



Asylum systems in 2017

Overview of developments from selected European countries

March 2018



This briefing provides a short overview of major developments relating to asylum procedures, reception conditions, detention of asylum seekers and content of international protection across the countries covered by the Asylum Information Database (AIDA).

Information is drawn from the 2017 Update of the AIDA Country Reports for Austria, Belgium, Bulgaria, Cyprus, Germany, Spain, France, Greece, Croatia, Hungary, Ireland, Italy, Malta, the Netherlands, Poland, Portugal, Romania, Sweden, Slovenia, the United Kingdom, Switzerland, Serbia and Turkey.



Asylum procedure

Following a recent ruling of the Constitutional Court, the time limit for appealing a negative decision is 4 weeks in all cases. Where an appeal has no automatic suspensive effect, this must be granted *ex officio* if there is a risk of violation of Articles 2, 3 or 8 ECHR and need not be requested by the applicant.

The new government has announced further restrictions in the asylum procedure, including the abolition of the onward appeal (“extraordinary revision”) before the Administrative High Court. This has been criticised by the Federal Administrative Court and Constitutional Court as an undue departure from uniform rule of law standards in a particularly sensitive human rights area.

A reform entering into force in November 2017 extends the obligations of asylum seekers to cooperate in the procedure. These include the submission of medical reports and relevant findings on their condition.

The list of safe countries of origin has been extended to cover Ukraine, Benin and Armenia.

Reception conditions

A reform entering into force in November 2017 introduces a residence restriction for asylum seekers whose claims are deemed admissible. Applicants are only allowed to reside in the federal province in which they have been assigned for Basic Care, even if Basic Care is waived or withdrawn. Moreover, they may be ordered specific accommodation for reasons of public order, public interest or for the swift processing of their application. Violation of residence restrictions can lead to an administrative fine, as well as grounds for detention.

Detention of asylum seekers

A reform entering into force in November 2017 extends the maximum duration of pre-removal detention from 4 months to 6 for adults, and from 2 months to 3 for children above the age of 14. Extensions allow detention to reach 18 months in exceptional cases.

Content of international protection

A reform entering into force in November 2017 enables the Federal Agency for Immigration and Asylum (BFA) to start a withdrawal procedure where it is likely that the person has committed a criminal offence.

To be eligible for family reunification, spouses no longer need to be married in the country of origin, as long as the marriage or partnership existed prior to their flight.

Restrictions in the level of social benefits granted to beneficiaries for international protection, as well as conditions such as participation in integration programmes, have been introduced in a number of federal provinces. The Constitutional Court has recently found some of those restrictions to be unconstitutional.

[Full report available here](#)

In 2017, two new laws were adopted amending the Aliens Act and the Reception Act with the aim of transposing the recast Reception Conditions and Asylum Procedures Directives, as well as the Return Directive, the recast Qualification Directive and the Dublin III Regulation to a lesser extent. The law indicates a lowering of the Belgian standards, often to the minimum set out in the EU Directives. The 393-page bill has brought about a wide array of modifications to the Belgian asylum procedure. The law entered into force on 22 March 2018. The necessary Royal Decrees, such as the one on alternatives to detention, have not yet been adopted.

Asylum procedure

The reform transposes the inadmissibility grounds set out in the recast Asylum Procedures Directive. These introduce new concepts such as “safe third country” as inadmissibility grounds in Belgium. The Commissioner-General for Refugees and Stateless Persons (CGRS) shall decide on the admissibility of applications within 15 working days, or within 10 working days when it concerns subsequent applications, or within 2 days when it concerns subsequent applications from detention.

In some cases, the law permits the removal of an asylum seeker before a court has treated his or her appeal. This is possible for asylum seekers that have submitted a subsequent application when the CGRS has concluded that there is no risk of *refoulement* and (a) either the subsequent application is lodged the same year as the final decision on the previous application and from detention, or (b) the subsequent application is a third or later claim.

A number of changes endanger the right to an effective remedy. The Council of State, which gave a preliminary advice, stated that within the short amount of time it had to analyse the legislative proposals, it could not properly examine whether or not the right to an effective remedy is being upheld. The law complicates the rules around various procedures, it shortens certain appeal periods and in certain cases deprives asylum seekers of a suspensive appeal. As a result, asylum seekers can be removed before the court has ruled on the substance of their case.

Detention of asylum seekers

The reform introduces grounds for detaining asylum seekers during the procedure as set out by Article 8(3) of the recast Reception Conditions Directive. An asylum seeker may be detained where he or she does not cooperate in the establishment of his or her identity, where there is a risk of absconding, where the application is made with a deliberate purpose of delaying or hindering return, or for reasons of public order and national security. The maximum duration of such detention is 2 months, except for cases related to public order and national security where it may be prolonged.

In line with the clarification brought by the Court of Justice of the European Union in the *Al Chodor* case, the law lays down objective criteria for the definition of the “risk of absconding”. However, the definition refers to overly broad criteria such as the making of an application more than 8 days after arrival or non-cooperation with the authorities. Moreover, since there is no definition in the proposal of ‘non-cooperation’ with the authorities, this provision is open for wide interpretation and possible abuse. In total the law sets out no less than 11 criteria for the risk of absconding. Civil society fears that a larger number of asylum seekers will be detained as a result.

[Full report available here](#)

Asylum procedure

The Ministry of Interior reported 2,985 apprehensions in 2017, down from 18,659 the year before. Although zero push backs were officially reported, media sources refer to continued large-scale push backs. The government has also acknowledged that migrants continued to enter through the border fence with Turkey by using ladders and that corruption among the staff of the Bulgarian border authorities contributed to continued human smuggling and trafficking.

Nationalities from countries such as Algeria, Bangladesh, Pakistan, Sri Lanka, Turkey and Ukraine are discriminated and treated as manifestly unfounded, with 0% recognition rates. The same approach is applied to asylum seekers from Afghanistan who were subject to a 1.5% recognition rate in 2017.

