainings for 37 employees of the CNDA, focusing on interviews in which painful stories and experiences are being shared.

- AIDA, Country Report France, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Hungary:** As regards the situation in transit zones, and especially the presence of vulnerable applicants in transit zones, references and statements of the following reports have been incorporated to the AIDA report (see p.89-90 of the AIDA report):

- Commissioner for Human Rights Of The Council Of Europe, Dunja mijatović, Report following her visit to Hungary from 4 to 8 February 2019, 21 May 2019, <http://bit.ly/30upiLp>.
- HHC, Crossing a red line: How EU countries undermine the right to liberty by expanding the use of detention of asylum seekers upon entry, February 2019, available at: <https://bit.ly/2DQJo7U>.
- UN Office of the High Commissioner for Human Rights, Press briefing notes on Iran and Hungary, 3 May 2019, available at: <http://bit.ly/38h8pXr>. In February 2019, the HHC published a report "Crossing a red line" on how EU countries undermine the right to liberty by expanding the use of detention of asylum seekers upon entry, where the conditions in transit zones Röszke and Tompa, gathered through interviews with people who were actually detained in the transit zone are described.
- Committee on the Elimination of Racial Discrimination, Concluding observations on the combined eighteenth to twenty-fifth periodic reports of Hungary, 10 May 2019, <http://bit.ly/3615xfj>.
- OHCHR, End of visit statement of the UN Special Rapporteur on the human rights of migrants, Felipe González Morales, 17 July 2019, <http://bit.ly/2tqOHcX>.

On 25 July 2019, the European Commission decided to send a letter of formal notice to Hungary concerning the situation of persons in the Hungarian transit zones at the border with Serbia, whose applications for international protection have been rejected, and who are waiting to be returned to a third country. In the Commission's view, their compulsory stay in the Hungarian transit zones qualifies as detention under the EU's Return Directive. The Commission finds that the detention conditions in the Hungarian transit zones, in particular the withholding of food, do not respect the material conditions set out in the Return Directive and the Charter of Fundamental Rights of the European Union.

In 2019 the HHC obtained 6 interim measures from the ECtHR, ordering Hungary to ensure adequate living conditions in the transit zones, compatible with the prohibition of torture and inhuman treatment for families with children. Unfortunately, the government refused to make the necessary substantial changes. The asylum authority finally released one family out of 6.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Slovenia:** Absconding of unaccompanied minors continued to be a significant issue in 2019 with 668 unaccompanied minors lodging an asylum application out of which 656 absconded before the decision was made, raising the absconding rate to 98%.

- AIDA, Country Report Slovenia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Portugal:** Recent case law regarding the provision of special procedural guarantees in the asylum procedure has consolidated the approach of not implementing such guarantees. In one instance in 2019, SEF suspended the asylum procedure of an applicant suffering from a serious mental health condition before issuing a decision on admissibility/accelerated procedure. However, the decision to suspend the procedure was adopted only after the personal interview was conducted.

Moreover, Applicants in need of special procedural guarantees shall be exempted from the border procedure and from detention in the context of border procedures. However, pregnant women, families with children, severely ill persons and victims of torture and/or serious violence were not always exempted from border procedures in practice, including in 2019.

- AIDA, Country Report Portugal, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pt_2019update.pdf)

**Malta:** Unaccompanied children need legal guardians to submit an asylum application. Due to the limited capacity of the Agency for the Welfare of Asylum Seekers (AWAS) and the large influx of unaccompanied minors in 2019, children often faced delays up to several months until they were able to lodge their application and receive assistance. In most cases, these months were spent in detention. Even minors going through an age assessment recognising them as minors have to wait several months before being assigned a legal guardian.

- AIDA, Country Report Malta, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_mt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_mt_2019update.pdf)

**United Kingdom:** Guidance on the substantive interview was revised in 2019 and addresses issues of disclosure, gender based violence as well as experiences of torture.

- AIDA, Country Report United Kingdom, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_uk\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_uk_2019update.pdf)

## Reception of vulnerable applicants

**Belgium:** There are some specialised centres and specific places in regular reception facilities such as collective centres, NGO centres and LRI. There are 1,008 places in collective reception centres, occupied at 93.75%. Due to a lack of places for adults in the second half of 2018, Fedasil started sheltering adults in the wing of the collective centres that is normally reserved to minors. Fedasil selected these adults and they usually are young adults who still go to school, or families who agreed to be sheltered in that part of the centre. This practice ended in August 2019, however.

- AIDA, Country Report Belgium, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_be\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_be_2019update.pdf)

**Bulgaria:** A safe zone for unaccompanied children in the refugee reception centre (RRC) of Sofia at the Voenna Rampa shelter has been established in mid-2019. Children are provided appropriate care and support is tailored to their needs. However, only unaccompanied children originating from Afghanistan are accommodated in this centre, while unaccompanied children from other nationalities remain in mixed dormitories in other reception centers. Moreover, despite the availability of places in the operational safe-zone, some Afghan children were also accommodated in other reception centres such as the RRC Harmanli in

2019. A second safe-zone at the RRC Sofia, in the Ovcha Kupel shelter, opened on 20 January 2020 and meant to accommodate children originating from Arab speaking countries. Both safe-zones are operated by the International Organisation for Migration (IOM) Bulgaria and funded by AMIF. However, the government has not proposed new measures yet which would foresee the durability and expansion of the safe-zones upon the termination of the AMIF project.

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Croatia:** On 1 January 2019, the new Law on Foster Care entered into force, which provides for the possibility of unaccompanied children staying in a foster family.

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

**France:** In 2019, the Ministry of Interior ordered the Prefectures to establish places dedicated to asylum seekers with disabilities and to women victims of violence or trafficking. About 300 places dedicated to these vulnerable women have been created in 2019.

- AIDA, Country Report France, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Hungary:** The centre of Fót hosts unaccompanied children whose asylum procedure is still on going, recipients of refugee, subsidiary protection and tolerated status, as well as those who are under the effect of an alien policing procedure. The Children's Home's closure was announced in 2016. Although a deadline for shutting the Home down has been announced several times, the Home remains to be open at the time of writing. Several Hungarian children have been placed to other child welfare institutions (in all cases, with worse material conditions) or were sent back to their parents or previous caregivers in 2019, in procedures which child protection experts reported to be extremely unprofessional. A previously announced plan to renovate a ruinous building at the backyard of a youth detention facility for unaccompanied minors seems to have been dropped by the Government, at least nothing happened to the building in the past year. The Children's Home is therefore being emptied rapidly, with only a few unaccompanied minors remaining there, whose future accommodation is uncertain. The children and staff are constantly kept in the dark about the future of the Children's Home and any possible plans for the future. In 2018, Fót registered 10 unaccompanied minors. On 31 December 2019, there were 12 asylum seeking children and 6 minor beneficiaries of international protection residing in the facility.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Malta:** Due to the large influx of newly arrivals, some families and single women were accommodated again in Hal Far Tent Village. Although they were placed in a sectioned-off area of the Centre, the single women lacked privacy and security since accommodated in units with unrelated men. In 2019, minors were also accommodated in Hal Far Tent Village putting them in great danger, as also reported by NGOs. Following a JRS Malta intervention, a 'minor's section' was created in Hal Far in order to isolate them from the rest of the residents.

- AIDA, Country Report Malta, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_mt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_mt_2019update.pdf)

**Slovenia:** The Office for Support and Integration of Migrants prolonged the pilot project in the Student Dormitory Postojna until the end of 2020, since a systematic solution for unaccompanied minors was not found in 2019.

- AIDA, Country Report Slovenia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Portugal:** Following important issues of overcrowding in the facility throughout 2019, CPR revisited its accommodation policy for unaccompanied children. While some were provisionally accommodated at the Refugee Reception Centre (CAR) due to shortage of places at the Refugee Children Reception Centre (CACR), young applicants at more advanced stages of the integration process were transferred from CACR to the Reception Centre for Refugees (CAR II) in a process of progressive autonomy.

- AIDA, Country Report Portugal, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pt_2019update.pdf)

**Spain:** Available resources have a generalised approach and do not cover the needs presented by the most vulnerable asylum applicants, who are referred to external and more specialised services where necessary. The Spanish reception system in fact does not guarantee specialised reception places addressed to asylum applicants such as victims of trafficking, victims of torture, unaccompanied asylum-seeking children or persons with mental disorders, although some NGOs offer reception facilities and services for asylum seekers with health mental problems or for trafficked women.

There are no specialised resources for unaccompanied asylum seeking-children, and they are thus hosted in general centres for unaccompanied children. Homelessness of unaccompanied children when they reach the majority has been reported as a concern in 2019, including the negative impact this has on their mental health. Due to the conditions of the Melilla's Centre of Protection of Minors for example, in which they should live because they are under the administration's custody, children prefer living on the city's streets and try to reach the Spanish Peninsula hiding in transport. According to available information, there were 93 children in this situation in December 2019, and 35 children in February 2020.

In December 2019, the Treasury Office of the Government of Melilla submitted a report to the Public prosecutor for Children. The report refers to the "humanitarian catastrophe" resulting from the living conditions in the centre La Purísima, which accommodates unaccompanied children in Melilla. The report states that the conditions of the centers violate the children's dignity and ignore their basic needs; thus putting their life at risk. However, instead of issuing a new call for the management of the centre, the Government of the City of Melilla decided in January 2020 to renew the contract with the current management of the centre for another year. This means that the centre will continue to host more than 800 children although it has a maximum capacity of 350 places. Overcrowding, inadequate living conditions and other relevant problems are thus likely to persist in 2020. Moreover, in January 2020, the Prosecutor General's Office (Fiscalía General del Estado) called on the Autonomous Communities, which are in charge of the protection of unaccompanied children, to agree on the distribution of unaccompanied children arriving to Andalucía, Ceuta and Melilla; i.e. the Spanish regions recording the highest number of arrivals

- AIDA, Country Report Spain, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

### Age assessments

**Bulgaria:** In 2019, the SAR conducted age assessments in 18 cases, in all of them (100%) concluding applicants to be adults. The monitoring by HHC of the status determination procedures demonstrated that the SAR continues to conduct age assessment by means of X-ray expertise of the wrist bone structure and without any evidence of prior consent by the children's representatives. If the children are considered to be of age they are not appointed statutory municipality representatives to assist them to contest the refusal of their asylum claims nor of their age assessments. Reports from medical organisations consider the X-ray as invasive but, more importantly, inaccurate with an approximate margin of error of 2 years.

In 2019, an expert group representing both governmental and non-governmental organisations was established to create a national age assessment procedure based on a multidisciplinary approach. The aim is also to lay down some basic legal safeguards to be applied by asylum, immigration and/or other administrations that request age assessment in practice. Some of these legal safeguards were thus included by the SAR to its LAR amendments proposal. The draft on age assessments was finalised and referred for adoption to the government, but still not endorsed as of 31 December 2019.

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Cyprus:** According to the Social Welfare Services in 2019, 535 UASC applied for asylum out of which 203 UASC were referred for age assessment (including medical assessments) and 194 were found to be adults.

- AIDA, Country Report Cyprus, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**Malta:** The age assessment procedure was extended to last maximum of 21 days but with the large influx of applicants and alleged UMAs the procedure is currently taking way longer. In fact, throughout 2019, there have been significant delays in conducting age assessment while unaccompanied minors were kept in detention waiting for such assessment to be conducted. Also, significant delays in the transfer to open centres of persons found to be minors and in the issuance of Care Orders were observed. Under the new procedure, a Social Report is prepared by AWAS including the findings and the outcome of the assessment, this document is shared with the Department of Social Welfare Standards and then send to the Ministry for the Family and Social Solidarity.

In 2019, AWAS conducted 410 age assessment (up from 330 in 2018). Out of the 410 applicants assessed, 102 were declared minors and 175 applicants were considered as adults. Also, in a number of cases, applicants declared to be adults but were still channeled through an age assessment by AWAS. In 133 of such cases, the age assessment confirmed them as being a adult. The number of age assessments still pending is unknown.

- AIDA, Country Report Malta, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_mt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_mt_2019update.pdf)

**France:** Human Rights Watch published a report in 2019 relating to the treatment of unaccompanied children in the French Hautes-Alpes which demonstrated that France continues its practices of flawed age assessment procedures and summary returns of unaccompanied children at the border to Italy. According to the report, the authorities do not comply with international standards and use various justifications to deny children protection. Research by HRW indicates that the flawed age assessment practice is common across the country. The research also affirms previous reports of summary returns of unaccompanied migrant children by French border police at the border between Italy and France. In the nine cases examined by HRW French authorities did not comply with the “entry refusal” procedure specific for children. The threat of summary returns pushes children to take ever more dangerous routes across the Alps, increasing the number of injuries and other health risks.

In 2019, a guide for services in charge of age assessments has been published by the authorities, in order to harmonise current practices (*Guide de bonnes pratiques en matière d'évaluation de la minorité et de l'isolement*, December 2019, available in French at: <https://bit.ly/37WQYeM>).

- AIDA, Country Report France, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Slovenia:** While an age assessment procedure is set out in law, it was not carried out in practice, thereby raising the risk of adults falsely claiming to be children being accommodated together with actual children. In 2018, the Ministry concluded negotiations with a medical institution that will perform the age assessment procedures. Although no age assessment procedures were conducted in 2018, the Ministry started the process in two cases. In 2019, the Ministry started to conduct the age assessment of unaccompanied minors. The assessment was conducted in 4 cases and in 2 cases the assessment concluded that the individuals were not minors.

- AIDA, Country Report Slovenia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Portugal:** Of the 75 declared unaccompanied children who applied for asylum in 2019, according to the information available to CPR, 6 were later determined to be adults, including on the basis of the applicants' statements, second-stage age assessment procedures (X-ray) requested by the Family and Juvenile Court, an assessment made by SEF, or information received from other EU Member States (e.g. Dublin and ad hoc disembarkation arrangements).

In 2019, the Committee on the Rights of the Child raised concerns about age assessment procedures and recommended that Portugal should “enforce multidisciplinary and transparent procedures that are in line with international standards and adequately train staff to ensure that the psychological aspects and personal circumstances of the person under assessment are taken into account.

- AIDA, Country Report Portugal, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pt_2019update.pdf)

**Spain:** Age assessment procedures have resulted in very problematic age determinations and have attracted many criticisms from international organisations, NGOs, academics, as well as administration officers and the



Spanish Ombudsman. The main concerns regard the inaccurate nature of the tests, their ethnic irrelevance mainly due to the lack of professionals' medical knowledge on the physical development of non-European minors, the lack of provision of information to the minor on how tests work and on the whole procedure. In addition, it has been proven by several documents that, while these tests limit children's access to their dedicated protection system, they do not limit adults' access to the minors' system. The most criticised aspect of the practical application of the tests for the determination of age is the lack of legislative coherence and the excessive discretion of the authorities.

It should be highlighted that one of the main problems regarding the age of unaccompanied children, and in particular those arriving in Ceuta and Melilla, is the fact that many prefer to declare themselves as adults because of the deficiencies of the minors' protection system and the restriction of movement to which they are subject in the two autonomous cities. This means that unaccompanied children prefer to be transferred to the Spanish peninsula as adults, thereby not being able to access the ad hoc protection system there, instead of remaining as children in Ceuta and Melilla. Once in the peninsula, these children find it almost impossible to prove they are minors as they have already been registered and documented as adults.

On 31 May 2019, the United Nations Committee on the Rights of the Child (UNCRC) decided in two separate cases on age assessments conducted on unaccompanied children, A.L. and J.A.B., in Spain, thus providing relevant elements on the age assessment procedure carried out by Spanish authorities.

- In the case A.L. v. Spain, the Committee recalled that the determination of the age of a young person claiming to be a minor is of fundamental importance, since the outcome determines whether that person will be entitled to protection as a child and the rights that flow from this, or will be excluded from such protection. With reference to General Comment No. 6, the Committee held that both physical appearance and psychological maturity have to be taken into account and that the assessment must be based on scientific criteria with consideration of the best interests of the child. In cases of uncertainty, the individual should be given the benefit of the doubt, so that, in the case of a child, they are treated as such. With regard to legal representation, the Committee held that the appointment of a legal guardian or a representative is an essential guarantee during the age assessment process. The denial of access to legal representation constitutes a violation of the right to be heard. In light of the above, the Committee found a violation of both applicants' rights under Articles 3 and 12 of the Convention on the Rights of the Child.
- In respect of J.A.B., the Committee held that Spain had failed to protect him against his situation of helplessness, particularly given his high degree of vulnerability as a minor who is a migrant, unaccompanied and ill. The Committee noted that this lack of protection occurred even after the author submitted identity documents to the Spanish authorities confirming that he was a child. The Committee considered that this constituted a violation of Articles 20 (1) and 24. The Committee further ruled that Spain now has an obligation to avoid similar violations through ensuring age assessments are conducted in conformity with the Convention, that the procedures take into account the documentation presented and that legal representation is allocated.

