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Spring 2016

# Embracing the Long Term

A Comparative Study of European  
Best Practices for the Bulgarian State  
Agency for Refugees

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## Executive Summary

The massive influx of refugees into the European Union (EU) over the past few years has strained resources, heightened social tensions, turned a few politicians into role models and a greater number into villains, and threatened to tear the once-stable union apart at the seams. Yet our research shows that EU member states are rising to meet the challenges posed by these issues. Successful, practical policies – “best practices” – that meet the needs of both asylum seekers and the host country can and should be replicated throughout Europe.

Great policies are those that go above and beyond the minimum protection stipulated under European directives. These policies view asylum seekers not as a threat to jobs or social order, but as people in need of international protection and who wish to become integral and productive members of society in their new homes, whether those are temporary or more permanent. Bulgaria currently is home to several of these best practices, in particular in the area of family tracing and reunification; we present this study in the hopes that Bulgaria will further improve its asylum and refugee system by adopting and establishing other best practices. **By doing so, Bulgaria can set a promising precedent and become a model for the rest of the continent.** In response to research questions from the Bulgarian State Agency for Refugees (SAR), this report details European best practices in three areas: implementation of Article 8 of the European Union Recast Reception Directive 2013/33/EC on detention of asylum seekers by European countries; care for unaccompanied minors (UAMs), particularly with respect to the provision of legal guardians; and family reunification and mechanisms for tracing family members of asylum seekers. This report also forecasts worldwide and European trends in migration and asylum and proposes several recommendations to prepare Bulgaria with improved reception and integration systems.

**Detention:** First impressions are crucial. Consequently, the manner in which asylum

seekers are treated on arrival can dictate their entire lives in Europe. Consequently, this report recommends improvements to Bulgaria’s refugee reception and integration systems as well as alternatives to detention to ensure that asylum seekers are only detained as a last resort under limited conditions pursuant to due process. Bulgaria currently has a system of periodic reporting requirements that can be used in lieu of detention; this system should be strengthened. In extreme cases – for example if an asylum seeker has committed a crime – detention may be warranted. Nevertheless, restrictions must be placed on the use of detention. In particular, the detention of UAMs should be explicitly banned, as should the detention of victims of trafficking, torture, and sexual violence. UAMs should instead be placed in specialized facilities with designated care workers where access is restricted to relatives and licensed employees; the same holds for victims of trafficking, torture, and sexual violence. Even for the limited cases where detention is applied, it must have a defined maximum duration that is as short as possible. If an individual is being detained for deportation, they should be released if return to their home country is impossible within a given time frame.

**Unaccompanied Minors:** Children arriving in Bulgaria without the support of relatives need special assistance. In Bulgaria, as is common elsewhere in Europe, children are disappearing from reception centers at an alarming rate. SAR should therefore find a way to provide 24-hour supervision of UAM asylum seekers, ensure that guards and social workers are notified when UAMs enter and leave the facilities, and monitor those that accompany them. If a child does not return, local police should be notified. Such controls can aid in the reduction of disappearances.

Accommodations for UAMs should be located in settings that allow for interaction with the local population and easy access to mainstream schools. UAMs should be allowed and encouraged to participate in social activities in care facilities, in mainstream schools, as well as in age-appropriate activities organized in the

surrounding community to foster their social development and integration into society. Language classes in particular should have a clearly defined curriculum. SAR should formalize partnerships with NGOs to regularly provide these services and clearly communicate their availability to both staff and children.

Arbitrary pairing of UAMs with non-relative travel companions who share no connection puts them at risk of exploitation. SAR should therefore devise a formal identification system for UAMs and should ensure they are identified as such and placed in appropriate care facilities rather than in the company of strangers.

**Family Reunification:** Bulgaria is a leader for the rest of the EU in family reunification strategies; it should therefore collaborate more with other EU member states. Through transnational communication with other agencies, family tracing can become more efficient.

**Reception:** SAR's reception centers for asylum seekers currently fulfill their objective; however, several small policy changes could yield large improvements. First, SAR should establish a formal schedule of regular information sessions within reception centers, focusing on opportunities for integration into and participation in Bulgarian society. Second, mandatory mental health assessments in addition to the physical check-up at registration would protect asylum seekers with particular vulnerabilities. Individualized care is essential. A system is also needed to identify and support individuals who have experienced gender-based violence. Finally, SAR should strive to provide a certain base level of services in the reception centers, including education, social activities, and cultural mediation to facilitate asylum seekers' adaptation to their new surroundings and to prevent further trauma. A transparent bidding procedure for NGOs or other private actors to provide these services could improve cost effectiveness.

**Looking Ahead:** In the next decade integration of asylum seekers and refugees into local communities will be vital for all EU member states; Bulgaria should enact more policies that have integration as a long-term goal.

Numerous funding mechanisms are provided by the EU and the European Commission that finance integration programs. Planning for the application for these funds should become a staple agenda item at the monthly coordination meetings between SAR and NGOs.

Adequate education is an essential prerequisite for integration. Refugees should therefore have access to basic levels of Bulgarian language classes upon arrival in Bulgaria, even before refugee status has been granted; these classes should have clearly defined curricula that prepare children to enroll in age-appropriate classes at mainstream schools and that prepare adults for the labor market. Moreover, SAR should work with the Ministry of Education to design a standardized test of educational equivalency for refugees to admit them to the proper levels.

Finally, an increase in xenophobic speech and actions is an extremely alarming trend throughout Europe, including in Bulgaria. Together with UNHCR and relevant Bulgarian government agencies, SAR should design a public relations campaign specific to the Bulgarian context to combat this trend.



## List of abbreviations

AMIF	Asylum, Migration, and Integration Fund
ATD	Alternatives to Detention
BHC	Bulgarian Helsinki Committee
BIA	Best interests assessment
BIC	Best interests of child
BID	Best interests determination
BRC	Bulgarian Red Cross
CDU	Christian Democratic Union of Germany
CRC	Convention on the Rights of the Child
EC	European Commission
ECFR	European Charter of Fundamental Rights
EIF	European Integration Fund
ESF	European Social Fund
EU	European Union
FRD	Family Reunification Directive
GBV	Gender-based violence
IOM	International Organization for Migration
LAR	Law on Asylum and Refugees of Bulgaria
LFN	Law on Foreign Nationals of Bulgaria
LGBTI	Lesbian, gay, bisexual, transgender, and intersex
MoE	Ministry of Education of Bulgaria
MoI	Ministry of Interior of Bulgaria
NGOs	Non-governmental organizations
RSD	Refugee status determination
SACP	State Agency for Child Protection of Bulgaria
SAR	State Agency for Refugees of Bulgaria
SIPA	School of International and Public Affairs
UAMs	Unaccompanied minors
UNHCR	United Nations High Commissioner for Refugees

## Section I: Introduction

The European Union (EU) has struggled to cope with the unprecedented increase in arrivals of refugees and other migrants since 2013. All member states have experienced significant political, social, and resource constraints in coping with this influx. Yet practical solutions to these challenges exist. Best practices can be found throughout Europe that simultaneously uphold national security, economic efficiency, international law, and human dignity.