Reception conditions

Physical security is not guaranteed in reception centres except for Vrazhdebna shelter in Sofia. Asylum seekers in Voenna Rampa report that outsiders have access to dormitories during night hours without any major obstacles, leading to alcohol consumption, gambling, drug distribution and other illicit trades or disturbances. Verbal and physical abuse, attacks and robbery committed against asylum seekers in the surroundings of Voenna Rampa shelter escalated in 2017.

Following a reform at the end of 2016, asylum seekers are entitled to freely move only in certain zones within the Bulgarian territory, to be indicated in each individual asylum identification card. Consecutive failure to observe the zone limitation can result in asylum detention. It was not before September 2017 that the government formally designated such zones, although this has not been yet applied as a ground for detention in a closed centre.

Detention of asylum seekers

The delays in the release and registration of asylum seekers applying while in pre-removal detention centres exacerbated, rising from 9 days in 2016 to 19 days in 2017.

The most negative development concerned the practice of conducting status determination procedures in pre-removal detention centres, in violation of the law. This was applied to specific nationalities discriminated as “manifestly unfounded”, while courts held that the violation of procedural standards was insignificant as asylum seekers’ rights were not severely affected.

Content of international protection

The Integration Decree adopted in 2016 remained futile and out of use throughout 2016 and 2017, as none of 265 local municipalities has so far applied for funding in order to commence an integration process with any of the individuals granted international protection in Bulgaria. On 31 March 2017, the caretaker Cabinet repealed the Decree without any reasonable justification. A new Decree was adopted on 19 July 2017, which in its essence repeated the provisions of its predecessor. Nevertheless, the situation remained the same without any actual integration activities planned, funded or available. The national “zero integration” situation thus now continues over 4 consecutive years.

[Full report available here](#)

Asylum procedure

The Refugee Reviewing Authority (RRA) still continues to operate and examine asylum applications at second instance. In view of the reduction in staff in recent years due to the prospect of the Authority terminating operations, the backlog is ever increasing and has doubled since last year, from 650 to 1,123 cases at the end of 2017.

During 2017, the RRA decided that all subsequent applications or new elements or findings on a claim must be submitted to the Asylum Service and transferred all its pending cases to the Asylum Service to be examined at first instance. It is not clear if the Asylum Service has agreed to receive and examine these. All such cases are on hold for the moment.

Reception conditions

Reception conditions in the community continue to be inadequate to ensure a dignified standard of living. Further deterioration has been observed with regard to the timely provision of material reception conditions and the ability of asylum seekers to timely secure housing in the community. In addition, conditions in the Kofinou Reception Centre have deteriorated over the course of 2017. Recently, riots have taken place in the centre.

Detention of asylum seekers

In late 2017, the first detention orders under the Refugee Law were published since the article was introduced in October 2016. These are administrative orders and not judicial orders. All detention orders reviewed include only the relevant legal provision, namely detention based on the presumption that the person applied merely to frustrate return procedures, and although it is stated that an individual assessment has been carried out, there are no individual facts or reasons for detention or any other reference, justification or findings of an individual assessment. Furthermore, the detention order refers to “objective criteria” but there is no mention or analysis on what the objective criteria are and how they are applied or justified in the individual case.

The above development also ends the fast-track examination of asylum applications of persons in detention which means that the number of asylum seekers in detention and the duration of their detention will gradually increase over the coming period. Within the first two months of implementation, the number of asylum seekers in detention had risen from an average of 40 persons to 60, whereas the duration had increased from an average of 1.5 months to 3-4 months and counting, as there are indications that asylum seekers may be detained for the entire duration of the asylum procedure.

Content of international protection

During 2017 a policy change was noted whereby beneficiaries of subsidiary protection who submit an appeal before the RRA against the decision that rejected their application for refugee status remain asylum seekers until a decision on the appeal was issued as the decision granting them subsidiary protection is suspended. This does not apply to beneficiaries of subsidiary protection who submit an appeal before the Administrative Court.

[Full report available here](#)

Asylum procedure

Many applications of newly arriving asylum seekers are now processed within a short time-frame, particularly in the so-called arrival centres. In some cases, the complete asylum procedure on the administrative level, from the registration of the application to the handing out of the decision, is dealt with within three or four days.

The quality of decision-making by the asylum authorities has been under particular public scrutiny following a scandal about a German soldier who had been posing as a Syrian asylum seeker, possibly with the aim of carrying out terrorist attacks under this disguise, and who had been granted protection status. Internal investigations of the authorities showed that a high percentage of asylum decisions were considered to be “implausible”. According to media reports, many decision-makers who had been hired in 2015 and 2016 had been on the job for more than a year without completing the in-house training programme. Several hundred of these decision-makers were even reported as not having completed a single training module.

Reception conditions

Following a legislative reform introduced in July 2017, Federal States are now allowed to impose an obligation on applicants to stay in “initial reception centres” for up to 24 months. In principle, Federal States are entitled to impose this restriction on all applicants, subject to some qualifications. At the end of 2017, only one Federal State (Bavaria) had made use of this new regulation by obliging asylum seekers from various countries of origin to stay in certain reception centres. These centres were designated “transit centres” by the Bavarian authorities.

Content of international protection

The high number of decisions being taken by the authorities (more than 600,000), combined with the fact that many asylum seekers such as Syria or Eritrea were granted subsidiary protection status instead of refugee status led to many appeals being filed at courts; over 70,000 such appeals were pending at the end of the year. It also led to a comparably high success rate of appeals; about 40% of appeals, if terminated procedures are not taken into account.

Legal recognition of marriages concluded in other countries has been restricted since July 2017 by the “Law on combating child marriages”. According to this law, marriages concluded in another country are considered invalid in all cases in which one or both of the spouses was younger than 16 years old at the time of marriage. The validity of marriages concluded in another country can be challenged by the authorities and nullified in cases in which one or both of the spouses was between 16 and 18 years old at the time of marriage. If such marriages are declared invalid, spouses below the age of 18 generally have to be treated as unaccompanied children in asylum procedures.

The right to family reunification was suspended for persons with subsidiary protection status throughout 2017. It was then practically abolished for persons with this status with a new law in March 2018. According to this law, only a “humanitarian quota” of family members of persons with subsidiary protection will be allowed to move to Germany from August 2018 onwards.