AIDA, Country Report Spain, 2019 Update, available at:

[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

**Switzerland:** The Swiss practice seems to fall short to meet the international standards at different levels. For instance, even though, in principle, minority should always be presumed, in practice not all applicants claiming to be under the age of 18 are treated as children and granted the child-specific protections throughout the assessment process, including the right to not be accommodated with adults. Furthermore, although the person is not explicitly forced to consent the age assessment process, if he or she refuses to participate, the SEM may claim that the asylum seeker has not complied with the duty to cooperate and could therefore be qualified as an adult, or even lose his or her right to have the proceeding continued. Also, there is no effective remedy to challenge the decision on age assessment. The asylum seekers only have the chance to challenge it when they lodge an appeal against the asylum decision itself. Finally, Swiss authorities only rely on forensic examinations to assess the asylum seeker's age. In 2019, 168 age assessments were conducted, but the number of persons who were not registered as minors after the age assessment is not available.

- AIDA, Country Report Switzerland, 2019 Update, available at:

[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

## Legal guardianship

**Austria:** Legal advisers are not required to have special expertise on children. The problem is still lacking a solution and has become a part of public debate throughout 2019. An answer to a parliamentary request showed that more than 50% of unaccompanied minors disappear after lodging an asylum application. The Federal Youth Association (*Bundesjugendvertretung*) criticised the fact that no one has full custody over the children during the admissibility procedure and called for a solution that would foresee that full custody is assigned to a legal representative from the first day of the asylum procedure

- AIDA, Country Report Austria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_at\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_at_2019update.pdf)

**Bulgaria:** In 2016 an expert group of representatives of the SAR, UNICEF, UNHCR, the Bulgarian Helsinki Committee and many other refugee-assisting NGOs re-introduced a draft proposal to the government to amend the Family Code in relation to the appointment of guardians. However, the amendment never took place. In 2019 it was again omitted in the legislative agenda of the government.

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Croatia:** Until now, no special qualifications were required for the appointment of guardians. In practice, when workers from Centres for Social Welfare were appointed as guardians, these were usually lawyers, social workers or social pedagogues who are working within the Centre for Social Welfare. According to the Report of the Croatian Ombudsperson for Children for 2018 (issued in March 2019), centres for social work are still appointing guardians for unaccompanied children from the circle of adults that arrive with the child. However, according to the Ministry of Demography, Family, Youth and Social Policy, on average, one guardian is appointed for 2.15 unaccompanied children. Almost all appointed special guardians were employees of social welfare centres, replacing the previous practice of appointing persons who travelled with the child.

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

**Hungary:** As opposed to 2018, delays (though not significant ones) in appointing guardians started occurring again in 2019. Although by law, the Guardianship Office of District V. of Budapest has sole jurisdiction in appointing guardians for unaccompanied asylum-seeking children, it occurred multiple times in 2019 that guardians of other Guardianship Offices were appointed. These guardians had no prior training or experience with unaccompanied minors, however, the NGOs working on the field (including the HHC) managed to reach out to them in all cases and establish a good and effective working relationship.

The legal guardians are employed by the Department of Child Protection Services (TEGYESZ). Obstacles with regard to children's effective access to their legal guardians remained to be a problem in 2019. Under the Child Protection Act, a guardian may be responsible for 30 children at the same time. Based on personal interviews with guardians, the HHC found that this is hardly the case, as some of them gave accounts of caring for 40-45 children at once. This means that in practice, guardians cannot always devote a adequate time to all the children they represent. Not all guardians speak a sufficient level of English and even if they do, the children they are in charge of may not. TEGYESZ employs one interpreter but guardians do not always have access to his services. In 2018, the Children's Home hired an Afghan social worker who helps with translation and intercultural communication.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Malta:** One of the main issues in 2019, beyond the waiting time to conduct an age assessment, is the delay in appointing legal guardians. It was reported that several applicants, declared as minors following an age assessment waited for several months before a legal guardian was appointed which prevented them from lodging their application and start the proceedings. Currently the Head of the Agency for the Welfare of Asylum-Seeker is acting as the only legal guardian for all applicants, delegating his responsibility to social workers.

- AIDA, Country Report Malta, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_mt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_mt_2019update.pdf)

**Poland:** The Border Guard reported that, since December 2017, a list of NGO workers who declared their willingness to be a representative of a child is in place. However, as the Border Guard confirmed, due to the lack of funding, some NGOs withdrew their representatives from the list. Currently there are representatives of 4 NGOs (altogether 11 persons) on the list. Their presence on that list is not binding, which means they are not obliged to become a representative.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Romania:** With the exceptions of the legal representative in Galați (which was replaced by another legal representative during 2019) and Șomcuta Mare, legal representatives consider that their mandate is only to assist the child in administrative and judicial procedures related to the asylum claim, i.e. to attend interviews and court hearings, and as a consequence this mandate ends when the asylum procedure is completed. Legal representatives consider that it is not their mandate to ensure the well-being of the unaccompanied child.

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.

- AIDA, Country Report Romania, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ro\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ro_2019update.pdf)

**Spain:** Shortcomings and problems have been raised concerning the guardianship systems for unaccompanied minors, and mostly with regard to the excessively long duration of the procedures for issuing an identification document when children are undocumented. Moreover, serious concerns have been reported regarding children who have been under the guardianship of the Autonomous Communities and are evicted from protection centres once they turn 18 even if they have not been documented or have not yet received a residence permit. In these cases, children are left in streets, homeless and undocumented.

Given the increasing numbers of arrivals in Spain, the low numbers on unaccompanied children seeking asylum highlight the existence of shortcomings concerning their access to protection. This is mostly due to the lack of provision of information on international protection within the minors' protection systems of the Autonomous Communities.

- AIDA, Country Report Spain, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

**Switzerland:** As of 2019, the duties of the representative are not precisely defined by law and are therefore not always clear in practice.

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

### Detention of vulnerable groups

**Austria:** Vulnerable persons and persons with specific needs continued to be detained, as confirmed by a mission report published by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in early 2019. Staff in immigration detention centres, including medical staff, are not prepared to handle such cases, partly due to the lack of training and capacity gaps. Moreover, a Hungarian national died in a detention centre in June 2019. Although he was not an asylum seeker, the issue aroused a lot of public attention as regards the poor detention conditions in Austria. There is currently a pending criminal procedure as well as an administrative procedure challenging the detention conditions in Austria in front of the Courts.

- AIDA, Country Report Austria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_at\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_at_2019update.pdf)

**Belgium:** Detention of children and families: In August 2018, the government opened five family units in the 127bis repatriation centre, as a result of which families with children were being detained again. Detention is

applied where the family manifestly refuses to cooperate with the return procedure. However the Royal Decree of 22 July 2018 that establishes the rules for the functioning of the closed family units near Brussels International airport, has been suspended by the Council of State in April 2019, no more families have been detained. The council of state still has to pronounce its decision on the annulment of this Royal Decree.

Moreover, in 2019 a report was published by several NGOs based on the testimonies of visitors. One case reported concerned an Eritrean man, with clear signs of torture on his body, who committed suicide before being sent back to Bulgaria. Another case concerned a person who committed self-harm while being detained. He was subsequently followed by a psychologist and released upon recognition of the refugee status.

- AIDA, Country Report Belgium, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_be\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_be_2019update.pdf)

**Bulgaria:** There are no mechanisms established to identify vulnerable persons in detention centres. In its July 2019 report, the CPT found insufficient access to health care and communication problems with medical staff due to the language barrier. The report highlighted the lack of access to psychiatric care, which is limited to emergencies but which also results from the lack of interpretation and the lack of health insurance of the concerned persons. The CPT underlined that communication problems between detained foreign nationals and psychologists severely limited the possibilities to provide any psychological assistance.

In 2019, amendments of the primary and secondary immigration legislation were adopted creating additional safeguards for a legally binding referral mechanism. New procedures allowing regularisation of rejected and migrant unaccompanied children were also introduced with the possibility to extend their 'leave to remain' (i.e. their residence permit) on humanitarian grounds beyond adulthood. The amendments are thus expected to put an end to detention of unaccompanied children, but it remains to be seen how and whether these new provision will be applied in practice. In 2019, 216 children were detained in pre-removal detention centres. Among them, the Bulgarian Helsinki Committee identified 135 unaccompanied children, including children detained as "attached" to an adult or wrongly recorded as adults. The average duration of detention of wrongly detained unaccompanied children rose to 12 days in 2019.

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**France:** In the first 10 months of 2019, 236 children have been detained. In May 2019, detainees at the administrative detention centre in Rennes who opposed the forced return of an 18-year-old Moroccan national in the middle of the night set a fire in the facility and climbed onto the rooftops to protest the operation.

- AIDA, Country Report France, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Netherlands:** In the first six months of 2019, 10 unaccompanied children were placed in detention, compared to 40 unaccompanied children in the whole of 2018. These children (and their families) are detained at the closed family location in Zeist.

- AIDA, Country Report Netherlands, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_nl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2019update.pdf)

**Greece:** Persons belonging to vulnerable groups are detained in practice, without a proper identification of vulnerability and individualised assessment prior to the issuance of a detention order. In 2019, GCR has supported various cases of vulnerable persons in detention whose vulnerability had not been taken into account. These include:

- A citizen from Pakistan suffering from psychiatric problems, who was hospitalised for a month during detention. He was detained in a police station for a period of two months and later transferred to the PRDC of Amygdaleza. He was released after remaining a total of four months in detention.
- An asylum seeker of Palestinian origin, torture survivor, who was detained for a month in Agios Panteleimonas Police Station in Athens, waiting to be transferred back to Leros, due to an imposed geographical restriction.
- A female detainee from the Democratic Republic of Congo, with psychological and cardiological issues, detained in Tavros PRDC for a period of two months. She was released following her asylum registration in detention.

Moreover, despite the announcement by the Minister for Migration Policy already since 2017 that “not a single child would be kept in protective custody”, the detention of unaccompanied children continues to occur. At the end of 2019, 98 unaccompanied children were held in detention (“protective custody”) in the pre-removal centre of Amygdaleza, were detained in police stations and other facilities around Greece, and a number of them were in de facto detention in particular in Fylakio RIC. Unaccompanied children are detained either on the basis of the pre-removal or asylum detention provisions, or on the basis of the provisions concerning “protective custody”. The latter is subject to no maximum time limit.

Out of 5,301 unaccompanied children estimated in Greece at the end of the year, as many as 2,222 were on a waiting list for long term or temporary accommodation.

In February 2019, the ECtHR found the automatic placement of unaccompanied asylum-seeking children under protective custody in police facilities, without taking into consideration the best interests of the child, violated Article 5(1) ECHR. Moreover, during 2019, both the European Court of Human Rights and the European Committee of Social Rights has ordered the Greek authorities to immediately halt the detention of unaccompanied children and transfer them in reception facilities and in conditions in line with Art. 3 ECHR. More precisely, the ECtHR has granted interim measures in four cases regarding UAMs detained in police facilities in Greece. These include:

- The case of 2 unaccompanied girls placed in protective custody in Tavros PRDF (Athens) in March 2019. The ECtHR ordered the Greek Authorities to immediately transfer the girls to an accommodation facility for minors and ensure that their living conditions are in line with Article 3 ECHR.
- The case of 20 unaccompanied boys detained at Kolonos police station in Athens in October 2019. The ECtHR granted interim measures ordered their transfer to appropriate shelters. Due to the fact that 9 of the minor applicants have been transferred for Kolonos police Station to Amigdaleza PRDF (Minor’s section), the Court ordered (one week after the initial decision) in a new Decision, to transfer these applicants to a shelter.
- The case of a 16-year-old unaccompanied boy (October 2019) and the case of 2 unaccompanied boys (November 2019) detained in police stations in Attica region.

Additionally, in May 2019 the European Committee of Social Rights, following a collective complaint submitted by ECRE and ICJ with the support of GCR, has indicated to the Greek Authorities to adopt immediate measures and inter alia to “ensure the use of alternatives to detention of migrant children, and to ensure in particular that unaccompanied children in police stations, pre-removal centres and Reception and Identification Centres are provided with immediate access to age-appropriate shelters”.

In its preliminary findings from its visit to Greece (2-13 December 2019), the Working Group of Arbitrary Detention “invite[d] the Government to ensure that the best interest of each child is prioritized and that children who enter the country in an irregular manner are not detained and are placed in facilities appropriate to their age. As the Greek Ombudsman has observed, this could be achieved by transitioning to community-based care, foster care, supported independent living, and the gradual reduction of institutional structures.”

- AIDA, Country Report Greece, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_gr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf)

**Poland:** The Commissioner for Human rights found that there was an ongoing problem with the system of the identification of vulnerable groups in Poland. Psychologists employed in detention centres are charged with many tasks including the recruitment, psychological support and training of border guard officers and care provided to migrants is merely one of them. Moreover, pursuant to the Border Guard’s internal document cited in the report, psychologists can offer psychological aid in the case of traumatic events only at the written request of the doctor examining the applicant. Thus, applicant themselves may not initiate a psychological evaluation which could result in an official psychological opinion. According to the report, this restriction impedes identification of potential victims of torture.

In its 2019 concluding observations, the UN Committee against Torture also stated that in Poland there is insufficient capacity to identify asylum seekers who are victims of torture and lack of adequate protection and care for survivors of sexual and gender-based violence.

As a result, victims of violence are still being detained in practice. The fact that public authorities processing their asylum claim acknowledge the fact of violence they were subjected to, often does not automatically



lead to the release of an asylum-seeker. In addition, detention is not treated as a measure of a last resort and it is ordered for a maximum period.

Similarly, families with children are still being detained. The best interest of the child is rarely examined, although the law obliges courts to take it into account. The courts do not appoint experts who could assess the impact of detention on children. It often leads to a considerable deterioration of their psychological well-being. At the end of 2019, 8 children were placed in detention centres in Kętrzyn, Biała Podlaska and Przemyśl, and 132 in total for the year 2019 (unaccompanied children and children in families, in asylum and return procedure). In 2019, children stayed in detention centres in average for 83 days (in the guarded centre of Biała Podlaska, the average even reached 115 days).

In August 2019, the UN Committee against Torture expressed its concern regarding the detention of families with children and unaccompanied minors over 15 years old. According to CAT conditions in detention centres require improvements and Poland should refrain from placing asylum seekers and in particular children in guarded centres for foreigners. In addition, Poland should introduce a principle to the law – that detention of asylum-seekers, and in particular children and vulnerable persons, should be a measure of last resort, for as short a period as possible and in facilities appropriate for their status. Furthermore, CAT recommended that Polish authorities should refrain from placing asylum seekers and in particular children in guarded centres, and ensure the fast and appropriate identification of vulnerable persons including survivors of torture and ill-treatment, as well as sexual and gender based violence, and provide them with adequate access to health care and psychological services.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Slovenia:** Children and unaccompanied children asylum seekers cannot be detained in the Aliens Centre according to Article 84(2) IPA. However, they can be detained in the Asylum Home. In practice, unaccompanied children have also been de facto detained in the reception area of the Asylum Home for periods reaching up to 15 days until the lodging of their asylum application.

Moreover, in 2019, 2 foreigners with mental health problems were detained in the Aliens Centre and were both provided with psycho-social support, health checks and examination with a psychiatrist. One LGBT foreigner was also detained.

- AIDA, Country Report Slovenia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Spain:** Although detention of asylum seekers or vulnerable categories is not explicitly allowed by law, in practice several exceptions have been reported concerning unaccompanied children and victims of trafficking. This is due to the lack of identification of the minor age of the person, or of his or her status of victim of trafficking. In January 2020, the Platform 'CIEs No' reported that a 16-years-old boy from Algeria, despite having proved his minority, remained detained at the CIE in Valencia, because the judge didn't consider valid the identity document his family sent him and that arrived split in half.

- AIDA, Country Report Spain, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

**Switzerland:** According to a report of the National Commission for the Prevention of Torture, two cantons (Geneva and Neuchâtel) formally prohibit the detention of minors (including those of 15 and above) in their cantonal law, while five (Basel-Land, Jura, Obwald, Nidwald, Vaud) do not order administrative detention as a matter of principle. In several other cantons, no detention of minors has been registered in 2017 and 2018. Nevertheless, ten cantons have communicated having placed minors in administrative detention (Argovie, Basel-Stadt, Bern, Glarus, St-Gallen, Solothurn, Uri, Valais, Zug, Zurich). The length of detention was particularly long in Bern, Valais, Zug and Zurich. In 2019, the NCPT also highlighted that most minors are detained in prisons for the execution of penalties or remand prisons, which are inadequate.

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

## 12) Content of protection (including access to social security, social assistance, healthcare, housing and other basic services; integration into the labour market; measures to enhance language skills; measures to improve attainment in schooling and/or the education system and/or vocational training)

### Integration

**Bulgaria:** Since 2013 and including in 2019, Bulgaria followed a “zero integration year”. The first National Programme for the Integration of Refugees (NPIR) was adopted and applied until the end of 2013, but since then all beneficiaries of international protection have been left without any integration support. This resulted in extremely limited access or ability by these individuals to enjoy even the most basic social, labour and health rights, while their willingness to permanently settle in Bulgaria was reported to have decreased to a minimum. In 2019, 86% of asylum applicants abandoned their status determination procedures in Bulgaria, which were thus subsequently terminated shortly after the end of the legal 3-month time limit since the disappearance was duly established. In comparison, this percentage was 79% in 2018, 77% in 2017, 88% in 2016, 83% in 2015 and 46% in 2014

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Croatia:** As reported in previous years, beneficiaries of international protection still face challenges in exercising their rights in almost all areas, as persisting obstacles are still not solved or not sufficiently addressed at the state level. The greatest problems are still related to learning the Croatian language, health care, employment, education and accommodation. The Action plan for the integration of beneficiaries of international protection which covered the period from 2017-2019 foresaw that, in order to monitor the implementation of the integration of persons granted international protection, once a year, a relocation plan in accordance with the established needs of beneficiaries should be adopted. However, this was never implemented in practice.