Bulgaria's border with Turkey, a major congregation point for people fleeing conflict and turmoil in the Middle East, North Africa, and South Asia, makes Bulgaria particularly sensitive to any change in migratory flows toward Europe. As the political and economic situation throughout the region becomes increasingly volatile and the European response remains unpredictable, the State Agency for Refugees of Bulgaria (SAR) – the principal government authority overseeing the asylum procedure and reception of refugees – is faced with new challenges in fulfilling its mandate. SAR has therefore requested Columbia University's School of International and Public Affairs (SIPA) Team of Researchers (the Team) to analyze EU best practices in three particular areas of refugee policy:

1. The implementation of Article 8 of the European Union Recast Reception Directive 2013/33/EC on detention of asylum seekers by European countries;
2. Care for unaccompanied minors (UAMs), particularly with respect to the provision of legal guardians;
3. Family reunification and mechanisms for tracing family members of asylum seekers.

Through this report the Team provides concrete recommendations to SAR with respect to the above, as well as in other selected pertinent areas where international best practices show high potential rewards – both for the agency and for Bulgaria.

## The Team

SIPA sends teams of graduate student consultants to work on targeted policy-oriented Capstone projects with international clients, including foreign and U.S. government agencies, multilateral institutions such as the United Nations and the World Bank, major international non-governmental organizations, as well as financial services firms and other private sector actors. These teams are made up of researchers from diverse backgrounds, each bringing unique perspectives and competencies to the task at hand.

The Team consulting SAR consists of nationals from six countries with experiences working on a range of refugee- and migrant-related issues in countries including Japan, Turkey, Haiti, Thailand, Norway, and Iraq. Team members brought a variety of viewpoints from the security, economics, international development, humanitarian, and human rights spheres, and they were advised by Robin S. Brooks, Ph.D., Davis Fellow at Columbia University SIPA, on sabbatical from the U.S. Department of State.

## Methodology

The following report is based on a comparative desk review of international best practices relating to the reception, treatment, and integration of asylum seekers, as well as the implementation of EU and international humanitarian law. Recommendations are furthermore guided by interviews with key stakeholders in Bulgaria, including government agencies such as the State Agency for Child Protection (SACP); NGO service providers such as the Bulgarian Red Cross (BRC), Caritas International, and the Bulgarian Helsinki Committee (BHC); reception center management and staff from Voenna Rampa, Ovcha Kupel, Harmanli, and Pastrogor Transit Center; multilateral organizations such as the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM); and the European Commission (EC). The Team also had informal conversations with volunteers, refugees, and persons granted asylum in



Bulgaria. In New York, the Team met with the Permanent Mission of Bulgaria to the United Nations.

On March 16, the Team presented preliminary comparative findings as part of a panel discussion in Sofia organized by the Bulgarian Fulbright Commission on the current refugee situation. Other speakers included Deputy Minister of the Interior Dr. Philip Gounev, the aforementioned Dr. Brooks, and Bulgarian human rights lawyer Diliانا Markova.

Source material can be divided into four groups: international law, Bulgarian contextual information, refugee policy and practice in European and non-European countries, and international policy challenges and suggested solutions. The team leveraged its many language competencies in conducting its analysis to access a greater volume of sources, including those in Bulgarian, French, Swedish, Turkish, Norwegian, Danish, Latvian, Spanish, and German.

All recommendations that follow in this document are made with Bulgaria's particular political, socioeconomic, and cultural realities in mind.

## Report Structure

This report is divided into five main sections. It analyzes each particular area requested by SAR in its own section: 1) the issue of detention and implementation of Article 8 of the EU Reception Directive; 2) care for UAMs; and 3) family reunification. Each of these sections outlines international, regional, and national best practices that should act as benchmarks and recommendations for national policy review and implementation. They are followed by a short list of highlighted recommendations.

The fifth section outlines additional recommendations based on Team findings in Bulgaria and what SAR can do to improve refugee reception, including information provision, psychological assistance, coordination, inter-personal relationships, and social activities. This is followed by a section focusing on the long-term perspective, setting

out a brief forecast of likely trends in migration flows, needs and opportunities for implementing long-term solutions, as well as policies that we believe would facilitate better integration of refugees into Bulgarian society. Lastly, a conclusion briefly summarizes the report analysis.

## Section II: Detention Guidelines and Best Practices

### Introduction

#### Basic Principles and Guidelines of Detention

Generally speaking, the detention of asylum seekers is a measure of absolute last resort and EU law allows its use only under the very limited circumstances listed below. The detention of asylum seekers is defined as a deprivation of liberty due to confinement in a certain location.<sup>1</sup> Though in the case of asylum seekers this confinement is meant to be administrative and is separate from punitive measures related to criminal justice, such detention is fundamentally discouraged under international law.<sup>2</sup> Specifically, Article 31 of the 1951 Refugee Convention prohibits the expulsion or punishment of asylum seekers due to illegal entry. It also stipulates that states shall not restrict movement unless necessary. Detention thus infringes on several fundamental human rights enshrined in international law, which include the right to liberty and freedom of movement, and detention may also infringe upon the right to safety and security and the right to seek asylum.<sup>3</sup> Moreover, detention carries tremendous economic and social costs. In both the short and long term, alternatives to detention have been shown to be less costly.<sup>4</sup>

The principles of **necessity** and **proportionality** dictate a balance between respecting the rights of asylum seekers and meeting the policy objectives of detention in the rare cases when it is necessary to resort to this measure.<sup>5</sup> Furthermore, detention must be assessed on an individual basis, and scrutiny should be applied to its motivations to ensure its legitimate purpose.<sup>6</sup> Other guiding principles include, inter alia, providing humane conditions that preserve dignity and safety, and being subject to procedural safeguards.<sup>7</sup>

#### EU Law and Bulgarian Law: Two Frameworks

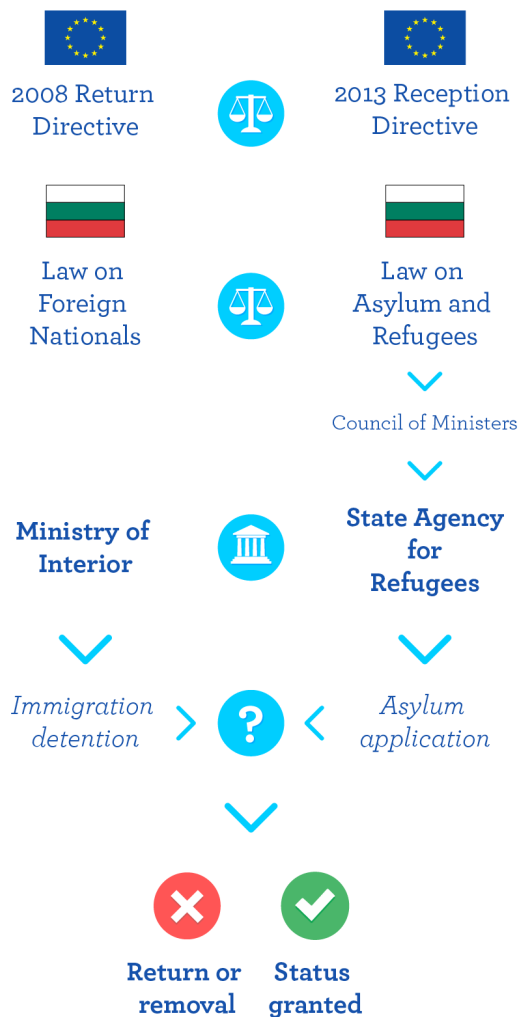
The detention of asylum seekers is defined primarily through two key European Union legal acts. The first, Directive 2008/115/EU

(“**2008 Return Directive**”), stipulates in Article 15(1) that third country nationals may be detained “in order to prepare the return and/or carry out the removal process.” The second, Directive 2013/33/EU (“**2013 Recast Reception Directive**”) stipulates in Article 8(3) that asylum seekers may be detained under six grounds. These include preparing the detainee for the return and removal process, but also establishing the asylum seeker’s identity or the circumstances of his or her asylum claim. The two directives thus provide different objectives for detention.