[Full report available here](#)

Asylum procedure

In 2017, almost 21,258 persons arrived in Spanish shores by boat, leading to a second year of record numbers of arrivals since the “*Crisis de los Cayucos*” in 2006. All persons rescued at sea are issued an expulsion order. If the order cannot be executed within a period of 72 hours, they are transferred to detention in a Detention Centre for Foreigners (CIE) in order to proceed with the expulsion. The majority of migrants who are sent there are eventually not removed from the country.

Delays in registration of asylum applications have persisted in 2017. In the summer, media reports showed long lines of asylum seekers waiting for their appointment to lodge their asylum claim in front of the offices of the Office for Asylum and Refuge (OAR) in Madrid. At the time of writing, the average waiting time for an appointment is 6 months

In 2017, the average duration of the procedure was 9.2 months for Syrians, 16.8 months for Afghans and 20 months for Iraqis. The overall average processing time in 2017 was reported at 431 days or 14.4 months.

The OAR has increasingly applied the “safe third country” concept in 2016 and 2017 in the case of Morocco. These designations have been upheld by several rulings of the *Audiencia Nacional* during this period.

Reception conditions

Since the 2015 increase of available places for refugees’ reception, the Spanish government has reformed the system regarding financing for NGOs service providers for asylum seekers and refugees. Five more NGOs entered the reception system in 2016 and many more in 2017. The reception system now counts 20 organisations.

Detention of asylum seekers

The increase in the number of arrivals of asylum seekers in Madrid Barajas Airport during the summer of 2017, which saw applications quadrupling the number registered in 2016, resulted in overcrowding and inadequate conditions in border facilities at the airport and severe difficulties for the OAR and police to regularly register and process the admissibility of applications, often resulting in allowing entry into the territory before taking a decision on the application under the border procedure. That said, the Ombudsman documented cases of persons who were kept in the airport facility longer than the prescribed time limit under the border procedure.

The number of CIE rose to 9 in 2017, including the provisional CIE established in the prison of Archidona in Málaga. The latter was closed in January 2018 following severe criticism.

CIE have been the object of high public, media and NGO attention during 2017 due to several episodes that took place throughout the year: Barcelona (July 2017), Aluche (October 2017), Murcia (November 2017). Worrying conditions have also been reported in police stations where people are held upon arrival by boat.

[Full report available here](#)

Asylum procedure

Massive and unlawful push backs of migrants have taken place at the Italian border throughout 2017 and led to condemnation by courts. To circumvent the controls set up in Menton, migratory routes have shifted towards riskier journeys through the Alps, near Briançon. Once again police checks and unlawful summary returns have been documented.

Problems in the registration of asylum applications at the “single desks” have not improved from 2016. In most areas, the Prefectures have been unable to register claims within the 3 working day deadline set by the law. To restore the 3-day time limit, the Minister of Interior published a Circular on 12 January 2018 which plans to increase the staff in Prefectures and OFII and to reorganise services. This plan envisages fully open “single desks” every day of the week, as well as overbooking to compensate for ‘no show’ appointments.

Reception conditions

Reception capacity is still insufficient, despite the creation of 25,000 additional accommodation places in 2017, bringing the total number to more than 80,000. Many asylum seekers still live on the streets, especially in Paris. New forms of accommodation have been developed, such as the reception and accommodation programme for asylum seekers (PRAHDA).

Detention of asylum seekers

Following the *Al Chodor* ruling of the CJEU, the Court of Cassation ruled that the detention of asylum seekers under the Dublin procedure is illegal due to the absence of legally defined criteria for a “significant risk of absconding”. In practice, however, some Prefectures continue to order detention of asylum seekers under a Dublin procedure.

In 2017, NGOs have reported Dublin transfers of asylum seekers *de facto* without any judicial scrutiny. In several Prefectures, including Ile de France and Rhône, the asylum seeker is placed in detention on a Friday, to avoid the possibility for him or her to access legal assistance during the weekend, and to carry out the transfer within 48 hours. In these frequent cases, there is no effective appeal for those people. This method of Prefectures circumvents the aforementioned prohibition placed by the Court of Cassation on detaining asylum seekers in Dublin cases.

[Full report available here](#)

Asylum procedure

Cases of alleged push backs at the Greek-Turkish land border of Evros have been systematically reported. According to these allegations, the Greek authorities follow a pattern of arbitrary arrest, *de facto* detention in police stations close to the borders, and transfer to the border, accompanied by the police, where the push backs occur.

Access to asylum on the mainland continues to be problematic throughout 2017. Following pre-registration through Skype, a registration appointment is scheduled within 81 days on average, although there have been cases where the full registration took place more than 6 months after pre-registration.

On 22 September 2017, the Council of State delivered two rulings finding that the claims of two Syrian applicants were inadmissible. It stated that the notion of “protection in accordance with the Geneva Convention” does not require the third country to have ratified the Geneva Convention, and in fact without geographical limitation, or to have adopted a protection system which guarantees all the rights foreseen in that Convention. As regards applications of non-Syrian nationals examined on admissibility, no application has been deemed inadmissible based on the safe third country concept in 2017.

A new medical vulnerability template has been adopted as of the end of 2017 and early 2018 for vulnerability screening in reception and identification procedures on the islands. This template makes a problematic distinction between cases of “medium” vulnerability and “high” vulnerability.

Reception conditions

The “restriction of freedom” within the Reception and Identification Centre (RIC) premises is no longer applied on the islands. Asylum seekers are issued a geographical restriction, ordering them not to leave the respective island until the end of the asylum procedure. On the other hand, persons arriving in the RIC of Fylakio near the Evros land border remain restricted within the premises of the RIC.

Detention of asylum seekers

Asylum seekers who are apprehended outside their assigned island are immediately detained in order to be returned to that island. This detention is applied without any individual assessment and without the person’s legal status and any potential vulnerabilities being taken into consideration. In 2017, a total of 1,197 persons have been returned to the Eastern Aegean islands on that basis.

A “pilot project” is implemented on Lesbos, under which newly arrived persons belonging to particular nationalities with low recognition rates were immediately placed in detention upon arrival and remained there for the entire asylum procedure. While the project initially focused on nationals of Pakistan, Bangladesh, Egypt, Tunisia, Algeria and Morocco, the list of countries has been expanded to 28.