As the Integration Action Plan expired at the end of 2019, a new Integration Action Plan is under discussion, covering the period from 2020 to 2022. On 14 November 2019, the Government issued a decision on the composition of the new Permanent Commission for the Implementation of Foreigners in Croatian Society. The latter will be composed of representatives of: state administration's bodies, Governmental Offices, local and regional self-government units, public institutions as well as of a representative of a non-governmental organisation. The composition of this new commission has been modified insofar as it provides for the appointment of a representative of local and regional unit and a representative of non-governmental organization, which were not part of the previous commission.

IOM Croatia is also participating to DG HOME's funded project “COMMIT: Facilitating the integration of resettled refugees in Croatia, Italy, Portugal and Spain”. The project foresees following actions: systematizing community support, including through building the capacities of key stakeholders in receiving communities and piloting community mentorship schemes with specific attention to supporting vulnerable groups as well as fostering transnational exchange between newer and more experienced resettlement countries to identify and disseminate lessons learnt and best practices beyond the project's geographical scope.

For detailed information on the role of NGOs in the integration process and the different activities carried out by them throughout the year 2019 (e.g. with regard to housing, education, financial support etc.), please refer to the AIDA report, under Content of International Protection.

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

**Hungary:** Since June 2016, the Hungarian state has completely withdrawn integration services provided to beneficiaries of international protection, thus leaving recognised refugees and beneficiaries of subsidiary protection to destitution and homelessness. Only non-governmental and church-based organisations provide the needed services aimed at integration such as housing, assistance with finding employment, learning Hungarian language or family reunification. Moreover, the Commissioner for Human Rights of the Council of Europe pointed out in her 2019 report that xenophobic rhetoric and attitudes also have a harmful effect on the integration of recognised refugees.

According to a comparative report on refugee integration frameworks in 14 EU Member States from 2019, written by Wolffhardt et al., among east-central European countries Hungary stands out as providing the least advantageous integration policy framework. As for the authors this is due to deliberate policy choices and

has no relation to the country's long and short histories of receiving refugees and there is no correlation shown between the country's region and its position in relation to the recent movements.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Romania:** The new amendments of the Integration Ordinance stipulate that IGI-DAI, in collaboration with the authorities of the local public administration, organises sessions of cultural accommodation and counselling activities, aiming to familiarise the adults beneficiaries of international protection with the traditions, customs, legislation and specifics of the Romanian society. The previous provision stipulated that IGI organizes these activities and may collaborate with public authorities and NGOs. IGI and the local public administration authorities may collaborate with other public institutions and non-governmental organizations in order to organize these activities.

Moreover, the Integration Ordinance states that in order to ensure the effective access to social rights, the competent authorities take into account the specific situation of the beneficiaries of international protection. 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 Space European Economic and citizens of the Swiss Confederation. The local support teams are composed of IGI-DAI, local public administration authorities, public institutions and NGO representatives. The methodological norms of application of the Integration Ordinance which are not yet published will prescribe how these support teams are established, how they operate and what their responsibilities are.

The timeline for the submission of 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.

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.

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

- AIDA, Country Report Romania, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ro\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ro_2019update.pdf)

**Serbia:** From 2008 to 2019, only 156 persons were granted asylum in Serbia. At least 40% of them have left Serbia due to a poor prospect of integration. The struggles in integration begin during the course of asylum procedure, where many genuine applicants are placed in remote Asylum Centres (Sjenica, Tutin and Bogovađa) where access to labour market is extremely difficult or in some cases impossible. The inability to obtain a work permit in the first 9 months from the submission of asylum application discourages persons in need of international protection to consider Serbia as a country of destination. Also, right to health care, employment and access to education largely depends on the assistance of CSOs, while the support from the State needs to be improved. Social allowances are insufficient for most of the refugees who do not have any other sources of income.

- AIDA, Country Report Serbia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_sr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_sr_2019update.pdf)

## Access to housing

**ECRE/AIDA comparative report:** The second Chapter of our comparative report on housing deals specifically with the obstacles faced by beneficiaries of international protection with regard to accessing accommodation in the private housing market and the measures put in place by states to support beneficiaries in the process of moving out of reception facilities for asylum seekers. Furthermore, it analyses the scale and repercussions of continued presence of beneficiaries of international protection in accommodation for asylum seekers, as

well as the challenges surrounding effective monitoring and enforcement of EU law obligations with regard to access to accommodation for beneficiaries of international protection.

See: ECRE/AIDA, *Housing out of reach? The reception of refugees and asylum seekers in Europe*, April 2019, available at: <https://bit.ly/38LeRpx>

**Bulgaria:** In practice due to lack of any integration support, the beneficiaries of international protection are allowed to remain in the reception centres up to 6 months, unless in situations of mass influx or increased new arrivals. At the end of 2019, the number of beneficiaries staying in reception centres was 461.

Beneficiaries face acute difficulties in securing accommodation due to the legal 'catch 22' surrounding Civil Registration. Holding valid identification documents is necessary in order to enter into a rental contract, yet identification documents cannot be issued if the person does not state a domicile. The situation has been exacerbated since the SAR has prohibited beneficiaries from stating the address of the reception centre where they resided during the asylum procedure as domicile for that purpose. It led to corruption practices of fictitious rental contacts and domiciles stated by the beneficiaries of international protection in order to be able to obtain their status holders' identification documents.

- AIDA, Country Report Bulgaria, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Cyprus:** There are no schemes in effect providing housing to beneficiaries of international protection. Persons will need to secure private accommodation on their own. This is often a difficult task, due to language barriers and financial constraints related to high levels of unemployment, high rent prices and height of assorted allowances. In 2018, securing private accommodation became even more difficult for refugees who have recently been granted protection as well as refugees living in the community for a few years. The sharp rise in rents made it harder to identify appropriate accommodation as well as the reluctance on behalf of landlords to rent properties to refugees, including persons with a regular income. The situation in 2019 became even more dire as no actions were taken by the state to address the issue.

- AIDA, Country Report Cyprus, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**France:** In 2019, 3,503 new places were created in temporary accommodation centres (*Centres provisoires d'hébergement*, CPH) for beneficiaries of international protection. The actual overall capacity of CPH reaches 8,710 places.

- AIDA, Country Report France, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Greece:** A number of measures restricting the access of recognized beneficiaries of international protection to social benefits and accommodation were announced in March 2020. As stated by the Minister for Migration and Asylum, "our aim is to grant asylum to those entitled within 2-3 months and from then on we cut any benefits and accommodation, as all this works as a pull factor ... Greece is cutting these benefits. Anyone after the recognition of the asylum status is responsible for himself". Indeed, a amendment to the asylum legislation voted on 5 March 2020 states that "after the issuance of the decision granting the status of international protection, material reception conditions in form of cash or in kind are interrupted. Said beneficiaries residing in accommodation facilities, including hotels and apartments have the obligation to leave them, in a 30-days period since the communication of the decision granting international protection". Unaccompanied minors have the legal obligation to leave the facilities within 30 days of reaching the age of majority. Special categories of beneficiaries for whom the provision of benefits or deadline to leave the facility is extended, and "in particular persons with a serious health condition", may be foreseen by a ministerial Decision. In general terms and according to the law beneficiaries of international protection have access to accommodation under the conditions and limitations applicable to third-country nationals residing legally in the country.

According to GCR's experience, those in need of shelter who lack the financial resources to rent a house remain homeless or reside in abandoned houses or overcrowded apartments, which are on many occasions subletted. Pro Asyl and Refugee Support Aegean also document cases of beneficiaries of international protection living under deplorable conditions, including persons returned from other EU countries.

During the previous years and in 2019 a number of efforts have been made in order to provide a transitional period to recognized refugees, who already were accommodated under an accommodation scheme. However, these welcome efforts refer to a relatively small number of beneficiaries and are provided only for a short period. In any event, and as mentioned above according to a March 2020 amendment of the national legislation beneficiaries of international protection are ordered to leave for accommodation facilities, including the ESTIA apartments, open reception facilities etc., within 30 days since the communication of the decision granting the status, while all benefits in cash or in kind are interrupted from the issuance of the decision on the international protection application. This is for example the case for the beneficiaries under UNHCR accommodation and cash assistance scheme (ESTIA). According to the statistics, at the end of 2019, 6,822 beneficiaries of international protection were provided accommodation in apartments through the UNHCR scheme and 15,500 received cash assistance. These persons are directly affected by the March 2020 amendment.

Apart for the transitional period, in July 2019, as part of the National Integration Strategy, a programme was launched ("HELIOS 2"). This aimed at promoting the integration of beneficiaries of international protection currently residing in temporary accommodation schemes into the Greek society through different actions, such as integration courses, accommodation and employability support. The project is implemented by IOM and its partners, with the support of the Greek government and will last up until November 2020. In order to enroll in the project, beneficiaries must meet all the following criteria: a) be a beneficiary of international protection b) have been recognised as beneficiary of international protection after 01 January 2018 and c) be officially registered and reside in an Open Accommodation Center, Reception and Identification Center, a hotel of the IOM FILOXENIA project or in the ESTIA program.

As far as the accommodation is concerned, the project aims to support 5,000 beneficiaries towards independent accommodation in apartments rented on their name, through contributions for rent for a period of 6 months and move-in costs, as well as networking with apartment owners. From the launch of the programme to 3 January 2020, 5,846 beneficiaries enrolled in HELIOS and received support for independent living, while 568 beneficiaries received rental subsidies upon finding independent housing.

- AIDA, Country Report Greece, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_gr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf)

**Netherlands:** More people are awaiting housing once they obtained an international protection status. On 6 January 2020, there were 5,385 beneficiaries of international protection residing in COA reception centres and awaiting housing, compared to 4,543 at 25 February 2019.

- AIDA, Country Report Netherlands, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_nl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2019update.pdf)

**Poland:** The state does not provide housing. There is a general lack of social housing to nationals as well, so the situation of beneficiaries is difficult in this regard. General conditions to obtain housing under the law are hard to fulfill for beneficiaries of protection because of their relatively short stay in Poland and mobility. Some municipalities provide singular flats annually, dedicated for beneficiaries e.g.: 5 in Warsaw, 4 in Lublin, 4 in Gdansk. Within the 12-month period of Individual Integration Programme (IPI), individuals may receive a financial benefit to pay for a flat. Yet, according to social assistants in the Centre for Social Assistance in Wolomin, (suburbs of Warsaw) the owners are not willing to rent flats to refugees and often demand higher fees. Many NGOs are of the opinion that beneficiaries of international protection face homelessness and destitution in Poland. Some researchers stress that although there is no data on the number of homeless beneficiaries of international protection, there is a high risk that the number is substantial.

A recent study documents the issue of homelessness and/or difficult housing conditions during the period between living in a reception centre and benefitting from integration programme, as well as after the integration assistance has ended. The Foundation Ocalenie, which runs a project called "Welcome home", helped 53 beneficiaries of protection (as of August 2019) in finding a flat to rent in Warsaw. The Foundation reported that more than 25% of beneficiaries of protection can face homelessness in Poland. The main obstacles to find a flat are the high renting prices as well as discrimination.

Another study demonstrated the overall negative narrative faced by refugees in the public discourse, which leads to a systematic growth of hate and mistrust towards refugees in Poland. It further demonstrated the



lack of knowledge of refugees as regards their right to welfare support, which is considered by certain persons as being a sign of passivity.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Romania:** 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 with 6 months. 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 months, in comparison to 2 months 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.

- AIDA, Country Report Romania, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ro\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ro_2019update.pdf)

**Croatia:** Beneficiaries of international protection have freedom of movement within the State and are not allocated to specific geographic regions within the country. Nevertheless, in 2019, a relocation plan foreseeing decentralized placement of beneficiaries of international protection should have been adopted by the Government of the Republic of Croatia. In March 2019, the Draft Plan was sent to the State administration bodies for comments. The aim of this Plan is to help facilitate the process of accommodation of the persons who have been granted international protection in Croatia into the state-owned or private housing units across the country. However, there is no information on whether the plan was adopted or not.

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

### Access to the labour market

**Bulgaria:** Professional qualifications obtained in the country of origin are not recognised in general. The law does not provide for a solution with respect to refugees and subsidiary protection beneficiaries except the general rules and conditions for legalization of diplomas. On its own, the latter constitutes a complicated procedure which in most of the cases requires re-taking of exams and educational levels. In 2019 just 8 beneficiaries of international protection engaged in work employment.

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Cyprus:** Employers are not adequately familiarised with beneficiaries' rights of full access to labour market, which places an additional obstacle to finding a job. In order to address this gap the Cyprus Refugee Council in collaboration with the UNHCR Representation in Cyprus has launched a digital platform that connects employers and training providers with beneficiaries and also acts as an advocacy tool to familiarise employers with beneficiaries' rights of full access to labour market.

- AIDA, Country Report Cyprus, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**Greece:** The National Integration Strategy provides for several actions to improve access to employment for beneficiaries of international protection. These include a pilot vocational training program for 8,000 recognized refugees in Attica and Central Macedonia in collaboration with the Ministry of Labor and an employment program in the agricultural sector for 8,000 refugees in collaboration with the Ministry of Agricultural Development. However, these actions have yet to be implemented

- AIDA, Country Report Greece, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_gr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf)

**Hungary:** Even though the "Mentoring" programme of the Menedék Association terminated with the end of the AMIF funding in June 2018, the organisation still had certain activities regarding the facilitation of job finding for beneficiaries of international protection in 2019.

The Maltese Care Nonprofit Ltd. services (individual labour market counselling, labour market training and personalized help with job seeking) targeted beneficiaries of international protection regarding job finding in 2018 within their project, called “*Jobs for you*”. However, in 2019, the focus of the program changed, the target group was limited and despite that the theoretical possibility, there was no beneficiary of international protection recorded among those having received the services. The organisation would again broaden the program’s target group in case a grant from AMIF was available.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Netherlands:** According to several studies, the position of beneficiaries on the Dutch labour market is very vulnerable and only little improving. Although legal access to labour participation is granted, the effective access is limited as they face practical obstacles, such as psychological and physical distress, lack of documentation proving qualifications, lack of a social network, low educational levels, lack of language proficiency, etc. Therefore, beneficiaries are in a more disadvantageous position than other immigrants or Dutch nationals.

- AIDA, Country Report Netherlands, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_nl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2019update.pdf)

**Malta:** In its report “*Working Together, a UNHCR report on the employment of refugees and asylum-seekers in Malta*”, UNHCR documents the difficulty for refugees to have their certificates or academic qualifications recognised. It is reported that this process often results in a negative reply. Moreover, another burden is the cost incurred in translating certificates. In the report, UNHCR recommends several actions to be taken to address those shortcomings, such as the establishment of a special body to assess the skills of refugees, the promotion of vocational testing, the setting of a mechanism for refugees to access university, or a support to employers to pay the cost of translating certificates.

- AIDA, Country Report Malta, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_mt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_mt_2019update.pdf)

**Poland:** Beneficiaries of protection face obstacles in accessing the labor market in practice, due inter alia to language barriers, a lack of qualifications, low awareness of employers about their full access to the labor market etc. Additionally, labour market institutions are not prepared to help beneficiaries of international protection to enter the labour market in Poland, despite a clear obligation to do so as laid down in national law. NGOs further report that foreign employees face discrimination, often on multiple basis.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Spain:** The lack of available social housing, the insufficient financial support foreseen for paying the rent, high requirements and criteria in rental contracts and discrimination exposes many beneficiaries of protection to very vulnerable economic conditions and in some cases leads to destitution. Although many NGOs who work with refugees and asylum seekers during the first phase try to mediate between refugees and house holders at the time they start looking for private housing, there is not a specialised agency or intermediate service for helping beneficiaries finding a home. Also, even with the mediation of NGOs, asylum seekers face serious discrimination in renting apartments. Some of them face homelessness and are accommodated in homeless shelters.

- AIDA, Country Report Spain, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

**Croatia:** The Croatian Red Cross reported problems in integration of vulnerable beneficiaries (single parents, persons with disability, chronically ill persons) as in many cases they are not able to work so after the 2 years of paid accommodation, they might find themselves in risk of falling into poverty.

According to the Croatian Employment Service (CES), in 2019, 146 asylees (of which 64 women), 12 foreigners under subsidiary protection (of which 5 women) and 13 family members of beneficiaries of international protection (of which 10 women) were registered in their records of unemployed persons. In the course of 2019, 125 persons (100 asylees, 12 foreigners under subsidiary protection and 13 family members of beneficiaries of international protection) were included in individual counselling at CES, while 18 persons (11 asylees, 6 foreigners under subsidiary protection and 1 family member of a beneficiary of international

protection) were included in active employment policy measures. The majority of those registered were from Syria (117) and Iraq (24). CES highlighted the lack of knowledge of Croatian and / or English language and the low motivation to learn the language as well as to be engaged in other programs that can raise the chances of being employed. Furthermore, as an additional challenge to integration, CES highlights work attitudes and cultural differences, especially among women.