In the Bulgarian case, the two directives have been transposed into law under two different legal regimes. The **Law on Foreign Nationals (LFN)** reflects the 2008 Return Directive, which provides that the purpose of immigration detention is to carry out the removal process. The entity responsible for such procedures related to immigration detention is the **Migration Directorate of the Ministry of Interior (Mol)**.<sup>8</sup> In 2015, Bulgaria’s **Law on Asylum and Refugees (LAR)** was amended to reflect the 2013 Recast Reception Directive, which provides additional grounds for detaining asylum applicants.<sup>9</sup> The entity responsible for such procedures related to detention of asylum seekers is **SAR**.<sup>10</sup> Thus, coordination is spread between two administrative entities, each of which follows a different legal regime. Immigration detention is under the administration of Mol until an asylum claim is lodged. At this point responsibility shifts to the administration of SAR and asylum applicants are either transferred to open facilities or subject to detention under the various grounds enumerated in LAR. When SAR rejects an asylum claim, responsibility shifts back to Mol and the rejected asylum applicant is subject to the laws of LFN. For an illustration of this legal framework, please see the diagram below.

#### Comparison of Asylum Systems and Authorities Responsible

The differentiated responsibilities between Mol and SAR, which has been referred to as a “bifurcated system,” is in fact the common



practice in almost all EU member states. Indeed, the difference between member states is not whether they have a “bifurcated system,” but in the level of coordination between immigration and asylum authorities, and the extent to which mandates and responsibilities are clearly distinct. **(For a detailed comparison of the legal and administrative systems governing detention across EU member states, please reference the table in the Appendix).** In general, border guards, police, or special units of immigration police are responsible for preventing the initial entry of illegal migrants into the country. Once an individual files an asylum claim with these authorities, responsibility is then transferred to a separate agency in charge of assessing their claims; in the Bulgarian case, this is SAR.

From the content of the 2008 Return Directive and the 2013 Recast Reception Directive, it is clear that European Union laws themselves

have inconsistencies, points of legal contention, and difficulty accounting for the vast differences in demographics, resources, histories, and national legal frameworks of member states. Accordingly, EU directives interpreted and transposed into national law differ greatly in practice. Detention guidelines within international and European frameworks are therefore included for background context; the main purpose of this section is to analyze the interaction between *de jure* and *de facto* policy. Thus, taking the Bulgarian legal, political, and economic context into consideration, this section analyzes and compares practices related to detention across several EU member states, and concludes by providing policy recommendations for the State Agency for Refugees.

## Grounds for Detention

The 2013 Recast Reception Directive enumerates grounds on which it is permissible to detain asylum seekers. These grounds are: 1) to establish identity or nationality, 2) to establish circumstances of the asylum claim when this cannot be done without detention, 3) to verify the applicant’s right to enter territory, 4) to prepare for the return and removal process subject to the 2008 Return Directive, 5) for reasons of national security or public order, and 6) to establish the responsible state to consider the asylum application under Dublin Regulations.<sup>11</sup> Bulgaria’s LAR transposes all of these grounds except the two on verifying the applicant’s right to enter territory and the removal process subject to the Return Directive.<sup>12</sup> These two grounds fall under the jurisdiction of Mol and LFN.

Even though not all EU member states have transposed these grounds directly into law, the Directive’s six different grounds for detention are important guidelines to consider when looking at how EU member states determine the situations in which resorting to detention is necessary. Because the 2013 Reception Directive is vague in describing the situations in which these grounds apply, it can erode the principles of due diligence and the application of an individual approach. In order to prevent

this, many countries have added safeguards in order to resolve such issues. Below are some select best practices.

**France** sets a good example in this regard by exempting asylum seekers from standard immigration detention procedures. Once an individual applies for asylum from within a detention center, they must be released unless a special order comes from the prefecture government. To keep the asylum seeker in detention, the prefectural government must present an explicit written decision affirming that the request for international protection was only introduced to evade the imminent order of removal.<sup>13</sup> Likewise, **Germany** also has legal safeguards against unwarranted detention. To place either immigrants or asylum seekers in a detention facility a judge must specifically order detention as the best option and apply for the procedure in court. As a result, detention is a very uncommon practice, and alternatives are often sought. In practice, asylum seekers are only detained when their final asylum appeal has been rejected or under other extreme circumstances.<sup>14</sup>

In short, the best practice across Europe has been to detain applicants for international protection in only the most extreme of circumstances. The German and French cases described above show that the six grounds for detention enumerated in the EU Directive are not broad avenues by which to pursue wanton detainment, but rather measures to be invoked only as a last resort.

### Time Limits and Judicial Review

UNHCR guidelines, as well as international and national legislation, hold that indefinite detention is illegal.<sup>15</sup> The 2008 Return Directive provides a minimum of protection as it gives a maximum time limit of 18 months for detention, whereas Article 9(1) of the 2013 Recast Reception Directive only stipulates that detention should be for “as short a period as

possible.”<sup>16</sup> Furthermore, Article 9(3) of the Reception Directive does not specify time limits for procedural guarantees such as judicial review, but only that they must be “decided on as speedily as possible.” Combined with the lack of a time limit on detention and weak procedural guarantees on issues such as judicial review in the Reception Directive, there is a serious risk of unnecessarily extended detention in practice.<sup>17</sup> With these concerns in mind EU member states have placed strict limits on detention, as described in the best practices below.

Several countries place an initial short time limit on detention, during which time the case is reviewed and detention only extended if necessary. In **France**, the decision to place an individual in administrative *retention*<sup>\*</sup> is only valid for five days. To extend this period, the

designated Prefect must lodge a request before the Judge of Freedoms and Detention. The judge may only order an extension of the administrative detention for an additional 20 days under limited conditions: the deliberate obstruction of return by withholding

identity, the loss or destruction of travel documents, or the removal measure not being finalized. This extension can only occur twice, bringing the total time limit to 45 days, after which the detainee must be released.<sup>18</sup> In **Latvia**, a similar system has been set up with an initial detention period of a maximum of six days. If an extension is deemed necessary, the maximum duration is limited to two months. **Sweden** differentiates between first-time asylum applicants and those with refusal-of-entry-orders: the latter group cannot be detained longer than two weeks, while the former can be detained up to a maximum of two months.

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<sup>\*</sup> This terminology is not interchangeable with detention; it draws a clear distinction between punitive detention and retention, a limited, temporary deprivation of liberty taken as a precaution during identification procedures. The system of “public custody” in Romania is analogous.

Although time limits are a necessary first condition, they need to be complemented by thorough, periodic judicial review. For example, in **France** the Judge of Freedoms and Detention is essential in assessing the necessity and proportionality of each case.<sup>19</sup> In

**Luxembourg**, meanwhile, an administrative tribunal reviews detention

orders once per month.

Only if detention is deemed necessary to carry out deportation can the detention order be renewed in one month increments; this renewal can only be used three times, making the effective maximum length of detention four months.<sup>20</sup>

**Italy** also uses judicial review to prevent arbitrary detention: in 2014, the Cassation Court<sup>†</sup> ruled that the judicial review of the detention order issued by *Questore* (the Provincial Authority of Public Security in charge of detention orders) should go beyond a mere assessment of formal conditions to include an individual assessment of the lawfulness and relevance of detention.<sup>21</sup>

## Legal Assistance and Social Services Provision

Under international guidelines, detention must be subject to minimum procedural safeguards and take into account special circumstances and the needs of vulnerable groups.<sup>22</sup>

Furthermore, there must be care to create humane conditions. Access to social services is crucial in ensuring a decent quality of life in detention, as is providing legal assistance to asylum seekers so that they can apply for asylum. It bears reiterating that detention of asylum seekers is not meant to be punitive, but is a last resort in cases where the detainee's identity needs to be established, when they are in deportation proceedings, or in a handful of limited other circumstances. Below are some

practices established by EU member states to provide adequate services in these cases.