Content of international protection

In February 2018, the Administrative Court of Athens annulled a decision rejecting the application for family reunification submitted by a refugee before the Aliens Directorate of Attica under the pre-2013 asylum procedure.

[Full report available here](#)

Asylum procedure

Push backs and obstacles to access to the territory have continued to be reported by civil society organisations and the Ombudswoman throughout 2017. A tripartite agreement was signed in December 2017 between the Ministry of Interior, UNHCR and the Croatian Law Centre with a view to carrying out 13 border monitoring visits to selected police stations in the course of 2018.

Persisting difficulties have been reported with regard to the registration of applications. The Ministry of Interior discontinued the procedure in 876 out of 1,887 cases of expression of intention to seek asylum on the ground that the persons concerned had left the reception centre before lodging their applications. Barriers to the registration of applications have also been reported with regard to interpretation and persons applying from the detention centre of Ježevo.

Detention of asylum seekers

An increase in detention has been witnessed in 2017, with a total of 134 asylum seekers detained. Practice has also changed insofar as vulnerable persons, including unaccompanied children and victims of trafficking, have been placed in detention in 2017.

Two detention facilities (“transit reception centres”) for irregular migrants have been opened in Trilj and Tovarnik, with a capacity of 62 places each. While the border procedure provided in law is not implemented in those centres, it is not clear whether this will occur in the future, as official information states that these centres will also be used for the detention of asylum seekers.

Content of international protection

An amendment to the Law on International and Temporary Protection entering into force on 1 January 2018 clarifies the conditions for the exercise of the right to accommodation for a maximum period of 2 years for beneficiaries of international protection who do not hold sufficient means of subsistence.

A new Action plan for the integration of beneficiaries of international protection was adopted in November 2017.

[Full report available here](#)



Asylum procedure

Following a reform in March 2017, police are authorised to push back to Serbia across the border fence irregularly staying migrants who wish to seek asylum in Hungary from any part of the country, without any legal procedure or opportunity to challenge this measure.

Asylum applications can only be submitted in the transit zones at the border with Serbia unless the applicant is already residing lawfully in the territory of Hungary. The border and airport procedures are not applicable at the moment. Asylum seekers (except unaccompanied minors below 14 years of age) have to stay in the transit zone for the whole duration of their asylum procedure. From 23 January 2018 only one person is let in each transit zone per day.

Inadmissibility decisions based on Serbia being a safe third country are no longer issued.

The deadlines to seek judicial review against inadmissibility decisions and rejections of asylum applications decided in accelerated procedures are drastically shortened to 3 days. From 2018 court clerks can no longer issue judgments.

Amendments that entered into force in January 2018 describe detailed procedural safeguards for interviewing children, introduce additional safeguards for selection of interpreters and the possibility to choose a case officer and interpreter of the gender of the asylum seeker's choice on grounds that his or her gender identity is different from the gender registered in the official database.

Reception conditions

94% of asylum seekers are detained either in the transit zones or in asylum detention. Asylum seekers in the transit zones are entitled only to reduced material conditions. Subsequent applicants are not entitled to food and other material support such as hygienic packages and clothes. Open reception centres are almost empty. The Körmend tent camp closed down in May 2017.

Asylum seekers no longer have access to the labour market. They are neither entitled to work in the premises of the reception centres nor at any other work place. Education in the transit zones started being provided only in September 2017, but it can hardly be perceived as effective education.

Detention of asylum seekers

All asylum seekers, including unaccompanied asylum-seeking children over 14 years of age and other vulnerable persons, are automatically detained in the transit zones for the whole duration of the asylum procedure, without any legal basis for detention or judicial remedies. Out of 3 asylum detention facilities, only Nyírbátor remains in operation and only very few people are kept there.

In October 2017, the authorities terminated cooperation agreements with the Hungarian Helsinki Committee and have denied access to police detention, prisons and immigration detention. No other organisation conducts monitoring visits in the closed facilities, including the transit zones, that would result in public reports.

[Full report available here](#)

Asylum procedure

With the rollout of the new procedures under the International Protection Act (IPA), the newly-instated International Protection Office (IPO) announced transitional arrangements whereby all persons who had lodged an application under the old procedure and had not received a final decision on their case, would be brought back into the IPO for another interview under the single procedure. The IPO, in consultation with UNHCR Ireland, developed prioritisation guidelines setting out how cases would be scheduled during this transitional period. As of December 2017, on the basis of information received at a meeting between IPO and stakeholders working with people in the asylum process, the IPO was still processing many of the transitional cases, resulting in substantial delays for anyone who makes a new application under the IPA. The IPO indicated to stakeholders that new applicants could be waiting at least 20 months before being scheduled for a substantive interview.

Reception conditions

To date, Ireland had chosen not to opt in to either version of the EU Reception Conditions Directive. The rationale provided for this decision was that transposing the right to work, as contained within the Directive, would generate a 'pull factor', resulting in an increase in asylum applications in the State. The Irish Supreme Court dealt with Ireland's prohibition on employment for asylum seekers in the case of *N.V.H. v Minister for Justice & Equality*, which in its judgment of 30 May 2017 declared the existing prohibition on employment to be unconstitutional.

The State was provided with six months to respond to the Court with a solution, which it did in November 2017 by announcing that it would provide a legislative framework for employment for asylum seekers by opting in to the recast Reception Conditions Directive. Opt-in is not actually envisaged until at least June 2018, provided the European Commission is satisfied that Ireland has met the compliance standards for opt-in. This will also be the first time that Ireland has put accommodation of asylum seekers on a legislative footing, which is likely to have a profound impact on the quality of reception conditions in Ireland generally.