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

**Switzerland:** Since January 2019, temporarily admitted persons may work anywhere in Switzerland if the salary and employment conditions customary for the location, profession and sector are satisfied. The employer must report the start or end of employment to the cantonal authority responsible for the place of work in advance. The report must include a declaration, stating that the employer is aware of the salary and employment conditions customary for the location, profession and sector, and that he is committed to observing them.

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

### Access to education

**France:** The number of hours of French classes that must be attended by beneficiaries of international protection has increased from 240 to 400 hours in 2019.

- AIDA, Country Report France, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Croatia:** Learning the national language is one of the main obstacles to integration for beneficiaries of protection in Croatia. According to Are you Syrious, in 2019 official Croatian language course has started only at the beginning of the December, but the timetables of the available courses (9am-12pm and 4pm-7pm) make it impossible for employed beneficiaries to attend the language classes.

Moreover, the Ministry of Science and Education, in cooperation with the Sector for Schengen Coordination and European Union funds of the MoI, prepared the project "Integration of refugees and foreigners under subsidiary protection in Croatian society, education and preparation for inclusion in the labor market". The program aims to provide 280 hours of language courses to refugees and foreigners under subsidiary protection. According to information provided by representatives of the Ministry of Science and Education during the national EMN meeting held in November the language course is organized for interested beneficiaries in Zagreb, Slavonski Brod, in Sisak and Karlovac.

As regards access to education for children, Are you Syrious (AYS) reported that they are still facing problems with enrolment in schools, especially in secondary school. This includes issues relating to deadlines for enrolment as well as the fact that after the expiry of two years, when beneficiaries have to move from payed apartment to another address, new documents indicating the new residence are required in order to transfer children to a new school.

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

**Hungary:** The Menedék Association used to provide a so-called school programme to all children hosted in Fót, which consists of games and learning through play. Though attendance was not compulsory, based on HHC lawyers' experience on the field children did make a point to attend since they considered it as a useful gateway to formal education. Menedék also offered preparatory classes for those who are about to enter formal education. Given the very low number of unaccompanied minors in Fót, the school programme ceased to operate in 2019.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Greece:** A number of Greek language classes are provided by universities, civil society organisations and centres for vocational training. However, as noted by UNHCR, "the lack of Greek language classes, which most perceive to be required for integration, was a commonly referenced issue". A pilot programme of Greek language courses funded by the Asylum, Migration and Integration Fund (AMIF) announced in January 2018

had not been implemented at least by April 2019 due to bureaucracy and disagreement among the competent Ministries. Finally, this programme was included in the HELIOS project and has been implemented since June 2019 by IOM and its partners. Moreover, the Municipality of Athens regularly organizes Greek language courses for adult immigrants, as well as IT seminars, for, among others, adult refugees.

- AIDA, Country Report Greece, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_gr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf)

**Spain:** During 2019 several cases have been denounced concerning unaccompanied minors, putting in evidence the shortcomings of the public system for minors' protection. These have mainly been witnessed in the City of Melilla and Madrid. Although none of the reported cases concerned directly refugee children, the system in which they are received faces problem and obstacles concerning their documentation, their integration and their protection. In February 2020 the UN Committee on the Rights of the Child issued an opinion urging the Spanish authorities to adopt measures for the immediate access of a girl to the public system of primary education of Melilla. The concerned girl is one out of 100 other children who are claiming their right to schooling to the authorities in Melilla and the Minister of Education since a couple of years.

- AIDA, Country Report Spain, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

### Access to health care

**Croatia:** Although the costs of medical treatment for asylees and foreigners under subsidiary protection should be directly borne by the Ministry of Health, the doctors in health centres are frequently insufficiently informed about this, so many problems arise in practice. Problems in the health system were reported by Are You Syrious and the Croatian Red Cross (CRC). Often, CRC employees are helping beneficiaries of international protection to find a family doctor in the area where they are located. However, according to CRC doctors redirecting beneficiaries to other doctors arguing that they have reached their maximum quota of patients.

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

**Cyprus:** As opposed to asylum seekers, beneficiaries of International protection, are included in the new health system. The transition to the new health system was difficult, however, due to various coordination challenges between the appointed relevant governmental departments, a lack of translated material in the language of the concerned beneficiaries of protection; as well as confusion among medical and hospital staff in regards to refugees' rights to health care. The most prominent obstacle still present is the fact that persons who received International Protection and whose residence permit is under issuance are not able to access GESY services. This creates serious obstacles as the waiting time for the issuance/renewal of a residence permit is long. An alternative measure for those without a valid residence permit for more than 9 months was proposed, specifically to be treated by the state institutions (as in the case of asylum seekers), but this is far from adequate to address the right to adequate health services for beneficiaries of international protection.

- AIDA, Country Report Cyprus, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**Poland:** In 2019, the required documentation to be able to access health care as a beneficiary of protection continued to be very hard to obtain in practice and there were long administrative delays and waiting periods, thus hindering adequate access to health care.

- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Romania:** 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; they did not understand the registration procedure.

Moreover, according to the AIDRom representative in Timișoara, beneficiaries of international protection who pay for their health insurance are not issued a health insurance card.

It was also reported that, in Giurgiu, 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

- AIDA, Country Report Romania, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ro\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ro_2019update.pdf)

**Greece:** Free access to health care for beneficiaries of international protection is provided under the same conditions as for nationals, pursuant to L4368/2016. The new International Protection Act has not changed the relevant provisions. Despite the favorable legal framework, actual access to health care services is hindered in practice by significant shortages of resources and capacity for both foreigners and the local population, as a result of the austerity policies followed in Greece, as well as the lack of adequate cultural mediators.

- AIDA, Country Report Greece, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_gr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf)

## Social welfare

**Croatia:** In 2019, following the Amendments to the Decision of Social Welfare, the social rights provided by the City of Zagreb were extended to families of asylees and foreigners under subsidiary protection.

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

## Residence permit and long-term residence

**Bulgaria:** During the period 1 January 2014 to 31 December 2019, the Ministry of Interior issued 8,710 refugee identity cards and 6,427 humanitarian identity cards.

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Cyprus:** In 2019 the Civil Registry and Migration Department (CRMD) ceased issuing residence permits for family members regardless if they qualify individually as refugees leaving family members including underaged children without status and full access to rights. The CRMD instructs all beneficiaries of international protection (recognised refugees and subsidiary protection) to proceed to the Asylum Service to receive a decision on whether they should receive the status of the beneficiary. The Asylum Service has taken steps to address the situation but it is still not clear if the CRMD will proceed with issuance of residence permits.

- AIDA, Country Report Cyprus, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**France:** Since 1 March 2019, residence permits delivered to subsidiary protection beneficiaries are granted for four years (*Carte de séjour pluriannuelle*). The same residence permits are granted to their family on the basis of the same pattern than the one used for refugees.

According to provisional Ministry of Interior statistics, France granted 23,403 residence permits to refugees and stateless persons and 13,109 to subsidiary protection beneficiaries in 2019. According to OFPRA, more than 46,200 persons (including accompanying minors) have received protection in 2019.

- AIDA, Country Report France, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Greece:** Until the end of December 2019, individuals recognised as refugees or beneficiaries of international protection were granted a 3-year residence permit, which could be renewed, after a decision of the Head of the Regional Asylum Office. However, following the entry into force of the new IPA (Law 3616/2019) on January 1st 2020, beneficiaries of subsidiary protection will no longer have the right to receive a 3-year permit. They will obtain a 1-year residence permit, renewable for a period of 2 years.

An application for renewal should be submitted no later than 30 calendar days before the expiry of the residence permit. The mere delay in the application for renewal, without any justification, cannot lead to the rejection of the application. However, following the entry into force of the IPA, as of 1 January 2020 this is



valid only for recognized refugees, as the new law abolished the said guarantee for beneficiaries of subsidiary protection.

In 2019, the Asylum Service received 1,171 applications for renewal (980 from recognized refugees, 134 from beneficiaries of subsidiary protection and 57 from family members of beneficiaries of international protection). The Service issued 983 positive renewal decisions.

For those granted international protection under the “old procedure” prescribed by PD 114/2010, the renewal procedure is conducted by the Aliens Police Directorate (Διεύθυνση Αλλοδαπών). Within the framework of this procedure, the drafting of a legal document for the renewal application is required. The decision used to be issued after a period of approximately 3-6 months. In practice, since January 2019 very few decisions have been issued. At first the delay was due to the resignation of the Secretary General of the Ministry of Citizen Protection. Then the delay was caused by the multiple election procedures and the final reason was the size of the administrative files of beneficiaries. Due to these delays, a large number of beneficiaries of international protection, for over a year, have no access to the labour market, social security, social welfare and sometimes healthcare, thus facing destitution and homelessness. In January 2020 GCR and other organizations sent a letter of complaint to the Secretary General of the Ministry of Citizen Protection, but the issue has yet to be resolved. Information with regards the number of applications for renewal submitted before the Aliens Police Directorate and their outcome are not available for 2019.

- AIDA, Country Report Greece, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_gr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf)

**Hungary:** The January 2019 amendments to the TCN Act and the Asylum Act exclude the possibility of residing concurrently under two legal titles in Hungary. This means that by receiving another legal title for residence the person loses his or her international protection status.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Malta:** According to NGOs working in the field, many people were denied the right to apply when ID Malta considered their application prima facie not complete. Consequently, these individuals were not given any document or clear explanation on the reason why they were not allowed to apply.

When applications are registered and processed, people usually receive a decision in writing mentioning either the acceptance or the ground for rejection. However, no information about the possibility to challenge such a negative decision is mentioned and it remains unclear how one can challenge such decisions.

NGOs assisting migrants for SRA applications report that the procedure is swift from the moment applications are registered. They also report that no matter the situation of the applicant, the requirement of irregular entry is absolute and suffers no exception. NGOs also report issues when assessing families' applications and reported many women being rejected when their male partners received residence permits.

- AIDA, Country Report Malta, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_mt\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_mt_2019update.pdf)

**Romania:** IGI-DAI delivered 980 residence permits to refugees and 902 to subsidiary protection beneficiaries in 2019. 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.

- AIDA, Country Report Romania, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ro\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ro_2019update.pdf)

**Sweden:** On 18 June 2019, the Swedish Riskdag adopted a two-year extension of the temporary law on residence permits. The law, voted on first in July 2016, had introduced a three-year period of reduced standards for people seeking asylum from 24 November 2015 onwards. The extension came into force on 20 July 2019. The adopted prolongment of the temporary law also included a provision which allows for a permanent residence permit to be issued to a foreigner who was born in Sweden and who has been stateless since birth.

Moreover, the restrictive measures applicable to persons seeking asylum as of November 2015 will remain in force until July 2021. This means that asylum seekers granted refugee status and subsidiary protection will continue to receive residence permits of three-year and thirteen-month duration respectively, rather than permanent residence permits.

It should be noted that, on 14 June 2019, the Swedish Government set up a Parliamentary Committee of Inquiry with the task of developing proposals for Sweden's future migration policies. The Committee will especially look into whether persons granted asylum should be issued temporary or permanent residence permits, the length of temporary permits (if temporary permits are proposed) and under which conditions permanent permits can be issued. The Committee will also consider whether a new ground for protection on humanitarian grounds should be introduced, who should be entitled to family reunification and if a maintenance requirement should be used and, if so, what it should entail. In addition, the Committee is also tasked to examine the rules in other EU member states and analyse which factors contribute to persons applying for asylum in Sweden (i.e. possible pull-factors). The Committee is expected to submit its conclusions to the Government on 20 August 2020.

- AIDA, Country Report Sweden, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_se\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_se_2019update.pdf)

## Naturalisation

**Bulgaria:** From 2014 to 2019, Bulgaria granted citizenship to 223 beneficiaries of international protection, namely 56 refugee status holders and 167 subsidiary protection holders.

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**France:** A total of 49,671 persons were granted French citizenship by decree in 2019 compared to 55,830 in 2018 and 65,654 in 2017, though this number is not limited to beneficiaries of international protection.

- AIDA, Country Report France, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Hungary:** In 2019, 82 beneficiaries of international protection applied for Hungarian citizenship. In the same year 23 (breakdown by the three main nationalities was 5 Iraqis, 4 Afghan and 4 Iranian) refugees and 11 (breakdown by the three main nationalities was 3 Afghan, 2 Egyptian and 2 unknown citizen) subsidiary protection beneficiaries obtained citizenship. The applications of beneficiaries of international protection were rejected in 54 (breakdown by the three main nationalities was 26 Afghan, 5 Russian and 4 Iraqis) cases. Compared to 2018 the number of citizenship grants has almost doubled, while the figure of rejection grew only with two cases. The number of applicants showed a 17% increase in 2019 in comparison with the previous year.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Greece:** A fee of €100 is required for the submission of the application for refugees. In the case of beneficiaries of subsidiary protection, the fee has been reduced in 2019 from €700 to €550. A €200 fee is required for the re-examination of the case.

The applicant is invited for an examination before the Naturalisation Committee. He/she must undergo a written test under the new procedure. However, the Ministerial Decision which is necessary for the establishment of the new procedure has not yet been issued. Hence, the old procedure is still taking place and the applicants are invited for an interview.

In case of a positive recommendation by the Naturalisation Committee, the Minister of Interior will issue a decision granting the applicant Greek citizenship, which will be also published in the Government Gazette. With the aim of simplifying and accelerating the procedure, a Ministerial Decision was issued in May 2019. It provides that the naturalisation decision will be issued by the Regional Citizenship Directorates and the files will no longer be sent to the Central Citizenship Directorate of the Ministry of Interior. This should reduce the waiting period for the issuance of a positive naturalisation decision by 9-12 months.

As of 30 June 2019, a total of 2,530 foreigners were granted citizenship by way of naturalisation, compared to 2,528 foreigners in 2018 and 3,483 in 2017. This number is not limited to beneficiaries of international protection. Bearing in mind the main nationalities of beneficiaries of international protection in Greece, it appears therefore that the number of beneficiaries of international protection acquiring citizenship in 2019 is quite low.

Apart from naturalisation of foreign nationals (αλλογενείς), in 2019, Greece also granted citizenship to 2,747 non-nationals of Greek origin (ομογενείς), 21,559 second-generation children i.e. foreign children born in Greece or successfully completing school in Greece, and 501 unmarried minor children of parents recently acquiring Greek citizenship.

- AIDA, Country Report Greece, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_gr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf)

## Family reunification

**Bulgaria:** In 2019, a total of 42 family reunification applications were submitted to the SAR, out of which 32 were approved and 10 rejected.

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Cyprus:** In 2019 the family reunification procedure became extremely problematic as the CRMD requested all applicants, including refugees who applied within 3 months of receiving refugee status and refugees who had already received a positive decision on the family reunification request, to provide evidence that they have stable and regular resources which are sufficient to maintain the refugee and family members without recourse to the social assistance system of the Republic. This led to complaints being submitted by the Cyprus Refugee Council before the Commissioner of Administration and Human Rights, the Commissioner for the Rights of the Child and the EU Commission. Both the national Commissioners reacted immediately finding the CRMD to be in violation of the Law whereas the EU Commission is to date still examining the complaints. Furthermore the examination of cases has once again become very slow with cases pending up to 3 years.

In April 2019 the Commissioner for the Rights of the Child issued a report regarding access to family reunification for beneficiaries of subsidiary protection, where the Commissioner concluded that the legislation in Cyprus which imposes a total ban on the right of family reunification to holders of subsidiary protection does not comply with the spirit of Directive 2003/86/EC on family reunification as interpreted by the Commission and is also notably incompatible with the obligations under the ECHR, and in particular Articles 8 and 14 thereof, and the United Nations Convention on the Rights of the Child. The Commissioner recommends an amendment to the Law

- AIDA, Country Report Cyprus, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

**Netherlands:** There have been difficulties in applying for family reunification within the 3-month time limit due to misinformation or a high influx of asylum seekers. Another bottleneck is the requirement that identity and family ties have to be made plausible by official documents, and in absence thereof, with sufficient unofficial documents or explanations as to why there are no official documents. Only if there are sufficient unofficial documents or plausible explanations, DNA-research will be done and/or interviews will be held. However, if the unofficial documents are not sufficient and/or explanations are not considered plausible, the immigration service will reject the application without further research. The Council of State has ruled that this policy is in accordance with the ruling of the CJEU of 13 March 2019.

- AIDA, Country Report Netherlands, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_nl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2019update.pdf)

**Slovenia:** The authorities impose strict criteria regarding required documents for establishing identity of and links with family members, which can be problematic for citizens of countries where the acquisition of the official documents is difficult or impossible.

In 2019, 38 applications for family reunification were submitted. 31 were submitted by persons with refugee status and 7 were submitted by persons with subsidiary protection. The Ministry for the Interior made 52 decisions on family reunification in 2019. 37 applications for family reunification were granted out of which

29 were granted to persons with refugee status and 8 to persons with subsidiary protection. 3 applications were rejected, 7 were dismissed and 5 procedures were stopped.