The detention of asylum seekers should not in any case preclude them from access to legal assistance, social support, or any other services they are entitled to receive in open facilities.

Their deprivation of liberty should never obstruct or affect their asylum application.

Today all EU countries have agreed to provide free legal assistance within closed centers, with a court-appointed lawyer free of charge or free legal advising from NGOs accredited by the State authorities.<sup>23</sup>

Nonetheless some countries further defined these

provisions in order to ensure greater respect for the privacy of individuals and the rule of law. In **Cyprus**, for example, detainees are afforded the right to a private consultation with a lawyer, free of supervision by center staff, whenever requested.<sup>24</sup>

Countries fulfill their legal obligations of service provision within the constraints of the country's resources in a variety of ways. Some opt for relying on NGOs with expertise in specialized care of vulnerable individuals. This arrangement is usually clarified and enforced through contractual obligations. In **France**, five state-vetted NGOs are present in administrative detention centers quasi-permanently (five to six days per week), providing legal information and assistance, social services, and ensuring access to the center for relatives and necessary authorities.<sup>25</sup> Likewise, in **Portugal**, all services are provided through partnerships with NGOs. For instance, in the detention center of San Antonio, Jesuit Refugee Service provides social workers; mobilizes cultural mediators, translators, and lawyers; and puts on cultural activities, while Médecins du Monde ensures access to medical and psychological consultations. Moreover, in all detention centers, the access of NGOs to the centers is guaranteed and some of them

*Through constant  
monitoring NGOs help  
the state agencies  
enhance detention  
conditions and meet  
human rights  
requirements*

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<sup>†</sup> The Cassation Court does not re-examine the facts of a case. Instead, this court is limited to verifying the interpretation of the law.

are part of the monitoring board with the Ministry of Immigration and IOM.<sup>26</sup>

The presence of NGOs thus ensures acceptable living conditions for detainees. Moreover, through constant monitoring they help the state agencies enhance detention conditions and meet human rights requirements. Yet it is ultimately the responsibility of the state to guarantee adequate levels of service. State actors can also provide monitoring through a committee: in **Malta**, closed centers are monitored by the *Board of Visitors for Detained Persons* – an independent body tasked with making objective assessments of the conditions.<sup>27</sup>

In addition, some countries go further by providing substantial aftercare and follow-up within closed facilities in order to better ensure humane conditions, to limit trauma caused by periods of detention, and to address specific needs of vulnerable applicants. In the **United Kingdom**, for instance, medical services are located on site at detention facilities and available 24/7.<sup>28</sup> **Germany** deploys a specific screening program in order to ensure that vulnerable groups receive specialized medical care, which enables state authorities to prevent further trauma.<sup>29</sup>

Aside from medicine, other innovative practices are found in **Luxembourg's** closed facilities, which feature activities including cooking and language courses.<sup>30</sup> Several countries including **Cyprus** accommodate religious dietary requirements in centers, and **Bulgaria** does not serve pork in its centers. These measures send a strong signal of cultural acceptance.<sup>31</sup>

### Detention of UAMs and Other Vulnerable Groups

International guidelines stipulate that there must be special consideration of the circumstances and specific needs of vulnerable

groups of asylum seekers.<sup>32</sup> These include victims of trauma or torture, children, women, victims of trafficking, those with disabilities, elderly asylum seekers, and lesbian, gay, bisexual, transgender, and intersex (LGBTI) asylum seekers, who require special care with regards to safety and health. Children have certain vulnerabilities, while other asylum seekers – especially those fleeing war and targeted violence in their home countries – have others. Accordingly, many EU countries, including **Luxembourg**, restrict the detention of UAMs and victims of torture, trafficking, and sexual violence.<sup>33</sup> Protecting these particularly vulnerable groups of asylum seekers should be the standard across Europe.

Detention of children is fundamentally discouraged by international law, as children fall under the special protections of the Convention on the Rights of the Child (CRC).<sup>34</sup> Article 10 of the 2013 Recast Reception Directive stipulates that unaccompanied minor children “shall be detained only in exceptional circumstances.” Even in the face of “exceptional circumstances,” however, the best practice is to never

detain UAMs, pregnant women, nursing mothers, or victims of torture.<sup>35</sup> **Belgium's** Reception Act prevents UAMs from being sent to standard immigration detention facilities and instead uses “Observation and Orientation Centers” to accommodate these children pending their status determination.<sup>36</sup> **Ireland** and **Spain** go one step further and explicitly prohibit the detention of UAMs in any detention center.<sup>37</sup>

### Alternatives to Detention

The 2013 Recast Reception Directive states that asylum seekers have the right to freedom of movement.<sup>38</sup> Imbued with this right, asylum seekers should only ever be detained to prevent absconding from the country before

*In cases where detention is not necessitated by imminent deportation or criminal activity, detainees should be released and alternatives explored*



their case can be fully adjudicated, to establish their identity, or when they are in deportation proceedings – detention is not a punitive measure. Detention is expensive – per person it costs at least ten times more than any alternative – and institutionalizing a segment of population can cause radicalization, creating security risks.<sup>39</sup> Therefore, alternatives to detention (ATD) must be considered before resorting to detention, especially as alternatives are cheaper and can still meet the same goals as detention.<sup>40</sup>

Currently, Bulgaria's LAR provides for only one alternative to detention, which requires the asylum applicant to report every two weeks to the Chairman or other authorized official of SAR during refugee status determination (RSD).<sup>41</sup> However, the law is not specific on implementation of this alternative and gives no protocol for when the alternative is exhausted. In addition, rather than detaining asylum seekers many EU countries simply require that they reside at a given permanent residence; this requirement operates in direct conjunction with the reporting system. **Bulgaria** remains one of the very few countries whose reporting obligations are not directly linked to residency requirements.<sup>42</sup> Not only could linking the two requirements add an additional level of security to the alternative system, it also would allow for greater administrative efficiency in monitoring.

A key consideration to keep in mind for all countries intending to use detention to facilitate deportation of applicants denied asylum is the feasibility of actually returning them to their home country. The removal process is often impractical – many countries do not have the financial, human, or transport resources to repatriate denied asylum seekers. Some asylum seekers' true places of origin are difficult or impossible to determine, or the home countries will not issue a travel document or allow the individuals to return, and many places of origin are war-torn and unfit for return. In cases where detention is not necessitated by imminent deportation or criminal activity, detainees should be released

and alternatives explored. For example, in **Spain**, when it is not possible to carry out a deportation within 60 days – whether because political asylum was requested, thereby freezing the deportation process; because the true nationality of the individual could not be determined; because of the absence of a repatriation treaty with the country of origin; or even because of a simple administrative delay – the police have the obligation to release the detainee.<sup>43</sup> Similarly, both the **United Kingdom** and **Germany** provide for a tolerated stay if the detainee in question cannot be practically returned to the country of origin. In such circumstances inclusionary measures that normalize the asylum seeker's stay – such as mandating a place of residence or reporting to a social worker – are absolutely essential.<sup>44</sup>