Detention of asylum seekers

In July 2017, the Department of Justice stated that work on the dedicated facility was expected to begin on site at Dublin Airport in September 2017 with an estimated timeframe of 10 months before becoming operational

[Full report available here](#)

Asylum procedure

Severe obstacles continue to be reported with regard to access to the asylum procedure. Several Questure such as Naples, Rome, Bari and Foggia have set specific days for seeking asylum and limited the number of people allowed to seek asylum on a given day, while others have imposed barriers on specific nationalities. In Rome and Bari, nationals of certain countries without a valid passport were prevented from applying for asylum. In other cases, Questure in areas such as Milan, Rome, Naples, Pordenone or Ventimiglia have denied access to asylum to persons without a registered domicile, contrary to the law. Obstacles have also been reported with regard to the lodging of applications, with several Questure such as Milan or Potenza refusing to complete the lodging of applications for applicants which they deem not to be in need of protection.

Since December 2017, a specific Dublin procedure has been set up in Questure in the Friuli-Venezia Giulia region with support from EASO. According to that procedure, as soon as a Eurodac 'hit' is recorded, Questure move the lodging appointment to a later date and notify a Dublin transfer decision to the persons concerned prior to that date. Applicants are therefore subject to a Dublin transfer before having lodged their application, received information on the procedure or had an interview.

Law 47/2017 has laid down rules on age assessment which apply to all unaccompanied children. Currently, however, age assessment is conducted only wrist X-ray, the margin of error is not written on the report and the decision is notified many months later or not even adopted. Moreover, the benefit of the doubt principle is not observed.

Reception conditions

Despite a continuing increase in the capacity of the SPRAR system, which currently counts over 35,000 funded places, the vast majority of asylum seekers are accommodated in temporary reception centres (CAS). CAS hosted around 80% of the population at the end of 2017. In Milan, for example, the ratio of SPRAR to CAS is 1:10. At least 10,000 persons are excluded from the reception system. Informal settlements with limited or no access to essential services are spread across the entire national territory. Médecins Sans Frontières (MSF) has also reported an increase in Dublin returnees among the homeless migrants they assisted in Rome in 2017.

Detention of asylum seekers

Five pre-removal centres (CPR) are currently operational, while a new hotspot has been opened in Messina. The hotspots of Lampedusa and Taranto have been temporarily closed as of March 2018.

Content of international protection

As part of the implementation of the Qualification Decree, the Ministry of Health published on 22 March 2017 the Guidelines for the planning of assistance and rehabilitation as well as for treatment of psychological disorders of refugees and beneficiaries of international protection victims of torture, rape or other serious forms of psychological, physical or sexual violence. At the moment, the guidelines seem to be applied in Rome and Parma, while an operating protocol is about to be signed in Trieste and Brescia.

[Full report available here](#)

Asylum procedure

Following changes in the Refugee Commissioner's policy, asylum seekers now automatically receive, along with the decision and the interview notes, the assessment memo explaining in details the motivation of the decision. This constitutes a real improvement in the applicants' rights to access their file and access effective remedy.

The Dublin procedure is carried out by the Refugee Commissioner as of 2017. Following an amendment to the Refugees Act in April 2017, appeals against decisions taken under the Dublin Regulation are now possible through the filing of an appeal before the Refugee Appeals Board, which has taken over responsibility from the Immigration Appeals Board.

According to NGOs assisting asylum seekers, the Refugee Commissioner started using the accelerated procedure in 2017 concerning nationals of safe countries of origin, to dismiss their claims as inadmissible. A total of 246 applications were dismissed as inadmissible in 2017.

The provision of information on the Dublin procedure has improved. The Refugee Commissioner provides to asylum seekers for whom a Dublin transfer is considered a document explaining the Dublin procedure and the fact that their case is on hold until a possible Dublin decision is taken. This document is a standard information sheet but does provide individualised information to whom it is given.

Reception conditions

The Initial Reception Centre, where irregularly arriving asylum seekers are accommodated for a couple of days upon arrival, operated as a closed centre until September 2017. Following a change in policy it is now open.

Detention of asylum seekers

In 2017, due to the very small number of boat arrivals, only 43 asylum seekers were detained in the course of the year. Almost all of them have been released after 2 or 3 months following the first review of their detention. According to the authorities, the average period of detention was 56 days in 2017. NGOs remain concerned about access to effective remedy for detained applicants.

[Full report available here](#)

Netherlands

Dutch Council for Refugees



Asylum procedure

In April 2017, the Council of State referred preliminary questions to the CJEU on whether an appeal with the Council of State against the rejection of an asylum application as such has automatic suspensive effect. The Council of State involved in this matter the Returns Directive and Article 47 of the EU Charter regarding the right to an effective remedy. The CJEU has not issued a decision on this yet.

Article 40(4) of the recast Asylum Procedures Directive states that Member States may provide that a subsequent application for international protection will only be further examined if the asylum seeker concerned presents new elements or findings which could, through no fault of his or her own, not have been presented in a previous procedure; this is called “*verwijtbaarheidstoets*”. This provision is not explicitly and separately transposed into Dutch law, and courts debated on whether this was necessary. The Council of State ruled that this was not.

The Council of State ruled in four cases regarding the criteria for applying the “safe third country” concept. In these cases the Council of State judged that a third country could be considered as a safe third country only when the asylum seeker is admitted to the third country. Furthermore, it held that the Secretary of State is allowed to consider a third country as a safe on the basis of country of origin information, but this information should also be transparent and apply to the asylum seeker in the individual case. The Council of State affirmed that Article 38 of the recast Asylum Procedures Directive does not require the third country to have ratified the Refugee Convention. Nevertheless, the third country should abide to the principle of *non-refoulement*.

Reception conditions

Extra Guidance and Supervision Locations (EBTL) were installed as a special reception centre for asylum seekers who have caused tension or any form of nuisance at an AZC, for example by bullying other inhabitants, destroying materials, exhibiting aggressive behaviour or violating the COA house rules. Two such facilities were opened at the end of 2017.

Content of international protection

As of 1 February 2018, a new pilot *logeerregeling* will come into effect until January 2019. The goal of the new *logeerregeling* is to assess whether stay with families and friends has a positive effect on the integration and participation of beneficiaries in society.

The Coalition Agreement of October 2017 has announced restrictions to social assistance for beneficiaries of protection. Beneficiaries will no longer be eligible for the social benefit, rent benefit and health care benefit during the first 2 years of their legal stay in the Netherlands. Instead they will receive services by the municipalities such as housing, a healthcare insurance and assistance in the integration process in kind. In addition, beneficiaries of international protection will receive an allowance. It remains to be seen whether this agreement is actually going to be converted into law.