- AIDA, Country Report Slovenia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Romania:** In 2019, 123 applications for family reunification were submitted, of which 46 from nationals of Somalia, 45 Syria, 10 Iraq, 9 Afghanistan, 4 Turkey, 2 Cameroon, 2 Rwanda, 2 Palestine, 1 Comoros, 1 Bangladesh and 1 stateless. IGI-DAI took 95 decisions, of which 79 were admitted and 16 dismissed (12 Somalia and 4 Syria).

- AIDA, Country Report Romania, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ro\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ro_2019update.pdf)

**Spain:** Following a recommendation of the Spanish Ombudsman at the beginning of 2019, the OAR decided that it would apply effectively and without delay family reunification procedures to married couples in which one of the partner already holds a refugee status or the subsidiary protection.

- AIDA, Country Report Spain, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

**Sweden:** The adopted extension temporary law removes the ban on family reunification for subsidiary protection beneficiaries. This group was previously almost entirely excluded from the right to family reunification under the Temporary Law. The change is partly a result of litigation efforts, and the Migration Court of Appeal having found in a case that the denial of family reunification for a young Syrian child was in breach of Article 8 of the ECHR and Articles 3, 9 and 10 of the CRC. The adopted provision allows for family reunification for subsidiary protection beneficiaries who have well-founded prospects of being granted a permanent residence permit.

- AIDA, Country Report Sweden, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_se\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_se_2019update.pdf)

**United Kingdom:** The UK has not opted into the Family Reunification Directive. Moreover, refugee children are not eligible to sponsor their parents and or siblings. A number of NGOs are collaborating in campaigning for changes to the Immigration Rules on Refugee Family Reunion, including this issue. Two Private Members' Bills have been introduced into Parliament; the first was debated in December 2017. The second was debated in the House of Commons on 16 March 2018 and passed that stage. Due to the lack of parliamentary time made available by government the Bill will not proceed. A report published by Amnesty International UK, Refugee Council and Save the Children in 2019 summarised the criticisms made by external scrutineers and parliamentary Committees, as well as providing evidence of the impact of the current policy position.

- AIDA, Country Report United Kingdom, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_uk\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_uk_2019update.pdf)

## Travel documents

**Bulgaria:** During the period 1 January 2014 to 31 December 2019, the Ministry of Interior issued 11,972 refugee travel documents and 8,021 travel documents for subsidiary protection holders.

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Greece:** According to Ministerial Decision 1139/2019, travel documents should not be issued to refugees convicted for falsification and use of false travel documents. Travel documents cannot be issued for five years following the conviction, or for ten years in case of a felony. The same Ministerial Decision regulates the issuance of travel documents for minors accompanied by one of their parents who exercises on his/her own the parental care of the child, but does not possess documents establishing the parental care of the child. This long-awaited Ministerial Decision simplified the procedure for the issuance of travel documents for minors of single-headed families. However, this provision does not apply to cases where the parent is exercising the sole parental custody due to facts or legal acts registered in a country other than the country of their origin. In this case, if no supporting documents can be provided, travel documents for the minor can

be requested by the single parent under the condition that the parental care/responsibility has been assigned to him/her on the basis of a decision of a Greek court.

The waiting period for the issuance of travel documents can prove lengthy and may exceed 8 months in some cases, as far as GCR is aware.

In May 2019, the Asylum Service started the process of electronic renewal of travel documents. The application for renewal of travel documents is submitted via e-mail and further supporting documents must be sent to the Asylum Service via post. The application is completed with the receipt of the required supporting documents from the applicants. Therefore, the time for processing the application by the Asylum Service depends on the time of sending and receiving all required supporting documents. From the time of receipt of these documents, the average time for the issuance of a travel document renewal decision is one and a half (1.5) months. In 2019, 139 applications for Travel Documents renewal were submitted and 81 positive decisions were taken.

- AIDA, Country Report Greece, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_gr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf)

**Switzerland:** On 1 April 2020, various amendments to laws and regulations in the field of migration will come into force. This date was set by the Federal Council at its meeting on 19 February 2020. Among the changes made by parliament in the Foreign Nationals and Integration Act (FNIA) is the fact that the SEM may prohibit recognized refugees from travelling to a third country, in particular to neighboring countries of their country of origin, in order to enforce the ban on travelling home.

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

### Withdrawal of protection status

**Austria:** In 2019, is the determining authority focused on withdrawal procedures. Many withdrawal procedures concerned long time asylum status holders who are given a permanent residence status instead (*EU Daueraufenthalt*). Withdrawal procedures are triggered particularly when the status holders travel to their home countries.

Moreover, while the recognition rate concerning Afghan applicants has slightly increased in 2019, the number of initiated withdrawal procedures of Afghans has significantly increased. Important discrepancies in the rulings of the Administrative Court and the Constitutional Court have been noted on the matter.

- AIDA, Country Report Austria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_at\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_at_2019update.pdf)

### Cessation of protection status

**Bulgaria:** Although there is no systematic review of protection status in practice, cessation procedures are initiated by the SAR when the MOI provides information indicating that status holders have either returned to their country of origin, obtained residence or citizenship in a third country, or have not renewed their Bulgarian identification documents for a period exceeding 3 years. The latter broadened interpretation of the recast Qualification Directive de facto introduces an additional cessation ground in violation of national and EU legislation. The undue cessation of protection status affected a total of 3,378 status holders in 2018 and 2019; i.e. 770 persons in 2018 and 2,608 persons in 2019 respectively. Out of the 2,608 cessations in 2019, 1,981 concerned Syrians, 267 concerned stateless persons, 177 Iraqis, 81 Afghans and 102 other nationalities).

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Slovenia:** There is no systematic review of protection status in Slovenia. Apart from cessation due to acquisition of Slovenian citizenship, cessation is rarely applied in practice. In 2019, only one person's application to renew subsidiary protection was rejected. In 2019, cessation decisions were issued in 4 cases due to acquisition of Slovenian citizenship. One person was not granted subsidiary protection due to exclusion reasons.



- AIDA, Country Report Slovenia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Greece:** Cessation of international protection is governed by Articles 11 and 16 PD 141/2013. As of 01 January 2020, the same Articles in L. 4636/2019 apply. Where the person appeals the decision, contrary to the Asylum Procedure, the Appeals Committee is required to hold an oral hearing of the beneficiary in cessation cases. This is also provided for in new Law 4636/2019.

Withdrawal of refugee status is provided under Article 14 PD 141/2013 and as of 01 January 2020, by the same Article in L. 4636/2019. Withdrawal of subsidiary protection is provided under Article 19 PD 141/2013 and L. 4636/2019.

- AIDA, Country Report Greece, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_gr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf)

### 13) Return of former applicants for international protection

**ECRE Policy Note on returns to Afghanistan:** ECRE published a Policy Note which looks at the treatment of applications for international protection from Afghan nationals, considering recent policies and guidelines and the approach of national courts. The Policy Note has a particular focus is the internal protection alternative (IPA). It further includes specific recommendations to address the current situation.

**See:** ECRE, *No Reason for Returns to Afghanistan*, February 2019, available at: <https://www.ecre.org/wp-content/uploads/2019/02/Policy-Note-17.pdf>

**ECRE Policy Note on returns:** A Policy Note published in July 2019 provides ECRE's assessment of latest developments in EU policy and law of returns.

**See:** ECRE, *Return Policy: Desperately Seeking Evidence and Balance*, July 2019, available at: <https://www.ecre.org/wp-content/uploads/2019/07/Policy-Note-19.pdf>

**Croatia:** The Ministry of Interior decided at the end of 2018, to allocate financial resources to International Organization for Migration (IOM) for the implementation of the Program of voluntary return and reintegration of the third country nationals. As part of the project "Assisted Voluntary Return" co-financed by AMIF, a multilingual website has been launched containing all relevant information for interested migrants in Croatia willing to return voluntarily to their country of origin. The following categories of migrants may apply for voluntary return:

- People from outside the European Economic Area (EEA) in an irregular situation who are under a legal obligation to leave the country, or who do not or do no longer fulfill the conditions for entry, stay or legal residence in the destination country;
- People from outside EEA whose application for international protection has been rejected or who withdrew their application;
- People from outside EEA who were granted international protection, who choose to return home
- People from outside EEA in situation of vulnerability.
- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

**Netherlands:** The European Migration Network reported that the Dutch policy towards asylum status holders who return to their country of origin is one of the most developed in the EU. For instance, the Netherlands is one of the few countries where the subject is a policy priority. Compared to other Member States, the Netherlands appears to have an extensive package of possibilities to recognise return travel and (possibly) withdraw asylum status. For example, the Netherlands, together with Belgium, Germany and Switzerland, is one of the few countries that has set up an active exchange of information to recognise returnees.

The European Migration Network published a study in November 2019 which states that the beneficiaries of international protection do not always seem to be aware of the consequences of contacting authorities of their countries of origin or of travelling there, despite the indication on the travel document that it was not valid for travels to the country of origin.

- AIDA, Country Report Netherlands, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_nl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2019update.pdf)

**Greece:** Although the number of persons detained the past years has significantly increased, this has not mirrored by a corresponding increase in the number of forced returns. 58,597 detention orders were issued in 2019, compared to 32,718 in 2018. However, the number of forced returns decreased to 4,868 in 2019 from 7,776 in 2018. These findings corroborate that immigration detention is not only linked with human rights violations but also fails to effectively contribute to return.

- AIDA, Country Report Greece, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_gr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf)

#### 14) Resettlement and humanitarian admission programmes (including EU Joint Resettlement Programme, national resettlement programme (UNHCR), National Humanitarian Admission Programme, private sponsorship programmes/schemes and ad hoc special programmes)

#### 15) Relocation (ad hoc, emergency relocation; developments in activities organised under national schemes or on a bilateral basis)

**ECRE Policy Paper:** In its Policy Paper of January 2019, ECRE proposes a mechanism for relocation following disembarkation to end the current “ship by ship” approach to relocation of persons rescued in the Mediterranean. ECRE recommends a relocation mechanism for asylum seekers disembarked in EU ports based on fair and effective implementation of rules set out in the existing EU rules, without adding new obligations for Member States.

See: ECRE, *Relying on Relocation*, January 2019, available at: <https://www.ecre.org/wp-content/uploads/2019/01/Policy-Papers-06.pdf>

#### 16) National jurisprudence on international protection in 2019 (please include a link to the relevant case law and/or submit cases to the [EASO Case Law Database](#))

##### General

The **European Database of Asylum Law (EDAL)** is an online database, managed by the European Council on Refugees and Exiles (ECRE) and containing case law from 22 European states interpreting refugee and asylum law as well as from the CJEU and ECtHR. EDAL summarises relevant case law in English and the Member State’s national language and provides a link to, and/or pdf. of, the full text of the original judgment where available.

EDAL is searchable in English and the original language of the decision. The website interface is available in English only. The case summaries are searchable by a free text / full text search, as well as by keyword, applicable legal provisions, country of decision, country of applicant and date.

- EDAL is available at: <https://www.asylumlawdatabase.eu/en>

Moreover, the **ELENA Weekly Legal Update (WLU)** provides information about important recent developments in international and European asylum law. The update covers the asylum-related judgments of the European Courts and domestic case law as well as asylum legal news from across Europe.

- EWLW is available at: <https://www.ecre.org/our-work/elena/weekly-legal-updates/>

Thus, the national jurisprudence which is provided below is strictly limited to selected cases documented through AIDA. For a comprehensive, detailed and up-to date overview of national jurisprudence on international protection in 2019, **EDAL and the EWLW should be consulted.**

##### Access to territory

**Spain:** In September 2019, the judge of the Court of Ceuta charged 16 officers from the Guardia Civil with homicide and serious negligence resulting in death. The State Attorney appealed the decision, claiming that the facts did not occur on Spain's territory and that the individuals had been returned back to Morocco in good condition. At the end of October 2019, however, the same judge of the Court of Ceuta upheld the appeal lodged by the Public Prosecutor and decided to remove the case from the register for the third time, in application of the so-called "Botin doctrine" (*Doctrina Botín*). Despite the evidence which suggests that the officers were guilty of homicide and serious negligence, and despite the fact that the families of the victims wanted to be heard, the judge decided to remove the case from the register on the basis of a lack of private prosecution (*acusación particular*).

Moreover, in October 2019, the Provincial Court of Cádiz in Ceuta condemned 9 migrants to one year and a half of prison for organising the jump over the fence back in July 2018. They have been charged with public disorder and considered responsible for causing slight injuries and damages. They further need to compensate the Spanish authorities for material damages; namely the payment of €10,511 to the Spanish State for the damages caused to the fence and more than €4,000 to the Civil Guard (Guardia Civil) for the damages caused to several objects (e.g. a car, uniforms etc). This is the first time that migrants are accused and condemned by a Court for jumping over the fence. Moreover, it has been reported that an additional complaint accusing other migrants for jumping over the Ceuta fence at the end of August 2019 has been filed.

- AIDA, Country Report Spain, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

**Malta:** Of particular concern is the recent criminalisation by the Maltese authorities of people rescuing migrants at sea. Two significant cases were reported in 2019:

- Claus-Peter Reisch was the Captain of the MV Lifeline, the rescue vessel of the German NGO Mission Lifeline, when it rescued 234 migrants in the Mediterranean in June 2018 leading to an international dispute and days-long stand-off as EU Member States could not agree over who would take in the migrants. After a distribution agreement was reached, Malta accepted the disembarkation but immediately charged the captain, accusing him of entering Maltese waters with a ship that had not been appropriately registered. They also impounded the ship. In May 2019, the Court concluded in May 2019 that the registration "was not to the satisfaction of the Dutch authorities" when the vessel entered Maltese waters and fined the Captain 10,000 EUR for registration irregularities. Nevertheless, the magistrate also strongly reiterated that saving migrants' lives out at sea was not a crime. The Court turned down a request by the authorities for the boat to be confiscated, on the basis that the vessel was not the property of the accused. Claus Peter Reisch immediately appealed the decision and he was finally cleared of all charges by the Court of Criminal Appeal in January 2020.

Amnesty International welcomed the final decision but stated that "such criminal prosecution against a human rights defender initiated in highly politicised circumstances (...) caused the lifesaving activities of a small NGO to stop for some 18 months and having put considerable financial strain on the accused and the NGO."

- The second case is still on-going. In March 2019, a group of 108 migrants escaping Libya were rescued by the merchant vessel El Hiblu 1 within the Libya SAR zone but outside its territorial waters. At first, the ship continued towards Libya but changed its course shortly before reaching the Libyan coast and headed instead towards Europe. A Maltese special operation unit boarded the ship and disembarked the migrants in Malta. Upon arrival the authorities arrested five asylum-seekers and subsequently charged three of them – all teenagers - on suspicion of having hijacked the ship which had rescued them, so as to prevent the captain from returning them to Libya. The three teenagers were immediately detained in the high-security section of prison for adults and charged with very serious offences some falling under anti-terrorism legislation and punishable with life imprisonment.

The three teenagers were released on bail in November 2019 and remain in Malta pending the criminal proceedings. A magisterial inquiry is currently ongoing to gather the evidence, and the Office of the Attorney General should issue a bill indictment with the final charges against the accused. The Platform of Human Rights Organisations in Malta stated that the treatment received by the three boys was disrespectful and undignified and that their vulnerability as minors and young men was never taken into account by the authorities. Although two of them were unaccompanied

minors, all steps of the criminal proceedings were taken without the issuing of the required Care Order and hence without the appointment of a legal guardian.

The case is followed closely by the Office of the UN High Commissioner for Human Rights which urged Malta to reconsider the severity of the charges, and by Amnesty International which publicly stated that “the severity of the nine charges currently laid against the three youths appears disproportionate to the acts imputed to the defendants and do not reflect the risks they and their fellow travellers would have faced if returned to Libya. The use of counter-terrorism legislation is especially problematic.”

- See: AIDA, Country Report Malta, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_t\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_t_2019update.pdf)

**France:** In recent years, the restrictions on access to the territory have been coupled with criminalisation of humanitarian assistance. However, on 26 February 2020, the Court of Cassation further held that the protection of acts of solidarity is not limited to individual and personal actions but also extends to a militant action carried out within an association. (Court of Cassation, Decision 19-81.561, 26 February 2020, available in French at: <https://bit.ly/2TzksdZ>).

- AIDA, Country Report France, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Greece:** In June 2019, GCR submitted a complaint to the Supreme Court Prosecutor concerning pushback incidents, mainly on asylum seekers from Turkey, in the region of Evros, which have been brought to its attention during the months of April – June 2019. Moreover, in June 2019, GCR handled the submission of three criminal complaints of Turkish nationals, who were victims of pushback operations in the Evros region, before the Prosecutors office of Orestiada and Alexandroupoli, the examination of which is pending.

- AIDA, Country Report Greece, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_gr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf)

**Poland:** The cases of pushbacks were also brought before the domestic courts. As of April 2019, there were 25 judgements delivered by the Supreme Administrative Court and all of these cases resulted in revoking administrative decisions on refusal of entry issued by Border Guards. The Court indicated in numerous cases that interviews conducted at the border must be recorded in the form of protocols signed by both Border Guard officers and foreigners. (Supreme Administrative Court, cases nos. II OSK 2511/18, II OSK 2599/18, and II OSK 3100/18.)