To ensure that alternatives to detention are practical, certain legal restrictions must first be placed on the use of detention. In addition to the examples from Germany and France cited above in "Grounds for Detention," **Croatia and Poland**, among other states, prioritize alternatives over detention through a two-step process. The countries must first evaluate whether depriving asylum seekers of their freedom is necessary to carry out the law; if detention is deemed necessary, alternatives must nonetheless be considered before detention can be imposed. The law gives a few suggestions – reporting to the authorities regularly, required residence at a designated place, posting bail, or surrendering identity documents to effectively preclude asylum seekers from absconding – and allows for a combination of any of these measures if need be. Only when it can be proven that there is a substantial risk that these alternatives will not work can detention be ordered.<sup>45</sup> Similarly, the **United Kingdom** and **Germany** also allow for a full range of alternatives to be used instead of detention. Residency requirements, periodic reporting, and surrendering documents have all been employed. Detainees can also be released to the custody of a designated guarantor or social worker.<sup>46</sup>

If reporting to the authorities is used as an alternative, frequency is an important consideration. **Austria** and **the Netherlands** require daily reporting, while in **Bulgaria**, **Cyprus**, and **Czech Republic** weekly reporting is the rule.<sup>47</sup> Countries should institute a system within their means that meets the needs of national security and human rights, including freedom of movement.

Several countries employ additional alternatives that are commonly associated with criminal detainees, and are thus controversial when applied to asylum seekers. Nevertheless, they have proven effective in practice.

**Denmark** tags would-be detainees with an alert bracelet or anklet, the **United Kingdom** and **Germany** release detainees on bail, and **France** places them under house arrest for careful monitoring.<sup>48</sup>

### Policy Recommendations

No single country listed in the preceding sections has a perfect system for asylum or detention – all countries face their own challenges and resource constraints. Yet many countries do exhibit certain practices that are exemplary and that should be taken as the minimum standard across Europe. The practices we highlighted provide a menu of options Bulgaria could select from to improve its implementation of international obligations, institute a greater respect for human rights, and promote cost-effective alternatives to detention.<sup>49</sup>

Following their examples, we recommend these policies:

- Prioritize alternatives to detention. Use the existing system of periodic reporting requirements in tandem with residency requirements and surrendering travel documents. Initially, reporting should occur at more frequent intervals and the frequency should decrease as the asylum seeker demonstrates compliance. Collect data on success rates of alternatives to detention; analyze efficacy of alternatives and adjust accordingly.
- SAR should not build and run its own detention centers. Establish and strengthen cooperation with the Ministry of Interior to use existing facilities of detention for those very limited cases where alternatives are deemed inappropriate, such as threats to national security or imminent deportation to a country where return is possible. Such coordination could include biweekly or monthly meetings and incorporating an Mol representative in SAR's interagency meetings with NGOs. SAR should establish its presence on a weekly basis in Mol detention centers in order to register claims and to ensure that asylum seekers in detention are receiving the same level of services given to asylum seekers in open centers.
- The detention of UAMs should be explicitly banned, as should the detention of victims of trafficking, torture, and sexual violence. UAMs should be placed in specialized facilities with designated care workers where access is restricted to relatives, licensed employees, and approved NGO service providers and monitors; the same holds for victims of trafficking, torture, and sexual violence. (EC's previous Refugee Fund was used by Greece to create a center for UAMs that included legal aid and social services;<sup>50</sup> SAR should apply to the new Asylum, Migration, and Integration Fund (AMIF) for a specialized UAM facility).
- Explicit, immutable time limits should be placed on detention, and should be enshrined in national law. The length of the initial period of detention should be no more than ten days, after which an extension should be approved by a judicial review. Including extension, the maximum duration of detention should never exceed two months. In the case of individuals slated for deportation, if the latter proves impossible then alternatives to detention should be automatically required.
- Institute thorough, qualified administrative and judicial reviews of detention decisions on a monthly basis. Additional reviews



should occur on a timely basis at the request of the detainee.

- Legal aid should automatically be provided by the state free of charge to asylum seekers in their native languages in written and oral form as soon as they are placed in closed centers. Coordinate with NGOs and civic groups and to provide this assistance, formalizing the agreement through contracts when necessary. Funds for increasing the availability of legal assistance can be applied for from EC's AMIF.<sup>51</sup> (In 2011, Bulgaria received funding from EC's previous fund for refugees on a project that provided legal assistance to asylum seekers;<sup>52</sup> there are positive signs that a new proposal would be well received considering Bulgaria's previously approved proposal and continuing need).
- Offer at least a base level of leisure or cultural activities in order to prevent marginalization and promote cultural integration. Practical, hands-on courses such as art, cooking, vocational training, and especially the English or Bulgarian language are ideal. NGOs that provide vocational training are eligible for European Social Fund (ESF) support, and should use these resources to establish class schedules.
- Dedicate one office in each center for use by NGOs on a permanent or quasi-permanent basis. Coordinate with NGOs to ensure provision of essential information – including the right to appeal and assistance with the asylum process – and socio-cultural mediators.

## Section III: Best Practices in Caring for Unaccompanied Minors

### Introduction

Unaccompanied minor asylum seekers arrive in host countries without essential adult care or support from traditional caregivers. Their precarious plight makes them particularly vulnerable to human rights abuses and therefore in need of specialized protection. Under international, regional, and national laws, states are obliged to take special measures to safeguard and protect the rights of UAMs. EU member states must ensure that UAMs enjoy all rights enshrined in law and operationalized in EU policies and UNHCR guidelines.<sup>53</sup>

### International and European Union Legal Frameworks

Unaccompanied minors should be treated first and foremost as children, regardless of their nationality or immigration status. They are entitled to the full range of fundamental rights for children outlined in CRC, including the right to life, survival and development; the right to be heard; and rights to basic health, education, family environment, and alternative care. Additionally, UAMs are entitled to the special protection rights for asylum-seeking and refugee children that are set out in the Convention and its General Comments.<sup>54</sup>

The “best interests of the child” (BIC) approach is universally understood as the leading principal in all childcare and protection action concerning UAMs. The term “best interests” refers to the overall well-being of a child. As each case is unique, a general definition of best interests of the child is not possible. Therefore, it must be examined on an individual basis that considers the child’s well-being, social development, safety and security, the principle of family unity, and the views of the child in accordance with his or her age and maturity.<sup>55</sup> To ensure implementation of the best interests principle in all actions affecting individual children, a best interests assessment (BIA) or a best interests determination (BID) procedure should be systematically applied.

These two concepts (BIA and BID) can be understood as parts of the same process, which starts in principle as soon as an unaccompanied or separated child is discovered and ends when the child has obtained a durable solution to his or her separation and displacement.<sup>56</sup>

Regional laws dictating all EU action concerning unaccompanied minors are based on respect for the rights of the child as set out by the CRC and the European Union Charter of Fundamental Rights. The EU’s legal framework<sup>57</sup> provides mechanisms to directly address the situation of UAMs and protect their rights such as the recently adapted recast EU Asylum instruments,<sup>58</sup> the Anti-Trafficking Directive, the Family Reunification Directive, and the Return Directive.<sup>59</sup>

In order to fulfill their legal obligations to unaccompanied minors, member states, including Bulgaria, have transposed the aforementioned EU laws and international standards into their domestic legal systems. However, interpretation and implementation differ from state to state so it is important to consider how each has adapted procedures and programs to meet the needs of UAMs in accordance with their legal obligations. This section highlights best practices adopted by EU member states and several other countries to demonstrate successful ways of structuring procedures to provide protection for UAMs. These examples inspire methods of improving protection systems for UAMs in Bulgaria, and are given at the end as a series of policy recommendations.