[Full report available here](#)

Asylum procedure

Systematic push backs at the border-crossing point of Terespol have remained the main issue facing asylum seekers in 2017. Four cases have been referred to the European Court of Human Rights. In all cases the Court granted interim measures under Rule 39 of the Rules of the Court, indicating to the Government that the applicants should not be removed to Belarus. According to Warsaw Bar Council, HFHR and Association for Legal Intervention, Poland did not comply with the measures and returned the applicant to Belarus. The Ministry of Foreign Affairs stated that the person was not returned since he had not been admitted in the first place. In its statement, the Ministry noted that the foreigner had not crossed the Polish border and was hence not expelled and had not filed an application for international protection during a border check. The Ombudsman has also intervened in the cases of non-compliance with the measures issued by the ECtHR.

Reception conditions

At the end of 2017 one of the NGOs providing pre-school care in reception centres stated that as a result of the lack of financing due to the suspension of AMIF it cannot continue to provide services in Linin and Dębak. The organisation has been providing this assistance everyday for 8 hours for two years, and also equipped the rooms for kindergarten in the two centres. The Office for Foreigners explained, however, that kindergarten in Linin and Dębak will not be closed and that pre-school care will be organised by the Office itself.

Detention of asylum seekers

In September 2017, the Ombudsman published a report within the National Mechanism for the Prevention of Torture, in which cases of improper detention of Dublin eturnees with PTSD were described. According to the report, the problems occurred due to numerous procedural shortcomings during the transfer of families to Poland by the German police as well as due to 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.

The Ombudsman has recently published reports of monitoring visits to the guarded centres of Przemyśl and Krosno Odrzańskie. The report on Przemyśl expresses concerns about the state of the facility and the standard practice of Border Guard officers equipped with electric rifles. As regards Krosno Odrzańskie, the Ombudsman has criticised searches in undignified conditions, restrictions on foreigners' access to the internet, as well as limitations on access to psychological assistance and ineffective identification of special needs. In the guarded centre for foreigners in Przemyśl, compulsory schooling is implemented as of January 2018.

[Full report available here](#)



Asylum procedure

While in recent years asylum seekers in a Dublin procedure were systematically offered a personal interview, the information available to the Portuguese Refugee Council (CPR) in 2017 no longer confirms this assessment. During the year, CPR was informed by the Aliens and Borders Service (SEF) of 104 transfer decisions of adult applicants but only of 39 individual interviews, raising the question of whether the gap is related to a failure in communicating the interviews in accordance with the law or the lack of individual interviews altogether.

A ruling of the Central Administrative Court of Lisbon from November 2017 considered the transit and the holding of a 3-month visa as evidence of a sufficient connection between the applicant and the third country concerned on the basis of which it would be reasonable for that person to go to that country.

Reception conditions

At the end of April 2017, CPR could no longer accept new arrivals due to overcrowding, as at the time the centre was offering accommodation to 102 persons, far beyond its capacity. Additionally, 159 persons stayed in hostels or rooms paid by CPR due to the lack of capacity in the centre. Only vulnerable cases such as women with young children – 47 in total – were accepted in the Centre for Asylum Seekers (CAR) during that period. The CAR reopened in June 2017 following the transfer of several asylum seekers to housing provided by other providers. Systematic overcrowding has put severe strains on the living conditions and access to services, despite the continuous efforts to accommodate specific needs both at CAR and in external accommodation.

In July 2017, the Parliament commissioned an evaluation of the reception of relocated asylum seekers in Portugal.

Detention of asylum seekers

A very significant percentage of vulnerable applicants such as unaccompanied children, families with children and pregnant women were detained and subject to the border procedure in 2017. CPR continued to observe long waiting periods between asylum applications filed by unaccompanied children and families with children at border points, and their entry into the national territory and referral to reception centres.

[Full report available here](#)

Asylum procedure

Increasing obstacles have been reported with regard to access to the territory in the course of 2017. A total of 1,386 cases considered as collective expulsions were documented on the Serbian border from April to December 2017. Romania has witnessed an increase in sea arrivals through the Black Sea in the second half of the year. The persons who have entered Romania by sea have stated that they were not informed about the asylum procedure in Romania by the Coast Guard and Border Police. The Coast Guard reportedly only inquired into their destination and not into the reasons why they fled.

Following high numbers of arrivals, the number of asylum seekers applying for protection in Romania has more than doubled from 1,880 in 2016 to 4,820 in 2017. The vast majority of applicants originated from Iraq, followed by nationals of Syria, Afghanistan and Pakistan. For three weeks in August 2017, the Regional Centre of Timișoara encountered an increased number of asylum seekers. Groups of 20 to 100 persons were brought in the centre.

Courts' practice with regard to the suspension of Dublin transfers to Bulgaria was not uniform in 2017. Whereas the Regional Courts of Bucharest District 4, Galați and Baia Mare have halted transfers on the basis of evidence that applicants would face ill-treatment upon return, the Regional Courts of Rădăuți and Timișoara have dismissed appeals in related cases.

Reception conditions

Improvement in the state of accommodation facilities was noted in Timișoara and Șomcuta Mare, which were renovated in 2017. Nevertheless, deficiencies in hygiene are reported in a number of centres, including bed bugs and poor condition of mattresses in Timișoara and Bucharest, lack of central heating and very poor condition of bathrooms in Giurgiu, as well as shortage of cleaning products and overused appliances and unsanitary conditions in kitchens in Rădăuți.

Since 2017, asylum seekers have access to a doctor in most centres except for Rădăuți. A general practitioner was hired in Timișoara until December 2017. Bucharest had hired a psychologist until September 2017.

Detention of asylum seekers

The overall number of persons placed in detention centres ("public custody") in 2017 was 690, including but not limited to asylum seekers. Moreover, six persons applied for asylum from penitentiary facilities.

Whereas previously families with children were not detained in practice, they are now held in detention centres. A mother and her 2-year-old daughter, who arrived in Romania on 6 September 2017 by boat, were detained in the Arad detention centre as they did not make an asylum claim from the outset.