Although the administrative courts annulled the unlawful decisions on the refusal of entry, in most of the cases administrative proceedings were discontinued by the decisions of the courts. According to the reasoning in the judgements, the proceedings on refusal of entry cannot be reopened and re-examined, because there is no case as such for the time being. Once an applicant arrives again at the border, new proceedings are initiated. In case there is a new proceeding concerning the refusal of entry, the judgement of the court is not applicable in this case, even if it concerns the same person. This means that applicants do not gain the right to enter Poland if they arrive at the border again, even following a positive judgement. Despite this situation, the Ministry of the Interior and Administration refused to introduce amendments to national law to ensure its compliance with the established case-law of administrative courts.

- AIDA, Country Report Poland, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Slovenia:** In early 2017, Slovenia adopted amendments to the Aliens Act which allow for a future restriction on access to asylum procedure. According to the amendments, the National Assembly (Parliament) can vote on suspending the right to asylum in case migration poses “a threat to public order and internal safety in the Republic of Slovenia”. If the parliamentary measure is adopted, the Police is instructed by law to reject all intentions to apply for international protection as inadmissible as long as the persons wishing to apply entered Slovenia from a neighbouring EU Member State in which there are no systemic deficiencies of asylum procedure and reception conditions which could lead to torture, inhuman or degrading treatment. The Police then deports the person back to this neighbouring country. An appeal against the police order does not have

a suspensive effect. The adopted amendments were reviewed by the Constitutional Court at the initiative of the Slovenian Human Rights Ombudsman, prepared with support of the civil society organisations.

- In 2019, the Constitutional Court ruled in U-I-59/17 that the amendments were in breach of Article 18 of the Constitution (prohibition of torture). It noted that any legislative restrictions that limit the type and the number of circumstances which can form the basis of the individual's claim regarding the existence of serious harm in case of return, and which limit the individual's ability to access the procedure in which such a claim would be assessed, is in violation of the principle of non-refoulement enshrined in Article 18 of the Constitution. The Court also highlighted that the determination of "a threat to public order and internal safety in the Republic of Slovenia" under the Aliens Act did not imply the existence of a state of emergency pursuant to Article 92 of the Constitution, which could justify the limitation of rights. (Constitutional Court, Decision U-I-59/17, 18. September 2019, available at: <https://bit.ly/2TUCkz5>)
- Moreover, in December 2019, the Administrative Court ruled that the internal instructions of the police regarding police procedures at the border have to be disclosed as public information to Amnesty International. (Administrative Court, Decision, I U 2599/2018, 27. November 2019) The disclosed internal information showed that in 2018 internal instructions were given to police stations on police conduct within respect of migrants in the procedure. The documents revealed that the instructions were given with the purpose to "prevent the exploitation of the asylum procedure". The instructions were discriminatory and indicated that the police were themselves making an assessment of the asylum seeker's intention to apply for international protection. One of the documents contained the instructions that in case a Croatian police officer was present when the individual was apprehended and expressed the intention to apply for international protection it should be considered as if they applied in Croatia, even if the individual was apprehended on Slovenian territory. The instruction is in clear breach with international, European and national law and indicates a systematic limitation of access to the territory and the asylum procedure from the Slovenian authorities.
- A first judgment was also made by the Administrative Court in a case of a Moroccan citizen who applied for international protection in Slovenia and was rejected. After the asylum procedure was finished he was returned to Croatia based on the bilateral readmission agreement and subsequently to Bosnia and Herzegovina. The applicant started a subsidiary judicial procedure by filing a complaint before the Administrative Court alleging violation of his human rights. The Administrative Court ruled that in the procedure that the applicant was unable to object his return based on the prohibition of non-refoulement and did not have an effective legal remedy since he was not issued with a written decision. The Ministry of Interior appealed against the decision to the Supreme Court where the case is currently pending. (Administrative Court, Decision I U 1412/2018, 18. December 2019.)
- AIDA, Country Report Slovenia, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Romania:** Similarly, to 2018, unaccompanied children were apprehended trying to irregularly cross the border from Serbia to Romania in 2019. They have been prosecuted for irregularly crossing the border, but also for migrant smuggling, as a result of which they are held in pre-trial detention. In 2019 an unaccompanied minor from Afghanistan who admitted that he illegally crossed the state border, but who denied any involvement in migrant smuggling or related criminal activities, was convicted to 1 year and 2 months of confinement in a re-education centre. The child had been in pre-trial detention for 7 months, since 20 June 2016, until he was transferred to the Buziaş Education Center on 31 January 2019. He was eventually released on 18 March 2019. The early release was revoked in December 2019 because of non-compliance of the asylum seeker with the reporting obligations. According to IGI-DAI he left the reception centre.

The case of 2 other 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 and to replace it with house arrest, respectively, were dismissed by the Tribunal of Caras-Severin. According to JRS representative they made an asylum application a month after their criminal proceedings started.

- AIDA, Country Report Romania, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ro\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ro_2019update.pdf)



## Registration and procedure at first instance

**France:** The average waiting time to register asylum claims has decreased since 2018. However, in July 2019, the Council of State confirmed that waiting times remained an issue and ordered the authorities to take measures to comply with the time limits laid down in law. (Council of State, 31 July 2019, Decision 410347, available in French at: <https://bit.ly/38jVdRH>).

In the Ile-de-France region, asylum seekers face an additional administrative layer in the registration process resulting from the telephone appointment system operated by the French Office of Immigration and Integration (OFII). In November 2019, the Administrative Court of Paris thus ordered the Prefecture to increase the number of daily appointments.

- AIDA, Country Report France, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Spain:** In May 2019, the Supreme Court provided clarity on the effects of submitting a re-examination of an asylum claim to another authority as well as on the calculation of time limits, i.e. as of when the time limit of 2-days starts to run. As regards the competent authority, the Supreme Court noted that the Asylum Act does not indicate where re-examination requests should be filed. It therefore ruled that the general rules and guarantees applicable to the administrative procedure under the general Spanish Administrative Procedures Law applied to such cases. This means that the application for re-examination does not have to be filed where the applicant lodged an asylum claim and that it can be filed at any registry or public office of the Ministry of Interior. Moreover, the Court stated that the calculation of the two-days deadline starts at the moment of receipt by the competent authority of the request for re-examination. (Spanish Supreme Court, Decision STS 1682/2019, 27 May 2019, available in Spanish at: <https://cutt.ly/he9AzAZ>.)

- AIDA, Country Report Spain, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

**Switzerland:** The Swiss Federal Administrative Court stressed, in a recent judgment ruled in November 2019, that the fact that the person concerned had lodged her asylum application while in detention does not dispense the respondent authority of its duty to duly investigate the application in accordance with the law in force, in particular to ensure the right to free legal advice and representation. (Federal Administrative Court, Decision D-5705/2019, 25 November 2019).

- AIDA, Country Report Switzerland, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

## Dublin procedure

### Belgium:

- In a judgment of 12 February 2019, the Council of State referred a preliminary question to the CJEU regarding the right to an effective remedy. More precisely, the Council of State asked whether ignoring new elements - that arise after a decision on a Dublin transfer has been taken - is contrary to the right to an effective remedy. (Council of State, Judgment No 243.673, 12 February 2019.)  
In this regard, it should be noted that the Council of Alien Law Litigation (CALL) had suspended a transfer to Italy in a decision of 15 January 2019 on the basis that medical attestations were delivered after the transfer decision of the Immigration Office. Ignoring these medical attestations would call into question the conformity of the transfer with Article 3 ECHR. (CALL, Case No 215.169, 15 January 2019.)
- In March 2019 the CALL suspended a Dublin transfer to Austria based on a violation of Article 3 ECHR. When the transfer decision was taken, the Immigration Office was aware of the fact that the applicant attempted suicide in Belgium in December 2018 and was violent. Given the special needs and the psychological condition of the applicant, concrete and individual guarantees should have been obtained from the Austrian authorities as to the specific circumstances in which he will be received, which was not done in the present case. (CALL, Decision No 217.932, 6 March 2019.)
- In a ruling of August 2019 the CALL further annulled a Dublin transfer to Italy in which the Immigration Office had also omitted to request individual guarantees from the authorities. The CALL

cited the AIDA Italy report to demonstrate that it is not excluded that the applicant, as a Dublin returnee who previously received reception, may face difficult access to reception or even exclusion from reception conditions when returning to Italy. It ruled that the Immigration Office did not carry out a rigorous examination of a possible violation of Article 3 of the ECHR. (CALL, Decision No 224 726, 8 August 2019.)

AIDA, Country Report Belgium, 2019 Update, available at:

[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_be\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_be_2019update.pdf)

**Bulgaria:** In 2019, the courts in some Dublin States have continued to rule suspension of Dublin transfers to Bulgaria with respect to certain categories of asylum seekers due to poor material conditions and lack of proper safeguards for the rights of the individuals concerned. See for example following (selected) decisions:

Suspensions of Dublin transfers to Bulgaria in 2019			
Country	Judicial authority	Case	Date of decision
Switzerland	Federal Administrative Court	E-26/2016	16 Jan 2019
Germany	Administrative Court of Lüneburg	8 B 23/19	14 Feb 2019
Germany	Administrative Court of Lüneburg	8 A 123/18	22 Mar 2019
Greece	Piraeus Administrative Court of Appeal	69/2019	15 May 2019
Germany	Administrative Court of Kassel	7 L 1165/19.KS.A	24 May 2019
Germany	Administrative Court of Karlsruhe	A 13 K 6939/18	25 Jun 2019
Germany	Administrative Court of Lüneburg	8 A 6/18	10 Jul 2019
Germany	Administrative Court of Cologne	20 K 14819/17.A	26 Sep 2019
Czech Republic	Regional Court of Ostrov	72 A 41/2019 - 28	19 Nov 2019

See: AIDA, Country Report Bulgaria, 2019 Update, available at:

[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

#### **Netherlands:**

- It has become settled case-law that, in order to conclude that a situation of dependency exists, the asylum seeker has to demonstrate, with objective documents, what concrete assistance his or her family member offers him or her. In 2019, in the case of an asylum seeker who has objectively shown that her mother benefits from her care, the Council of State ruled that a situation of dependency does not exist. According to the Council of State the asylum seeker had failed to make plausible that she is the only person capable of giving her seriously ill mother the help and care she needs, as her brothers are also present and there is the option of home care. (Council of State, ECLI:NL:RVS:2019:834, 13 March 2019.)
- Moreover, on 7 October 2019, the Court of The Hague published a ruling regarding the rejected application for asylum on the basis that the Netherlands was not responsible for processing the application under the Dublin Regulation. The applicant, a Ugandan national, made an application for international protection in the Netherlands on 15 March 2019 after being issued a Schengen visa from Spain. The request was rejected on the basis that Spain was responsible for processing his claim under the Dublin Regulation. The applicant subsequently informed authorities that he had been a victim of human trafficking, detention, and rape since he arrived in the Netherlands. The applicant argued that the State had a positive obligation to prevent human trafficking, under Directive 2011/36/EU, and should have used its discretionary power to accept the application on the basis that he was vulnerable, both as an applicant of international protection and a victim of human trafficking. In ruling, the Court held that the Secretary of State had failed to provide reasons why transfer to Spain would not be disproportionate. The applicant had made an immediate attempt to make a declaration of human trafficking, which could not be completed due to the slow approach by Dutch authorities. Moreover, the approach of the authorities was deemed to be at odds with the obligations under Directive 2011/36/EU. The Court concluded that the Secretary of State had failed

to give sufficient reasons for not considering the application under Article 17(1) Dublin Regulation. (Regional Court of The Hague, Decision No. NL19.18360, 26 September 2019).

- In a case of August 2019, the District Court of the Hague annulled the transfer to Romania of an unaccompanied child and his adult brother from Iraq under the Dublin Regulation, as it would be against the best interests of the child. Before applying for international protection in the Netherlands, the applicants were held in detention in Romania for three days, where they faced abuse and were deprived of basic needs, such as food and water, as well as access to a bathroom. (Regional Court The Hague, Decision No. NL19.15833 and NL19.15835, 20 August 2019)
- *Dublin transfer to Greece*: In two recent judgments the Council of State ruled that transfer to Greece will result in a violation of Article 3 ECHR, unless the asylum seeker is guaranteed legal assistance during the asylum procedure by the Greek authorities (Council of State, ECLI:NL:RVS:2019:3537, 23 October 2019 and Council of state, ECLI:NL:RVS:2019:3538, 23 October 2019).
- *Dublin transfer to Bulgaria*: In a judgment of 28 August 2019, the Council of state confirmed that the principle of mutual trust applies to Bulgaria. (Council of State, Decision No 201810397/1, 28 August 2019)
- AIDA, Country Report Netherlands, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_nl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2019update.pdf)

#### **Switzerland:**

- The Federal Administrative Court ruled in a reference judgment that the guarantees provided by the Italian authorities in January 2019 were not specific enough, as families requiring transfer from Switzerland to Italy no longer have access to the second-line reception centres under the new legislation. The Italian authorities are required to furnish even more specific guarantees concerning reception conditions in each individual case. The Swiss asylum authorities are now obliged to obtain individual assurances guaranteeing the requisite medical care and accommodation for seriously ill asylum seekers who will be reliant on seamless medical care from the moment they arrive in Italy.
- Moreover, on 11 February 2020 the Court has made a reference judgement on the question of systemic deficiencies in Bulgaria. Although the Court itself explained in a very detailed manner the problems in the Bulgarian asylum system, it concluded that there are no systemic flaws in the asylum procedure and reception conditions in Bulgaria which would justify a complete suspension of transfers to that country. A case-by-case examination will be required to determine whether or not the transfer to that country of a particular asylum seeker should be suspended. The court also mentioned the possibility to request individual guarantees from the Bulgarian authorities.
- In a reference judgment of July 2019, the Federal Administrative Court commented on the problem of "Push-Backs" of asylum seekers to the Croatian-Bosnian border and stated that the SEM is obliged to examine the existence of systemic deficiencies and to clarify whether individual submissions would make it imperative for the asylum seeker to take action on his/her own initiative. Following this, the outcome of the judgements were mixed, some have been sent back to the SEM for further clarifications regarding health care for single men, some others regarding families with health issues were rejected. 14 persons have been transferred to Croatia under Dublin in 2019. (Federal Administrative Court, Decision E-3078/2019, 12 July 2019.)

AIDA, Country Report Switzerland, 2019 Update, available at:

[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

**United Kingdom:** The main development in jurisprudence in the UK was the final judgment in the case of applicants detained purely for the purpose of Dublin transfers, from the Supreme Court. On 27 November 2019 the Supreme Court unanimously rejected an appeal by the UK Home Office to overturn a landmark ruling from the Court of Appeal declaring the detention of asylum seekers while their cases were being assessed in the Dublin Procedure unlawful. The case concerns the pre-removal detention of five Iraqi and Afghan nationals during the Dublin procedure. Under the Dublin III regulation only people considered at

“significant risk of absconding” can be detained and none of the five people in question were categorized as such by the UK Home Office admission. The ruling could potentially affect thousands of people unlawfully detained during the period between January 2014 when the Dublin III regulation came into force and March 2017 when the UK regulations were changed. (Supreme Court, R (on the application of Hemmati and others) (AP) (Respondents) v Secretary of State for the Home Department (Appellant), [2019] UKSC 56, 27 November 2019, available at: <https://bit.ly/2Unm2iC>).

- AIDA, Country Report United Kingdom, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_uk\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_uk_2019update.pdf)

### Subsequent applications

**Poland:** In 2019 the Voivodeship Administrative Court in Warsaw issued a judgement in which the Court stated that the subsequent application cannot be deemed inadmissible even if only one single element of facts of the case has changed. (Voivodeship Administrative Court, Decision IV SA/Wa 3394/18, 18 April 2019, summary available in Polish at: <https://bit.ly/2UkEbiB>).