### Identification of UAMs

The recognition and identification of a child as unaccompanied is an often overlooked but crucial aspect in the reception of third country nationals. An unaccompanied status influences subsequent asylum procedures and determines the treatment of a child. Border control authorities should therefore pay special attention to children and carefully assess kinship ties. Properly identifying children who have arrived alone is necessary to ensure that they receive the rights and protection stipulated by law.<sup>60</sup>

The Bulgarian Ombudsman, acting as National Prevention Mechanism under the Optional Protocol to the Convention against Torture, recently expressed concerns about the lack of mechanisms in place to identify unaccompanied children in Bulgaria. The report details current practices of border control authorities to randomly pair unaccompanied children with adults who are traveling in the same group. This can even result in UAMs being paired with adults of different nationalities – cases have been cited where Afghan children are “assigned” to Pakistani travel companions. According to the Ombudsman, “children are listed as accompanied by adults without knowing each other and without any family connection whatsoever between them. In reality, they are unaccompanied minors, who should have been identified as such.” This practice not only prevents UAMs from receiving help and support as members of a particularly vulnerable group, but is also used to unlawfully facilitate their administrative detention.<sup>61</sup> Bulgaria should stop this practice, and devise mechanisms to properly identify unaccompanied children.

## Specialized Care for UAMs

### Accommodation

The type of accommodation provided to UAMs is an important consideration that has many implications for the life of the child. Accommodation heavily influences child development and prospects for integration; consequently, support from guardians and staff, access to education and leisure activities, and opportunities for interaction with the local community must be readily available. European<sup>62</sup> and international<sup>63</sup> law require member states to provide special lodging facilities for UAMs according to these needs; however, the specific provisions differ across countries and phases of the asylum procedure. Typically, states accommodate UAMs in foster care, specialized childcare institutions, or designated areas for minors within a standard reception facility.<sup>64</sup> Foster care is the universally preferred accommodation under international guidelines because of the benefits

associated with a family environment.<sup>65</sup> There are, however, advantages and disadvantages associated with each option related to integration opportunities and specialized service provision. Best practices therefore use a mixed, flexible model combining all three accommodation solutions, and base the accommodation decision on the child’s needs and the stage in the asylum process.<sup>66</sup>

**Sweden** is a leader in specialized accommodation, offering four distinct types of facilities according to BIC. In addition to standard dormitories, for those aged 18 to 21 the state offers “training accommodation” that prepares UAMs to live independently, as well as foster care for youth beyond the typical state-provided childcare. A “day home” is also available on an immediate, short-term basis when children face certain risks or illnesses.<sup>67</sup> Similarly, in **Austria**, asylum-seeking UAMs 14 to 18 years old are initially housed in a separate building of the Initial Reception Centre Traiskirchen where the NGO, *Verein Menschen Leben* (“Club Human Life”), provides constant professional care. Meanwhile, minors under the age of 14 are placed in special care facilities under the responsibility of the Youth Welfare Authority. After the regular asylum procedure begins, UAMs are assigned to foster families or federal province care facilities that range from shared centers to individual housing depending on needs.<sup>68</sup>

Still, the consensus amongst stakeholders in the EU, echoed by international guidelines,<sup>69</sup> is that foster care is the best option for most unaccompanied children. Where possible, it is considered ideal as it offers a beneficial family support structure that increases the likelihood for successful integration. This option, while arguably more demanding from a national policy perspective, is known to be less costly than institutional reception, which requires staff and 24/7 care.<sup>70</sup> However, such a system hinges on the willingness of citizens to bring UAMs into their lives and embrace the related responsibilities. This is a large hurdle in **Bulgaria** as the SACP has reported an inability to find suitable foster care families even for

Bulgarian children.<sup>71</sup> Given the relatively new legislation and practice in this area, and widespread negative sentiments around the refugee crisis, it is safe to assume this will not improve without greater state involvement.

Regardless of the type of accommodation facility, international law requires states to provide regular supervision and assessment to safeguard the child's physical and psychological well-being.<sup>72</sup> While the guidelines for regular supervision are imprecise, states have generally interpreted this in practice as 24-hour care by trained childcare professionals. In **Bulgaria**, UAMs living in reception centers rely on social workers to take care of their everyday needs. However, there are no individuals on staff who are solely responsible for providing care to UAMs and after traditional working hours unaccompanied children have no direct adult supervision.<sup>73</sup> Not only does this current lack of supervision of UAMs in SAR centers mean that there is no impetus for these children to attend school, but it also potentially places them at risk of violence, abuse, and trafficking. To keep children safe and ensure that concerns are addressed, the reception center housing UAMs in **Lithuania** is monitored by care workers around the clock and closed to outside visitors after 5pm.<sup>74</sup> Dedicated staff and 24-hour caretakers are also the norm in reception centers located in **Austria, Finland, Germany**, and the **Czech Republic**.<sup>75</sup>

The location of facilities is also a critical consideration for UAMs. Whenever possible, lodging should be placed within city centers, or at least in a residential area typical of the country's residents and where schools are accessible. Placing UAMs in secluded areas can have a detrimental impact on the development of children since their opportunities to interact with the local population and to attend school are limited. This is not in line with the best interests of the child as it hampers integration efforts and leaves UAMs feeling marginalized.<sup>76</sup> This mistake was made in **Bulgaria** with the center intended for unaccompanied minors located in Banya. UAMs

accommodated there did not have access to educational and social services, and received limited support from NGOs. Furthermore, it was logistically challenging for SAR to conduct status determinations so far away from its territorial units.<sup>77</sup> While it may not be feasible to house all UAMs in city centers, providing access to transportation at suburban and rural placements can facilitate interactions.

**Germany** recently passed a law that allows for the allocation of UAMs across the country to prevent them from being relegated to any one municipality.<sup>78</sup> Policies such as these ensure that UAMs are not marginalized or seen as a burden, but rather protected and adapted into the folds of society.

### Psychological support

Adequate psychological care is undoubtedly in the best interest of the child. Nearly all pieces of legislation including international and European<sup>79</sup> law along with member states themselves have acknowledged this fact. A wealth of academic research recognizes the need for counseling and its role in enabling UAMs to develop their skills and competencies. Support is essential given UAMs' high propensity to develop psychological issues such as depression and post-traumatic stress disorder due to past traumas and present challenges adapting to their host country. Through counseling, UAMs can improve their well-being and become fully functional, integrated members of society.<sup>80</sup>

Accordingly, the state is required to provide psychosocial support with psychologists in the care facility where UAMs are accommodated. Beyond these basic services, access to therapy is generally limited due to lack of resources. However, through partnerships with local non-profit organizations, some states have managed to expand care. For example, in **Belgium**, an organization called Solentra provides critical psychological support to UAMs that goes above and beyond the minimum. Rather than general doctors, Solentra employs a team of psychologists specially trained in post-conflict cases. Guardians and social workers refer children to the organization for

assessment. By treating traumatized, unaccompanied children, they provide the needed care that helps UAMs transition into society.<sup>81</sup> Psychological assistance is currently provided to UAMs in **Bulgaria** by SAR psychologists and through partnerships with the Assistance Centre for Torture Survivors and the Nadja Centre Foundation. However, according to a recent UNHCR report, referrals for these services are surprisingly low, which may indicate a need for a stronger referral system, greater internal promotion of the services available, or increased involvement by trained childcare professionals.<sup>82</sup>

### Education

International guidelines<sup>83</sup> emphasize state responsibility to ensure that access to education is maintained throughout all phases of the development cycle. Education empowers UAMs, allows them to realize their full potential, builds resilience, and provides needed stability and normality that can mitigate some of the negative effects of traumatic experiences. It is also a vital point for language acquisition and integration into host countries,<sup>84</sup> thereby establishing a generation of responsible citizens who contribute to economic development.