Content of international protection

As of 2017, family reunification applications are processed by the General Inspectorate for Immigration's Directorate of Asylum and Integration (IGI-DAI) in all Regional Centres. A total of 71 applications were submitted in 2017, 28 were approved, 4 were rejected and 39 were pending.

[Full report available here](#)

Sweden

Lisa Hallstedt & Swedish Network of Refugee Support Groups (FARR)



Asylum procedure

The Parliamentary Ombudsman (JO) has recommended the Migration Agency to establish a system of monitoring the documents, skills and/or deficiencies of public counsel appointed to asylum seekers. Following JO criticism, the Migration Agency issued an internal instruction in 2017 on qualifications needed in order for the Agency to appoint a person as legal counsel.

The Quality Assurance Unit of the Migration Agency has issued a standard on the identification of vulnerabilities and special procedural and reception guarantees in September 2017. Under the standard, all Migration Agency staff are required to report vulnerabilities in an official note that is fed into a common database, mentioning at which stage in the procedure vulnerability is observed and what measures this has led to. It is stressed that a vulnerability assessment must always be made in the initial process. This standard will be monitored by the Quality Assurance Unit of the Migration Agency to evaluate whether assessments of special needs have been made in all cases, how the documentation of these needs has been recorded and what measures have ensured from the assessment.

The National Board of Forensic Medicine (RMV) has introduced a new medical age assessment method, based on an examination of wisdom teeth and knee joints. Out of 9,617 forensic opinions issued in 2017, 8,007 found the person to be aged 18 or over, while another 119 relating to girls found the person to be possibly over 18. The methods of age assessment have been heavily criticised by the media, the medical community and even by those obliged to carry out the tests. Specific concerns on the age assessment of girls had led to a suspension of age assessments in November 2017, but tests have been resumed following the introduction of new RMV guidelines for testing female asylum seekers.

Detention of asylum seekers

In 2017, a total of 4,379 persons were detained, including: 78 children of which 35 girls and 43 boys; 4,301 adults of which 491 women and 3,810 men. During long periods throughout 2017, all places have been in use in the detention centres, thereby affecting the possibility of issuing detention orders. The number of places is set to increase considerably in 2018. In preparation for the year, capacity for 30 permanent and 30 temporary detention places has been secured, while 40 more temporary detention places have been secured in Flen. There are plans for a new, permanent centre in northern Sweden.

Content of international protection

A new precedent-setting ruling was handed down by the Migration Appeal Court on 5 March 2018, stating that for refugees and their nuclear family the level of proof of identity can be relaxed because it is unreasonable to expect them to approach their national authorities to obtain a passport and thereby endanger the situation of remaining family members in the country of origin. It is sufficient in such cases for a DNA test to be taken as a first instance measure. This decision does not apply automatically to beneficiaries of subsidiary protection according to the Court and DNA tests are of no help if a couple has no children but are still in a stable relationship.

[Full report available here](#)

Asylum procedure

Procedures before the Migration Office were not subject to substantial delays in 2014 and 2015, when the numbers of asylum applications were very low (385 in 2014, 277 in 2015). However, due to a relative increase in 2016 (1,308 applications) and 2017 (1,476 applications) the length of procedures has become a major problem. In the second half of 2016, more than one third of asylum applicants in Slovenia had been waiting for a first on-merit decision for more than six months and this trend continued in 2017. Asylum applicants can wait for up to 18 months for a first instance decision.

The Court of Justice of the European Union (CJEU) delivered a key ruling concerning Slovenia in relation to the Dublin Regulation. Slovenia issued 742 outgoing Dublin requests and implemented 50 transfers, while it received 657 requests and 51 transfers in the course of 2017. The majority of outgoing Dublin procedures concerned Bulgaria and Croatia.

Until the end of 2017, Slovenian authorities had still not started issuing decisions in the cases of persons fleeing Turkey in the wake of the attempted coup d'état of July 2016. Turkey was the fourth main nationality of asylum seekers, representing 102 of the 1,476 applications registered in 2017. Many Turkish applicants, including families with children, have been waiting for the conclusion of their cases for more than one year, without any substantial explanation for the delay on the part of the authorities. The first decisions started being issued in February 2018 and most were negative.

Reception conditions

The Government Office for Support and Integration of Migrants (OUIM) established in 2017 is now the responsible entity for accommodation and reception of asylum seekers, as well as integration of beneficiaries of international protection.

After the conclusion of a pilot project on the reception of unaccompanied children, the Student Dormitory Postojna currently serves as the sole accommodation facility for unaccompanied children. In November 2017 the government established an interdepartmental working group to develop a systemic solution of accommodation and care of unaccompanied children, based on the outcome of the pilot project and other experience.

Detention of asylum seekers

A total of 48 applicants were detained in 2017, mainly in the context of Dublin procedures. Case law from the Administrative Court has laid down strict criteria for detaining asylum seekers for the purpose of a Dublin transfer on the basis of a “significant risk of absconding”, in line with the *Al Chodor* ruling.

Content of international protection

Beneficiaries of international protection from some countries face severe obstacles to accessing family reunification. 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 official documents is difficult or impossible. So far, all Eritrean nationals arriving in Slovenia through relocation have had their family reunification applications rejected on that basis.

[Full report available here](#)

Asylum procedure

Following a consultation with key stakeholders in September 2016, in November 2017 the Home Office finally issued guidance on the operation of the Dublin III Regulation. In February 2018, the government published up-to-date Dublin statistics for the first time, having previously referred enquirers to Eurostat figures, even as recently as in responses to parliamentary questions in January 2018.

Following the High Court's 2016 ruling that the Home Office had acted unlawfully in detaining a young asylum applicant merely on an officer's 'reasonable belief' that the claimant was an adult (which was subsequently upheld in the Court of Appeal in February 2017), Home Office guidance on age assessment was amended on 26 February 2018 to reflect this judgment. The revised guidance also contains changes that NGOs have called for in recent years: unless the claimant is being treated as adult under the 'significantly over 18' policy outlined above, the authorities are required to record the stated age given by the child until a final assessment has concluded differently. It also contains clearer guidance on how a decision on age affects credibility in an asylum claim.