- AIDA, Country Report Poland, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

### Vulnerable applicants

#### Poland:

- NGOs reported important judgments from 2019. The Supreme Administrative Court and the Voivodeship Administrative Court in Warsaw ruled on cases where the applicants were diagnosed with PTSD due to violence/torture experienced in their countries of origin. It appears that the experts appointed by the determining authority had not carried out an appropriate examination of their vulnerability. However, the courts upheld the negative decisions issued by the determining authority, stating that the testimonies of the applicants were inconsistent. The courts also stated that the authorities had no obligation to appoint experts to assess mental state of health of the applicants. In the oral hearing of 16 May 2019, the Supreme Administrative Court stated that psychological opinions prepared by the Border Guards, doctors from psychiatric hospital and experts appointed by the detention court are not credible because they are based on the applicants testimonies (all of these opinions stated that the applicant experienced violence).
- Moreover, on 25 June 2019 District Court in Przemyśl released from the detention centre a rejected asylum seeker who was a victim of torture. The court appointed an independent expert- a psychologist who examined the applicant. The opinion confirmed that he was a victim of violence and suffered from PTSD. The court stated that the Border Guards should properly assess state of health of the foreigner if he claimed that experienced torture in his country of origin. In addition, court noted that the opinion of the Border Guards’ physicians may be questioned as it cannot be treated as independent expert opinion.
- On 18 January 2020, the European Court of Human Rights communicated the case of A.A. against Poland. The case concerns an asylum seeker from Burundi, who came to Poland in January 2019 with a fake Swiss ID. The applicant was detained and placed in a detention centre in Kętrzyn despite of the fact that she was a victim of rape, suffered from that traumatic experience and had permanent scars. During her stay in the guarded centre, she was examined by two psychologists. The first expert, the employee of the detention centre, issued an opinion according to which she did not suffer from PTSD, but she needed psychological treatment. The second psychologist found out that she was a victim of violence and that her emotional state had worsened. In addition, expert recommended psychiatric consultation and treatment. However, the courts prolonged her detention and stated that she represented a risk of absconding and was not diagnosed with PTSD syndrome and that the guarded center provide her with adequate living conditions and medical care. Additionally, she was not allowed to participate in court hearings concerning her appeals against the placement and prolongation of her detention. Moreover, her appeal against the extension of detention was examined only after 50 days.

- On 29 January 2019 the European Court of Human Rights communicated the case R.M. and Others against Poland. The application was lodged on 26 February 2018 and concerned family with three minor children, placed in the detention centre in Kętrzyn for almost eight months. Family was transferred to Poland under Dublin III regulation. Detention was prolonged despite the psychological problems of one of the children. The applicants presented an expert opinions but the courts extended their stay in guarded centre in Kętrzyn. The applicant complains that the detention of her children, then aged eleven and three years respectively constituted treatment contrary to Article 3 of the Convention, her detention was also arbitrary, unjustified and unnecessary. The applicant also stated that placing and continuation of their detention had violated Article 5 § 4 of the Convention as she had not received Border Guard motions on prolongation of their detention. Additionally, she complained that detention was a disproportionate interference with their right to respect for their family life.
- On 6 September 2019, the Polish government submitted an unilateral declaration in the case of Bilalova against Poland and acknowledge a violation of Article 8 of the Convention. The case was communicated in 2014 and concerns administrative detention of a mother with five minor children aged between 4 and 10 for three months. Mother complained that Polish authorities never assesses the child's best interest, and the alternatives to detention were not considered.
- AIDA, Country Report Poland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Switzerland:** Several complaints regarding victims of human trafficking were decided by the Federal Administrative Court. The case of a woman from Ethiopia, who was a victim of human trafficking in Kuwait and whose asylum application was rejected by the SEM because of the responsibility of France. The Court stated that the complainant had not presented a concrete and serious risk that would lead to the conclusion that the French authorities would refuse to take her in and consider her application for international protection. Nor did the court see any concrete evidence that the woman could become a victim of re-trafficking in France. The public prosecutor's office did not take on the criminal complaint filed in Switzerland. The court stated that it would be welcome if the SEM received assurances from the French authorities regarding access to the protection system for victims of human trafficking, as this could help to reduce understandable fears of the applicant from being transferred. In another case - also Dublin-France - the Federal Administrative Court upheld the complaint of a woman from Cameroon who was forced into prostitution in France. The Court found that the SEM had underestimated its discretion and, by using the inexact and empty phrase "in consideration of the file and the circumstances you have invoked, there are no grounds justifying the application of the sovereignty clause of Switzerland", it completely disregarded the fact that there were concrete indications that the vulnerability of potential victims of human trafficking in France could not always be adequately taken into account. (Federal Administrative Court, Decision D-1874/2019, 29 April 2019).

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

### Age assessments

**Belgium:** In a recent decision of 9 December 2019, the Council of State issued a decision relevant to the contested age assessment procedure. The case concerned a Guinean national who claimed to be a minor. He was subsequently taken into care by the Belgian Guardianship Service as an unaccompanied minor. The Immigration Office later expressed doubts as to the applicant's age due to his physical appearance and ordered a medical examination which concluded the age of the applicant to be 26.7 years with a deviation of 2.6 years. The applicant contested the decision arguing that the examiner had offered only a general conclusion and it was unclear how the estimated age was determined. For instance, he argued, inter alia, that a hand and wrist examination found he could be aged a minimum of 17.5 years and that the dental examinations were not conclusive. It was argued that the benefit of doubt should therefore have applied in this decision. (Council of State, Decision No 246340, 9 December 2019, available in French at: <https://bit.ly/2Rycbor>.)

- AIDA, Country Report Belgium, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_be\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_be_2019update.pdf)



**France:** On 21 December 2018, the Court of Cassation referred a preliminary question to the Constitutional Court on the constitutionality of bone examinations for age assessment. The hearing took place on 19 March 2019, and on 21 March 2019, the French Constitutional Court ruled that bone tests determining the age of young migrants are not unconstitutional. The case concerned a young Guinean, Adama S, who declared to be 15 years old upon his arrival in France in 2016. A bone test concluded that his age was between 20 and 30 years. With the support of several civil society organisations, including Gisti, la Cimade, Médecins du monde and the Catholic Relief Service, he brought the case before the Constitutional Court as a preliminary priority question. The applicant claimed that the radiological examination of bones violated the principle of the 'best interests of the child'. Due to its margin of error it led to unaccompanied minors being excluded from the beneficial provisions designed to protect them. Although the Court confirmed the constitutional character of the principle of the 'best interest of the child', it stated that the existence of a margin of error does not make the use of the test unconstitutional. (Constitutional Court, Decision No 2018-768, 21 March 2019, available in French at: <https://bit.ly/2ISAfIL>)

- AIDA, Country Report France, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Netherlands:** On 2 December 2019, the Court of The Hague published its judgment on the unlawful detention of an applicant claiming to be an unaccompanied minor following an improper age assessment. On 1 November 2019, the Secretary of State imposed a detention order of an unaccompanied child pending Dublin transfer. The applicant claims to be a child, and argues that he was wrongfully detained as an adult following an age assessment that was conducted not in accordance with the law. A lawful age assessment requires assessments from both officials of border control and employees of the Immigration and Naturalisation Service (IND) who must individually assess the applicant before drawing their own conclusions. Following this, a unanimous decision is needed declaring that the applicant is clearly of age or clearly a minor. The assessing bodies will consider the physical characteristics of the applicant, as well as behaviour, any statements made, and any other relevant circumstances. The Court noted that the initial age assessment of the applicant was not conducted in accordance with the law as no IND employee was involved. It follows that the Secretary of State should not have assumed that the applicant was an adult. In light of the high threshold for detaining minors, it was necessary to conduct a thorough investigation and provide justifications for the grounds of detention. The Court concluded that the detention order was unlawful and must be lifted with immediate effect. (Regional Court The Hague, Decision No. NL19.27373, 20 November 2019).

- AIDA, Country Report Netherlands, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_nl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2019update.pdf)

**United Kingdom:** In 2019, the Home Office issued interim guidance on age assessment of unaccompanied asylum-seeking children, following a successful challenge of its policy in the case of *BF (Eritrea)* before the Court of Appeal. In its ruling of 23 May 2019, the Court of Appeal held that the Home Office policy on age assessment, which gave Immigration Officers the power to decide an applicant is adult if their appearance and demeanour very strongly suggest the person is "significantly over 18", was not sufficiently precise as to avoid huge differences in how it was applied, giving rise to the risk that children would be wrongly deemed adults and treated as such in the asylum system. (EWCA Civ 872, Case No: C2/2017/2550, 23 May 2019, available at: <https://bit.ly/38vOxQw>).

- AIDA, Country Report United Kingdom, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_uk\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_uk_2019update.pdf)

## Medical reports

**Belgium:** In March 2019 the Council of State annulled a judgment of the CALL because it had not sufficiently taken into account the medical attestations that were provided. In that case, the medical certificates submitted by the applicant in the context of his subsequent application included findings of physical and psychological injuries which may have resulted from ill-treatment linked to the state of slavery. While the CALL had ruled that the evidence provided lacked credibility, the Council of State found that the administrative judge did not carry out a detailed examination of the risk of persecution and violated the rights

guaranteed by articles 3 and 4 ECHR. (Council of State, Judgment No 244 033, 26 March 2019, available in French at: <https://bit.ly/2uWoO57>).

- AIDA, Country Report Belgium, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_be\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_be_2019update.pdf)

**Poland:** NGOs report that the Office for Foreigners does not, in principle, require opinions from experts in order to determine, for example, basing on of scars and wounds if an applicant has been a torture victim. Such a practice makes it difficult for foreigners to prove that they have been victims of torture in the country of origin. Foreigners arrive in Poland frequently with visible signs of torture. In such cases ordering of an examination by an expert could help acquire reliable evidence of experienced violence.

- AIDA, Country Report Poland, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_pl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_pl_2019update.pdf)

**Switzerland:** Under the new asylum procedure in force throughout Switzerland since March 2019, medical care and the establishment of medical facts in the examination of asylum applications, appear to be one of the main issues induced by the acceleration of procedures. It crystallizes the tension between, on the one hand, the new procedural deadlines provided for in the Asylum Act and the processes put in place in federal structures and, on the other hand, an examination of asylum applications based on adequate medical care enabling the medical professionals to make clear and detailed medical diagnoses.

In this respect, the recent case law of the Federal Administrative Court highlights several shortcomings concerning medical care and measures of instruction taken by the authority of first instance on the medical aspects before issuing a decision on removal or transfer to another Dublin State. The Federal Administrative Tribunal particularly points out the following points: decisions issued in the absence of a medical diagnosis, the difficulty for asylum-seekers in accessing a doctor, the transfers from one federal centre to another during the procedure which result in the interruption of medical follow-up or treatment, the lack of adequate translation during interviews with doctors or medical staff of the centres and finally the difficulty for legal representatives to obtain information or medical reports.

- AIDA, Country Report Switzerland, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

**United Kingdom:** The long running case of KV (Sri Lanka) progressed to the Supreme Court and judgment was handed down in March 2019. The case concerned the question of the extent to which a medical expert could comment on the likelihood of torture being self-inflicted by proxy, that is, by another person at his invitation. Whilst the Supreme Court remits the case to the Upper Tribunal to reconsider, it invites the Upper Tribunal to note that very considerable weight should be given to the fact that injuries which are self-inflicted by proxy are likely to be extremely rare. (Supreme Court, KB (Sri Lanka) v Secretary of State for the Home Department [2019] UKSC 10, 6 March 2019, available at: <https://bit.ly/2SOVG6a>).

- AIDA, Country Report United Kingdom, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_uk\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_uk_2019update.pdf)

## Reduction/withdrawal of reception conditions

**France:** OFII is competent to decide on the suspension, withdrawal or refusal of material reception conditions. According to the law, only the decision of refusal of reception conditions must be written and motivated but the Council of State ruled in 2019 that this guarantee also applies to withdrawal decisions in accordance with European law. (Council of State, Decision n° 428530, 31 July 2019, available in French at: <https://bit.ly/2GFaSiB>)

- AIDA, Country Report France, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Netherlands:** During the rest and preparation period an individual is already considered an asylum seeker under the RVA because this person has lodged an application for asylum. As a result, during the rest and preparation period, the individual is entitled to reception. However, daily allowances are reduced during the rest and preparation period. Due to the long waiting times in 2019 this has become an issue. A regional court has decided that this reduction during the rest and preparation period is generally justified based on the Reception Directive. However in some individual cases, for instance when there has been a very long rest and

preparation period due to the waiting time, applicants should be granted daily allowances. (Regional Court Groningen, Decision No. 18/8330 and 19/4461, 17 September 2019.)

- AIDA, Country Report Netherlands, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_nl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2019update.pdf)

## Appeal procedures

**Hungary:** In December 2018, the Metropolitan Regional Court decided on the appeal and annulled the decision of the Metropolitan Administrative and Labour Court. It agreed with the asylum seeker that regarding the peculiarities of the asylum procedure and the circumstances of the submission of the appeal, the lack of detailed specification of the legal injury could not be the reason for rejecting the appeal. The Court also agreed that at the time of the submission of the appeal the applicant acted in person and not by his legal representative. (Metropolitan Regional Court, Decision 12.Kpkf.671.039/2018/2, 11 December 2018).

In January 2019, another council of the Metropolitan Regional Court came to the opposite conclusion and approved the decision of the Metropolitan Administrative and Labour Court. The Court interpreted the power of attorney in a way that it covers the judicial procedure, as well, therefore the applicant is considered as acting with a lawyer at the time of the appeal. The judgment also stated the legal representative was present at the delivery of the decision so the lawyer could have completed the appeal of the asylum seeker. (Metropolitan Regional Court, Decision 3.Kpkf.671.107/.2018/4, 9 January 2019).

In 2019, the HHC attorneys made sure that the initial appeal of the applicants already contains the specifications of legal harm suffered by a negative decision or is supplemented within the deadline. The HHC is also aware of the case, where the Metropolitan Court actually called the asylum seeker to supplement his appeal.

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

**Netherlands:** In September 2018 the CJEU ruled that an onward appeal does not have a suspensive effect in itself. (CJEU, Case C-175/17, *X v Belastingdienst/ Toeslagen*, 26 September 2018.) Following this judgment, the Council of State ruled on 20 February 2019 that an onward appeal does not have an automatic suspensive effect (Council of State, Decision No 201609659/1/V2 and 201609659/4/V2, 20 February 2019).

- AIDA, Country Report Netherlands, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_nl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2019update.pdf)

## Judicial review of detention

**France:** The French Constitutional Court ruled on 4 October 2019 that the administrative court is competent to assess the legality of a decision to maintain a person in administrative detention if, based on a motivated and written decision, the Prefect considers that the asylum claim has only been lodged to prevent a notified or imminent order of removal. (Constitutional Court, Decision n° 2019-807, 4 October 2019, available in French at: <https://bit.ly/2UGAELy>)

- AIDA, Country Report France, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_fr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf)

**Greece:** Over the years the ECtHR has found that the objections remedy is not accessible in practice. That was also the case in 2019. In February 2019, the Court found a violation of Article 5(4) ECHR, emphasising that the detention orders were only written in Greek and included general and vague references regarding the legal avenues available to the applicants to challenge their detention. Furthermore, the applicants were not in a position to understand the legal aspects of their case and they did not appear to have access to lawyers on the island. In this connection, the Court noted that the Greek government had also not specified which refugee-assisting NGOs were available. (ECtHR, *O.S.A. v. Greece*, Application No 39065/16, Judgment of 21 March 2019.)

- In May 2019, the Administrative Court of Piraeus, ordered the release from detention of a woman of Syrian origin, detained in the PROKEKA of Tavros, for the purpose of being transferred back to Kos, on the basis that her fragile health would deteriorate if her detention continued. (Administrative Court of Piraeus, Decision AP 221/2019.)

- In another judgment issued in October 2019, the Court also found a violation of Art. 5(4) on the basis that the decision, which indicated the possibility of lodging an appeal, was written in Greek; It was not certain that the applicants, who had no legal assistance in either camp, had sufficient legal knowledge to understand the content of the information brochure distributed by the authorities, and especially the material relating to the various remedies available under domestic law; The Court also noted that the information brochure in question referred in a general way to an “administrative court”, without specifying which one; However, there was no administrative court on the island of Chios, where the applicants were detained, and the nearest one was on the island of Mytilene. Even assuming that the remedies were effective, the Court did not see how the applicants could have exercised them. Having regard also to the findings of other international bodies, the Court considered that, in the circumstances of the case, the remedies in question had not been accessible to the applicants.
- AIDA, Country Report Greece, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_gr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf)

**Slovenia:** There is no automatic review of the lawfulness of detention. However, the President of the Administrative Court can decide that a supervision of the application of the measure in practice needs to be performed and appoints one or more judges together with instructions on the timeframes, places or specific asylum seekers that have to be included in such supervision. If it is concluded that the reasons for detention of a certain asylum seeker no longer exist, the President of the Administrative Court can order the termination of the measure. Informally collected data shows that such review was used once in 2018 at the initiative of the refugee counsellor of the applicant. Based on the new evidence presented to the Administrative Court the President of the Administrative Court issued a release order for the detained applicant. Since the ruling of the Supreme Court in March 2019 affected the grounds that can be used for detention of asylum seekers, automatic review of the lawfulness of detention of asylum seekers based on the IPA was not used in 2019. (Supreme Court Decision, X Ips 1/2019 from 13 March 2019, available at: <https://bit.ly/2Q5VHnF>.) In accordance with informally collected information, it was used at least two times in cases of detention of foreigners in the return procedure based on the Aliens Act.

- AIDA, Country Report Slovenia, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Sweden:** On 22 October 2019, the Migration Court of Appeal delivered a judgment in which it clarified that twelve months is the maximum time a foreigner may be held in detention for the purpose of enforcement of a removal order, at least as long as it is considered to be a matter of the same enforcement case.

- AIDA, Country Report Sweden, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_se\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_se_2019update.pdf)

## Alternatives to detention

**Cyprus:** In 2019 the International Protection Administrative Court issued decisions challenging the detention grounds laid down in Article 9ΣΤ (2)(δ) of the Refugee Law. In these two decisions, the detention orders were annulled as the Court found that lack of examination of alternative measures to detention and a lack of examination of proportionality and necessity prior to ordering detention. Furthermore the Court ordered the release of the applicants, subject to reporting conditions. This has led to an increase in detainees being released with reporting conditions - however with no individual assessment including regarding vulnerabilities.