Among the biggest issues states face is the twin challenge of providing access for minor asylum seekers to schools while also preparing the asylum seekers themselves to successfully integrate into the local educational system.<sup>85</sup> Whether the staff at reception centers or NGOs provide this preparation, education must be coordinated by the state and should adhere to the national curriculum. The aim of this preparatory stage should therefore be to bring recently arrived UAMs up to the educational level of age-appropriate classes in local schools. In **Bulgaria**, some UAMs were directly put into school without preparation based on their needs and consequently

stopped attending. UAMs and other minor asylum seekers have also faced xenophobic sentiments from pupils and teachers in local schools, causing fear and impeding education.<sup>86</sup> The following examples represent best practices in overcoming these challenges.

Unaccompanied minors who have been granted temporary asylum in **Norway** are first divided into categories based on their language levels by the local school. They are subsequently offered long-term Norwegian classes by the school or a designated NGO. There are also training programs specifically adapted to older youth groups, including individually tailored job-hunting assistance, vocational training and counseling. The scheme is intended to provide UAMs with beneficial daytime activities and to empower them with knowledge for use in Norwegian society or upon returning to their home country.<sup>87</sup>

Similarly, **Ireland's** Separated Children's Education Service uses an inter-agency

approach to provide a transitional service that prepares young people for mainstream school. After completing the program, UAMs can stay involved by mentoring new batches of children through the Study Buddy Program.<sup>88</sup> In **Malta**, the Ministry of Education runs a six-week language program to more

effectively integrate children into school. The government continues to account for the special needs of UAMs after the program by assigning a specific teacher to support daily education needs.<sup>89</sup>

### Child-friendly information

Information and access to information are indispensable for unaccompanied minor asylum seekers. Across EU member states, there is a considerable lack of adequate, easy-to-understand, child-friendly information regarding the legal procedures or the opportunities for unaccompanied children to

*Sweden provides brochures for unaccompanied minors that explain the basics of asylum, refugee status, and available social help in simple terms*

stay in the host country.<sup>90</sup> Even where information is provided to these children it is not often understood. UAMs may struggle to understand the nature and purpose of processes in which they are involved, how to apply, and what the outcomes of procedures mean for them. As a result, UAMs frequently turn to unreliable information sources such as peers and smugglers.<sup>91</sup> In order to ensure that children can access the asylum procedure, states should ensure that they receive information about available options in a way that is appropriate for their age and maturity, in a language they can understand.<sup>92</sup> Guardians and legal representatives for UAMs are responsible for providing information to children in a comprehensible manner.<sup>93</sup> The countries highlighted below address this challenge through sound policies.

In an effort to close the information gap, **Sweden** provides specialized brochures for unaccompanied minors in simple terms that explain the basics of asylum, refugee status, and available social help in Sweden. Offered both in paper and online in many languages including Arabic, Dari, English, Somali, Swedish, and Tigrinya, the brochures use friendly illustrations to convey needed information.<sup>94</sup> With the support of NGOs, **Ireland** hosted a summer camp in which refugee children and Irish students were able to interact and collaborate. Together, they discussed asylum in Ireland and worked to create a multimedia guide to the asylum procedures. Information for children and by children has thus proved successful in helping to ease fears surrounding the asylum process and has brought communities together.<sup>95</sup> Other good practices in information provision within accommodations are found in **Belgium, Finland** and **Norway**, where each UAM is assigned an individual contact person (social worker or childcare professional) in the reception center to help and advise them more personally.<sup>96</sup>

## Guardianship

Asylum seeking and refugee children, often unable to understand the language, culture and way of life of the new country, are

vulnerable without the care of a responsible adult. Therefore, the timely appointment<sup>97</sup> of an independent legal guardian or representative is necessary to ensure the protection of rights of unaccompanied children. A guardian is also pivotal in determining the child's best interests throughout the asylum process and identifying a durable solution. The legal obligation for states to fulfill this responsibility is contained in various European and international bodies of law.<sup>98</sup> However, due to inconsistent language in EU legislation and lack of clearly defined guardianship roles, there are often significant differences between prescribed EU legislation and its actual implementation in member states. Thus, understandings of this role differ, and systems vary across the EU according to needs, resources allocated, and cultural, social, and historical factors.<sup>99</sup>

## Relevant legal framework

National law should provide the legal basis of guardianship and clearly define the authority responsible for appointing guardianship. This must also include a precise description of duties and scope of responsibility of the legal guardian. Clear legislative provisions on guardianship can strengthen accountability and prevent confusion of duties between agencies active in the UAM's affairs.<sup>100</sup> **Malta** and **Bulgaria** each have a legal framework for guardianship, but both systems suffer from a lack of implementation of regulations to ensure that the concept can be effectively put into practice. Since guardianship is not defined within Maltese legislation, guardians and service providers experience difficulties separating their roles and acting with complementarity.<sup>101</sup> **Belgium** is one of the few successful examples of proper responsibility delegation, with the duties of a guardian outlined in Articles 9-19 of their Guardianship legislation. It also clearly declares best interests of the child as the leading principle in all decisions regarding the child.<sup>102</sup>

## Professional training

Guardians working with unaccompanied children must have the knowledge and skills to



perform their duties effectively. This includes the expertise in child protection necessary to identify special needs and ensure the child's best interests are protected.<sup>103</sup> As both good practice and a requirement under the 2013 Recast Reception Directive, guardians should receive specialized, ongoing training on childcare issues such as trafficking, trauma, sexual abuse, asylum law, and durable solution processes. Despite the potential harm unqualified guardians can impose, few member states offer systematic induction training and not all make it mandatory. To become a guardian in **the Netherlands**, for example, one must have a Bachelor's degree in social work, and participate in other professional development opportunities offered throughout the year. Additionally, guardians are required to pass a ten-day training course facilitated by Nidos, an NGO, to secure tenure in the agency.<sup>104</sup> Similarly, **Belgium** requires individuals to participate in a multidisciplinary training that covers asylum law, child protection, psychology, and cultural sensitivity in order to become a guardian. They are also required to undergo additional training at least once per year. Furthermore, organizations for and by guardians were established to facilitate knowledge sharing and provide additional training to members.<sup>105</sup>

### **Guardianship structure and authority**

Guardianship systems in EU member states vary from one country to another. Some systems place responsibility for guardianship of UAMs on national asylum and child welfare systems. For example, in **Austria**, UAMs are initially appointed a legal advisor who also acts as a temporary guardian to provide general information on the asylum procedure during admissibility procedures. At the same time, Youth Welfare Authorities assign a guardian to be responsible for all other aspects of care. Once the UAM is admitted to the asylum procedure, the full duty of care is

transferred to the Youth Welfare guardian and he or she becomes the child's legal representative.<sup>106</sup> In **Sweden**, UAMs fall under the responsibility of municipalities and the national social care system. Each child receives a guardian in the municipality where he or she resides, and once granted a permanent residence, he or she receives a new specially appointed guardian.<sup>107</sup> Similarly, **Bulgaria** relies on municipalities for guardianship appointments. However, the procedure suffers from a shortage of appropriately qualified personnel. Consequently, the local authorities often appoint low-level, under-qualified employees for this role, including in at least one case the postman.<sup>108</sup> To address this challenge, **Bulgaria** should consider following a model similar to **Germany**, where a specialized unit of social workers, the Agency for Social Assistance, appoints guardians for

UAM asylum seekers. In **Cyprus, Ireland and the United Kingdom**, social workers also assume the role of guardians.<sup>109</sup> This arrangement would fill the immediate need for guidance during the asylum processes, eliminate unnecessary administrative

delays, and better represent the interests of the child.