Reception conditions

A small rise has been introduced in the weekly allowance granted to destitute asylum seekers, known as Section 95 support.

Detention of asylum seekers

Policy guidance issued in response to a 2016 review of the treatment of vulnerable people in detention (the Shaw Review) actually made it more difficult to secure the release of vulnerable detainees based for example on their experiences of torture or of their deteriorating mental health. The definition in the Adults at Risk policy was more limited than that provided in the UN Convention against Torture (UNCAT). In a case brought by Medical Justice the definition in this new policy was challenged; the case was heard in March 2017 and judgment delivered in October 2017. At an early stage of the case the Home Office was ordered to revert to the more generous UNCAT definition, which as the case was successful, remains the policy.

Content of international protection

A change in policy announced in 2017 should ease access to social assistance. From 8 January 2018 the Residence Permit will have the National Insurance Number printed on it, which should reduce delays in making welfare benefit claims. The issues relating to opening bank accounts and finding enough money to secure private rented housing (which require an upfront fee) remain unresolved. A new way of administering welfare benefits is being phased in to all Job Centres across the country. This has inbuilt waiting times and applications can only be made on time, which has resulted in further hardship.

[Full report available here](#)

Asylum procedure

In October 2017, the Federal Court ordered the Federal Administrative Court (the only asylum appeal body) to waive the requirement of an advance payment for unaccompanied asylum-seeking children in appeal procedures. According to the Court, the present practice of the Federal Administrative Court in requiring an advance payment in such situations constitutes a measure that disproportionately restricts access to justice for unaccompanied asylum-seeking children.

As part of the restructuring of the asylum procedure, the Stat Secretariat for Migration (SEM) confirmed the implementation of another pilot phase in the federal centres of Boudry (canton of Neuchâtel) and Chevrières (canton of Fribourg), both located in the French-speaking part of the country. This new pilot project, also based on the accelerated procedure, will start in April 2018.

Detention of asylum seekers

In a Dublin case concerning an Afghan family, the Federal Court ruled that the order of administrative detention pronounced by the canton of Zoug against parents whose three young children were simultaneously subject to a placement in a foster care, constituted a violation of the right to family life. In this judgment of 28 April 2017, the Federal Court recalled that such a measure is only admissible as an *ultima ratio* and after a thorough examination of other less coercive measures.

[Full report available here](#)

Legislative work on the new Asylum Act was initially foreseen for 2016 but has since been delayed as a result of parliamentary elections and other issues which took priority in Parliament. The draft was delivered to the Parliament in October 2017, and it is reasonable to assume that it will be adopted in 2018.

Asylum procedure

Push backs at the border have continued in 2017. The Ministry of Defence reported in July 2017 that more than 21,000 persons had been prevented from illegally crossing the border from Bulgaria and the Former Yugoslav Republic of Macedonia (FYROM).

The Asylum Office has continued the automatic application of the “safe third country” concept to dismiss asylum applications. 56 dismissal decisions were delivered in 2017. This practice was also enforced by the Asylum Commission, which delivered 56 decisions upholding the “safe third country” concept. Only in one case relating to an Afghan national did the Asylum Office enlist the reasons why Bulgaria could not be considered a safe third country, leading to a positive decision.

Content of international protection

The impossibility of receiving a travel document for asylum beneficiaries still remains a problem at the time of writing. The Belgrade Centre for Human Rights submitted the application to ECtHR claiming that persons who do not possess refugee travel documents are deprived of right to freedom of movement. The case is yet to be communicated.

[Full report available here](#)

Turkey

Independent

An amendment to the law by Emergency Decree No 676, adopted on 29 October 2016, introduced derogations to the principle of *non-refoulement* for cases concerning individuals who lead, participate in or support a terrorist organisation or a benefit-oriented criminal group, pose a threat to public order or public health, or have relations with terrorist organisations. Persons falling under those categories may be deported even where they have a pending international protection procedure or benefit from international protection or temporary protection. While some Administrative Courts have halted deportations in some cases, the *non-refoulement* principle is not uniformly applied in Administrative Court reviews. The Constitutional Court has issued interim measures in different to prevent deportations where a risk of *refoulement* has been identified.

International protection

Pre-removal detention is applied *inter alia* to persons issued a foreign terrorist fighter code (“YTS89”). The code seems to be applied widely, with approximately 67,000 persons issued such a code in 2017. At the same time, persons apprehended outside their “satellite city” may be detained in order to be transferred thereto. It nevertheless appears that detention is imposed on applicants who violate residence restrictions with varying rigour, often depending on the profile of the individual.

The detention infrastructure of Turkey is increasingly expanding, with a total 18 Removal Centres reaching a total capacity of 8,276. According to the observations of lawyers, it seems that different categories of persons are detained in different Removal Centres. For example, Edirne mainly accommodates irregular migrants intercepted while attempting to leave Turkey, while Hatay, Erzurum and Gaziantep accommodate migrants identified as foreign terrorist fighters (“YTS89”). However, Removal Centres face capacity issues at the moment. Another 16 Removal Centres totalling 7,400 detention places are planned to be established.

Temporary protection

Provincial Directorates of Migration Management (PDMM) have taken over the pre-registration phase of temporary protection registration as of November 2017. More recently, however, the province of Hatay has suspended registration of temporary protection beneficiaries due to the high number of persons already registered and challenges in the provision of public services. A similar suspension has been reported in Istanbul, albeit denied by the authorities.

Following an amendment to the Temporary Protection Regulation by Regulation 2018/11208 of 16 March 2018, responsibility for the management of Temporary Accommodation Centres and provision of services such as health care lies with Directorate General for Migration Management.

As of 2017, the right to family reunification has been almost entirely suspended in Turkey. According to the observations of lawyers, PDMM do not allow international and temporary protection beneficiaries to apply for family reunification, unless the sponsor has been accepted for resettlement in another country and the family is to join him or her before departure.

A Regulation on Work Permit of Foreigners under Temporary Protection was adopted on 15 January 2016, regulating the conditions and procedure for obtaining work permits. Despite this legal framework, temporary protection beneficiaries in Turkey continue to face widespread undeclared employment and exploitation, including child labour.