Moreover, in early 2019 the Supreme Court delivered a positive decision on a Habeas Corpus application with reference to alternatives to detention, ordering the immediate release of an asylum seeker who was detained for nearly one year. Specifically the Court clarified that the possibility to order less coercive alternatives exists not only upon the issuance of the detention order but during the entire period of detention, and should be examined when detention exceeds reasonable time limits. (Supreme Court, Application 1/2019, 24 January 2019, available in Greek at: <https://bit.ly/2GgJeKM>)

- AIDA, Country Report Cyprus, 2019 Update, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_cy\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_cy_2019update.pdf)

## Extradition orders

**Croatia:** The Supreme Court of the Republic of Croatia recently submitted a request for a preliminary ruling to the Court of Justice of the European Union in a case (C-897/19) concerning an order for the applicant's extradition to Russia. The individual submitted an appeal against an order for his extradition to Russia on the grounds that there was a concrete, serious, and reasonably foreseeable risk of torture or ill-treatment in the event of return. The Supreme Court expressed doubts as to whether Iceland, which has also granted nationality to the applicant, must also be informed of the extradition so that it may request the surrender of its national.

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

### Withdrawal of protection status

**Austria:** The VwGH referred a preliminary ruling to the CJEU regarding the interpretation of Article 19(1) of Directive 2011/95 on the possibility of revocation of subsidiary protection status without a change in the relevant factual circumstances, but rather only where the knowledge of the authority has changed and the person concerned cannot be accused of having misled the Member State. The CJEU found that where the Member State has new information which establishes that, contrary to its initial assessment based on incorrect information, that person never faced a risk of serious harm, within the meaning of Article 15 of that Directive, that Member State must conclude that the circumstances underlying the granting of subsidiary protection status have changed in such a way that retention of that status is no longer justified. That this error was not attributable to the applicant does not alter the fact that the applicant is not eligible for subsidiary protection. (CJEU, *Bilali*, Case C-720/17, 23 May 2019.)

- AIDA, Country Report Austria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_at\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_at_2019update.pdf)

**Hungary:** As for re-availment of protection of the refugee's country of origin, a report of EMN published in November 2019 states that "any trip to the country of origin could be considered to provide sufficient reason to presume that the individual had re-availed him/herself of the protection of his/her country of origin." The asylum authority furthermore considers any type of contact with authorities of the country of origin as re-availment of protection of the country of origin. According to the report, when Hungarian authorities become aware of the contact, this would automatically lead to cessation of refugee protection.

The NDGAP withdrew the status of 57 beneficiaries of international protection in 2019. The refugee status was withdrawn in 12 cases (including 2 Syrian, 2 Nigerian, 2 former Yugoslavian refugees), whereas subsidiary protection was withdrawn in 45 cases (the majority of the beneficiaries, 27 persons had Afghan citizenship, followed by 6 Iraqis and 5 Syrians).

- AIDA, Country Report Hungary, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf)

## 17) Other important developments in 2019

### Infringement procedures

**Bulgaria:** In response to the European Commissions' (EC) letter of formal notice on 8 November 2018 concerning the incorrect implementation of European Union (EU) asylum legislation in Bulgaria, the government tabled for public consultations a draft proposal to amend the Law on Asylum and Refugees (LAR). However, the core of the proposal does not address the issues raised by the EC, namely the accommodation and legal representation of unaccompanied minors; the correct identification of and support to vulnerable asylum seekers; the provision of adequate legal assistance; and safeguards for detention. Moreover, while the draft proposal introduces additional provisions on the access to information for unaccompanied children, it deletes the present safeguards that outline the obligations relating to their legal representatives, thereby raising additional concerns in this regard.

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)



## Refoulement

**Bulgaria:** In 2019 the malpractice visible in the context of detention and status determination procedures of “deportable” first-time applicants downgraded to actual refoulement. Four cases of refoulement were documented during that year, whereby the Migration Directorate returned first-time applicants to their countries or origin prior to the end of their asylum procedures, namely to Iran, Algeria and Nigeria. In another case, two Syrian asylum seekers who reached the reception center in Harmanli have been handed over by the centre’s security guards to the Svilengrad Border Police precinct, where their valid passports were torn with applicants pushed back to Turkey later that day.

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

## Differential treatment of specific nationalities

**Bulgaria:** In 2019, discrimination against certain nationalities has persisted, but has taken another form. Asylum seekers who are subject to unlawful registration and determination procedures in pre-removal centers in violation of the law are no longer selected according to their nationality, but on the basis of their potential deportability – namely when they possess valid travel documents or where such documents can easily be obtained.

- AIDA, Country Report Bulgaria, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_bg\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf)

**Slovenia:** Differential treatment of specific nationalities is not based on official policies or guidelines. Nevertheless, some patterns and trends are observed in practice. With the exception of the first period of relocation from Italy and Greece in 2015-2017, when some Iraqi nationals were issued negative decisions, all relocated applicants, mostly Syrians and Eritreans, have since been granted international protection. Other Syrian nationals whose asylum applications have been examined in Slovenia have also been granted international protection, as have the few Eritrean citizens who have not arrived through relocation. The practice changed, however, in December 2019 when the first Eritreans were issued with negative decisions. These were the first decisions issued to Eritreans since the end of the relocation scheme, and, as such, were not part of the relocation scheme.

- AIDA, Country Report Slovenia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_si\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_si_2019update.pdf)

**Spain:** On 5 March 2019, the CIAR announced a policy granting one-year renewable residence permits “on humanitarian grounds of international protection” to Venezuelan nationals whose asylum applications have been rejected between January 2014 and February 2019. As a result, a total of 35,130 humanitarian status were granted within a single year to Venezuelans, thus exceeding by far the number of refugee status. Only 50 Venezuelans were granted a refugee status in Spain in 2019 according to Eurostat statistics. Lawyers have expressed deep concerns regarding the individual assessment of asylum claims lodged by Venezuelans. It seems that some of them are being granted a residence permit on humanitarian grounds although they are entitled to the refugee status (e.g. in the case of political opponents). In addition, it appears that some applications for international protection have been rejected because asylum seekers have a police record (not a criminal record).

Another non-official practice of differential treatment concerns applications presented by Syrian nationals, who are in their vast majority granted subsidiary protection, and no case by case assessment is realised on the requirement to receive international protection. According to Eurostat, 1,075 subsidiary protection status have been granted to Syrians in 2019, compared to 35 refugee status.

Another criterion concerns persons who were fleeing from gangs (*maras*) in Central American countries, who were not granted international protection in previous years. The NGO CEAR has launched a campaign in February 2019 named “*Maras. Ver, oír y callar*” to raise awareness on the issues faced by asylum seekers originating from Honduras and El Salvador; and in particular on the fact that asylum claims based on the fear of persecution from gangs are systematically denied in Spain. This has included the promotion of a new TV series addressing the issue on social media, through a dedicated webpage as well as through posters.

- AIDA, Country Report Spain, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

**Netherlands:** In general, no distinction is made on grounds of nationality in the Netherlands. However, the State Secretary announced at the end of 2016 that asylum seekers from safe countries of origin will have a limited right to reception. This was a reaction to complaints about asylum seekers originating from North African countries, which could be linked to the opening of the two special reception centres (EBTL) for asylum seekers causing nuisance by the end of 2017, though it is not formally linked to any nationality and in practice only half of the applicants placed in the EBTL originated from safe countries. At the end of 2019, the State Secretary again announced she wanted to open separate reception locations for applicants originating from safe countries of origin. However, at this point there have been no concrete plans for these locations.

- AIDA, Country Report Netherlands, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_nl\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2019update.pdf)

**Belgium:** In four more recent judgments of 18 and 19 November 2019, the united Chambers of the CALL clarified that not all Palestinians from the Gaza Strip are eligible for international protection. Country information indicates that the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) is still operational in Gaza. The security situation is precarious, but a return via the Rafah border is possible and there is no systematic persecution of Palestinians nor appalling living conditions. However, the CALL also confirmed that individual circumstances may give rise to the granting of international protection in specific cases. (CALL, Decisions No 28889; 228888; 228946 and 228949; 18 and 19 November 2019).

- AIDA, Country Report Belgium, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_be\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_be_2019update.pdf)

**Switzerland:** In 2019, Eritrea was the top country of origin with 2,899 requests. Following recent changes, in spring 2018, the SEM started to re-examine the status of approximately 3,000 Eritreans already granted temporary admission (as foreigners, without refugee status) in accordance with settled case law. Until September 2018, they examined 250 cases and found the temporary admission to be no longer valid in 9% of these cases. Until end of October 2019, SEM found the temporary admission no longer to be valid in 82 cases (2.7 %). Most of the appeals submitted against such decisions have been rejected by the Federal Administrative Court, some are still pending. This change of practice has been criticised by the Swiss Refugee Council and others, as it does not seem justified by the current country of origin information (COI) or the difficulty to obtain reliable COI. The SEM stated in January 2020 that it would stop the examination of temporary admissions of Eritreans.

Moreover, in January 2019, Switzerland concluded an agreement with Ethiopia on the repatriation of applicants from Ethiopia who have received a negative asylum decision. The planned agreement between Switzerland and Ethiopia provides close cooperation with the Ethiopian secret services. The latter would be responsible for identifying the asylum seekers concerned. Switzerland has nearly 300 Ethiopian nationals whose asylum applications were rejected and who are awaiting removal. According to SEM's statistics, no removal took place in 2019.

- AIDA, Country Report Switzerland, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_ch\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2019update.pdf)

## Schengen

**ECRE Policy Note:** The ECRE Policy Note *Schengen – A club where fundamental rights (do not) matter?* – assesses how fundamental rights compliance at the EU's external border is addressed by the Schengen framework, with the current debate on Croatia's readiness to join as example. The Policy Note further offers ECRE's recommendations on ensuring compliance with European and international legal obligations at the EU's borders. The Policy Note is available at: [https://www.ecre.org/wp-content/uploads/2019/11/PN\\_24.pdf](https://www.ecre.org/wp-content/uploads/2019/11/PN_24.pdf)

**Croatia:** In October 2019 the European Commission issued a Communication to the European Parliament and the Council on the verification of the full application of the Schengen acquis by Croatia. According to the EC, Croatia has taken measures to ensure that the necessary conditions for the full application of the Schengen rules and standards are met. However the EC also highlighted the fact that the protection of human rights of asylum seekers and other migrants, and the allegations of denial of access to the asylum procedure and of use of force by law enforcement officials at the border remain a challenge. It is thus foreseen that Croatia

must investigate allegations of migrant and refugee mistreatment at its external borders, monitor this situation closely and keep the Commission informed on progress made.

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

## Hate Speech

**Croatia:** Hate speech is growing, especially on news portals in the form of unmoderated reader comments. Moreover, the media released a video of policemen near the border police station of Cetingrad forcing migrants to sit on the floor next to a police patrol car and to shout the name of Zagreb's football club as well as the Nazi-fascist regime's salute "Ready for the Homeland". The Ministry of Interior initiated disciplinary procedures and one officer was removed from the police service.

- AIDA, Country Report Croatia, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hr\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hr_2019update.pdf)

**Spain:** Unaccompanied children continued to face discrimination and to be criminalised. In March 2019, 25 persons committed a racist attack against a reception centre hosting around 35 unaccompanied children in Castelldefels (Barcelona). Damage was inflicted to the facility and children and their educators were attacked. This marked the second attack within the same week and the attackers included children living in the city. In July 2019, the Spanish Ombudsman and UNICEF expressed serious concerns about these incidents. In November 2019, three children aged 11 and 12 years old were prohibited from eating at a McDonald's in Melilla and were characterised as criminals. Moreover, in December 2019, a grenade was thrown at the Hortaleza reception centre for unaccompanied children located in Madrid. Incidents and xenophobic protests had already been reported at this centre in October 2019.

The climate of hate seems to be also driven by certain political parties. In January 2019, the People's Party (Partido Popular) reinitiated a parliamentary initiative aiming at considering unaccompanied children economic migrants and thus calling for their expulsion.

The Spanish Ombudsman announced its intention to investigate whether the right-wing party Vox was responsible for committing a hate crime against unaccompanied children. Similarly, in November 2019 the Public Prosecutor of Sevilla launched an investigation against the president of Vox Madrid for committing a hate crime, as she had made statements inciting violence against unaccompanied children hosted in a centre of the city.

- AIDA, Country Report Spain, 2019 Update, available at:  
[https://www.asylumineurope.org/sites/default/files/report-download/aida\\_es\\_2019update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf)

## Other ECRE publications relevant to EU asylum and migration policies published in 2019

**ECRE Policy Note on CEAS:** ECRE published a Policy Note identifying key implementation gaps and providing recommendations for EU measures to make the Common European Asylum System (CEAS) function effectively. ECRE suggests concrete actions of monitoring compliance with the acquis, evaluation of legislation, guidance to support compliance, enforcement and infringement procedures, and outlines a set of immediate and mid-term recommendations to the European Commission.

See: ECRE, *Making the CEAS work, starting today*, October 2019, available at: [https://www.ecre.org/wp-content/uploads/2019/10/PN\\_22.pdf](https://www.ecre.org/wp-content/uploads/2019/10/PN_22.pdf)

**ECRE comparative report on EASO:** In a comparative report published in 2019, ECRE analyses the operations of the European Asylum Support Office (EASO) involving deployment of experts in the asylum procedures of Italy, Greece, Cyprus and Malta. The report follows a series of fact-finding missions in Cyprus, Italy, Greece and Malta in 2018 and 2019, discussions with authorities and relevant stakeholders, as well as a analysis of a small sample of decisions in selected countries. The report gives an overview of the different areas of the asylum procedure in which the Agency supports Member State authorities, namely the registration of asylum applications, the implementation of the Dublin Regulation, the examination of asylum applications at first instance, and appeals. It also provides observations on the effectiveness of EASO operations in meeting their objectives and the impact of the Agency's presence on the efficiency and quality of asylum procedures in the host Member States, particularly as regards the enhancement of staff capacity, the quality of decisions and the contribution to compliance with the EU asylum acquis.

See: ECRE, *The Role of EASO Operations in National Asylum Systems*, November 2019, available at: [https://www.ecre.org/wp-content/uploads/2019/11/EASO-Operations\\_Report.pdf](https://www.ecre.org/wp-content/uploads/2019/11/EASO-Operations_Report.pdf)

**ECRE/UNHCR report on AMIF:** The third 'Follow the Money' report maps and assesses the use of financial incentives (lump sums) allocated under the Asylum, Migration and Integration Fund (AMIF) to EU Member States (MS) participating in refugee resettlement and intra-EU relocation. The four case studies, France, Italy, Portugal and Slovenia provide a range of national contexts and practices within the role and impact of EU funding is explored. The research draws on the first two 'Follow the Money' studies published by ECRE and UNHCR in 2017 and 2018 tracking the use of AMIF for asylum, integration and return.

See: UNHCR/ECRE, *"Follow the Money III" Solidarity: The use of AMIF funds to incentivise resettlement and relocation in the EU*, March 2020, available at: [https://www.ecre.org/wp-content/uploads/2020/03/Follow-the-Money-III\\_AMIF\\_UNHCR\\_ECRE.pdf.pdf](https://www.ecre.org/wp-content/uploads/2020/03/Follow-the-Money-III_AMIF_UNHCR_ECRE.pdf.pdf)

See also: UNHCR/ECRE, *"Follow the Money II" Assessing the use of EU Asylum, Migration and Integration Fund (AMIF) funding at the national level 2014-2018*, January 2019, available at: [https://www.ecre.org/wp-content/uploads/2019/01/Follow-the-Money-II\\_AMIF\\_UNHCR\\_ECRE.pdf](https://www.ecre.org/wp-content/uploads/2019/01/Follow-the-Money-II_AMIF_UNHCR_ECRE.pdf)

**ECRE Policy Note on EU funding:** ECRE published a Policy Note which focuses on issues related to asylum and migration in the ongoing negotiations for the EU's next long-term budget: how much money will be provided for migration-related objectives? For what specifically? To be spent where? And under whose competence?

See: ECRE, *Outspending on Migration*, June 2019, available at: <https://www.ecre.org/wp-content/uploads/2019/05/Policy-Note-18.pdf>

**ECRE Policy Note on the GCR:** ECRE has published a Policy Note on the implementation of the Global Compact on Refugees (GCR) in and by Europe and set out recommendations for the EU and its Member States (MS) to pledge to the Global Refugee Forum.

See: ECRE, *Time to Commit: Using the Refugee Forum*, November 2019, available at: <https://www.ecre.org/wp-content/uploads/2019/11/Policy-Note-23.pdf>

**ECRE Policy Note on CSDP missions:** ECRE published a Policy Note assessing the emerging role of Common Security and Defence Policy (CSDP) missions in forced displacement and migration

See: ECRE, *Migration Mission Creep?*, July 2019, available at: <https://www.ecre.org/wp-content/uploads/2019/07/Policy-Note-20.pdf>