Other countries rely on partnerships with non-profit organizations that have experience working with UAMs to provide guardianship services. Working with NGOs has significantly helped state agencies fill gaps in capacity and expedite the guardian appointment process.

**The Netherlands**, for example, relies on Nidos to provide professional guardianship to UAMs upon arrival. The organization is funded by the government, but acts as an independent body, and their role is formalized in government policy. Clearly defining the mandate and functions of guardianship authority in national legislation strengthens accountability and provides procedural protection for children served.<sup>110</sup> In **Greece**, the NGO METAction established a "Guardianship Network" of

*Countries rely on partnerships with non-profit organizations that have experience working with UAMs to provide guardianship services*

trained volunteers to fill crucial gaps in national capacity to allocate guardians to UAMs. Unlike the model in the Netherlands, METAction's partnership is less formal.<sup>111</sup> The authority of guardians is not enshrined in Greek law and the organization is funded by independent donations. This significantly limits the power, capacity and long-term sustainability of the initiative,<sup>112</sup> important considerations for **Bulgaria** if it opts for a similar guardianship solution; however, a partnership with independently-funded NGOs could be a workable short- to medium-term solution provided that guardians' responsibilities are accountable to Bulgarian law and the rights of the child.

## Disappearances

In a particularly disturbing trend, unaccompanied minors are going missing or absconding from reception and care facilities, not only in **Bulgaria** but also in other member states across the EU.<sup>113</sup> An accurate assessment of the magnitude and nature of the problem of children disappearing is hampered by the fact that only half of EU member states systematically collect data on UAMs who disappear. It is observed that UAMs are most likely to disappear within the first few days or weeks of arrival in the initial reception facility, usually before a guardian has been appointed. Some countries have found a range of strategies and measures to better address this phenomenon, but solutions remain elusive.<sup>114</sup>

Building relationships and trust with UAMs in facilities is one strong strategy for reducing disappearances. **Finland** and **France** aim to establish a safe atmosphere, trust-based relationships with adults, and peer support.<sup>115</sup> Guardians can and do play an important role in this process. Any delays in their appointment hinder the protection of UAMs – they should be appointed immediately following the first encounter with the unaccompanied child and should pro-actively engage with the child and reception center employees to prevent the child from falling under the influence of traffickers or smugglers. Guardians should also be held

accountable for ensuring that school-aged UAMs attend school and receive any necessary medical or psychological attention.

Other methods to better address this phenomenon include systems to register and monitor UAMs and facilitate cooperation between authorities. **Belgium, Croatia, Ireland, Malta, the Netherlands, Slovakia and Spain** each use fingerprints and photographs taken of UAMs at first contact with border guards or police to serve as an aid for tracing of disappearances. Systems that allow for easy storage and retrieval of information are the most beneficial in this process. Good practices are the creation of personal folders and the development of centralized systems to register information on unaccompanied children.<sup>116</sup> As **Bulgaria** already collects information on UAMs, developing a secure, unified database with their information is entirely feasible. Authorities must then have protocols in place to facilitate cooperation between agencies to respond to disappearances. In most member states, the police are notified and are responsible for undertaking an investigation of the disappearance, and launching a missing persons alert. In practice, however, police and social services lack a sense of urgency and priority in responding to these cases, especially when it is assumed that the UAM has likely left the country. In an effort to overcome this mindset, **Finland**<sup>117</sup> and **Lithuania**<sup>118</sup> explicitly require police to act as they would in the case of a disappearance of a national minor.

## Policy Recommendations

After thorough analysis of the best practices described above, we recommend the following measures:

- SAR should seek ways to provide 24-hour supervision of UAM asylum seekers. The EC's previous Refugee Fund was used by Greece to create a center for UAMs that included legal aid and social services;<sup>119</sup> SAR can apply to EC's current AMIF for a separate, specialized UAM facility.
- Implement a monitoring system in accommodation centers whereby guards



and social workers are notified when UAMs enter and leave the facilities and note whom they leave with. If the child does not return, warning mechanisms should be initiated by social workers to local police. Such controls can aid in the reduction of disappearances.

- Accommodations for UAMs should be located in settings that allow for interaction with the local population and easy access to mainstream schools. UAMs should be allowed and encouraged to participate in school as well as in age-appropriate activities organized in the surrounding community.
- Offer meaningful social activities (for example sports, art, and language classes) in care facilities for UAMs to foster their social and development and integration into society. Formalize partnerships with NGOs to regularly provide these services and clearly communicate their availability to both staff and children. Language classes should have a defined curriculum and clear educational goals consistent with the national education system.
- Devise a formal identification system for UAMs. SAR should work with relevant government agencies to ensure that UAMs are identified as such and to prevent any arbitrary pairing of UAMs with unfamiliar, non-relative travel companions.
- Transitional programs (academic, linguistic and vocational) to prepare unaccompanied children to succeed in local schools should be provided by the state or arranged through formal partnerships with NGOs. To prepare for integration into public schools, EC's ESF can be used to provide resources for language and cultural training. (In 2011, Bulgaria received funding from the EC's previous integration fund to provide 58 online Bulgarian courses for immigrants;<sup>120</sup> the EC's new program should be also be explored, as well as funding through EC's AMIF).
- SAR should coordinate with municipalities to ensure access to local schools and that schools are equipped to provide UAMs

with additional support in line with their needs.

- Provide transportation or have SAR employees escort children to school in order to make school more accessible.
- Provide information to UAMs on the asylum process, opportunities in Bulgaria, and family tracing in a way that is compatible with the age and social maturity of the child. Communicate this information verbally in language the child understands, and in writing using pictures and simple language.
- Designate social workers under the Agency for Social Support who already work with children in BID procedures as legal guardians to ensure UAMs have immediate care. Establish explicit responsibilities and qualifications for guardians to UAMs and enshrine into law.
- Provide training courses for guardians and social workers to increase their knowledge of UAM needs. Support municipalities with guardianship expertise for training courses; help municipalities secure additional funding for these courses.
- Develop a unified database of unaccompanied children to allow for monitoring of each child throughout the asylum process. This would help identify gaps in service provision and also assist in follow-up when disappearances occur.

## Section IV: Family Reunification and Best Practices

### Basic Principles and Guidelines of Family Reunification

The right to family life is a universally recognized fundamental human rights principle, which is protected by international, regional and numerous national legal instruments – most notably the Universal Declaration of Human Rights.<sup>121</sup> Moreover, refugees' right to be reunited with their family members is set out in the 1951 Refugee

Convention.<sup>122</sup> Once an asylum applicant is recognized as a refugee, admission of that refugee's close family members to the country of asylum becomes possible. Often, reunification of family members in the country of asylum is the only way for refugees to exercise the right to family unity.<sup>123</sup>

### European Union Law

The European Charter of Fundamental Rights, which recognizes the obligation to respect and protect family life, and the 2003 Family Reunification Directive, which gives the right to family reunification for third-country nationals and determines the specific conditions under which family members outside of European Union nationals can come and reside in the member states,<sup>124</sup> are fundamental to EU law. Moreover, Articles 7, 8, and 14 of the Dublin II agreement also describe provisions for family unity.

### Definition of Family

The Directive uses a generalized, limiting definition of a nuclear family, but allows member states to use expanded definitions of family that include extended family members. Refugees are exempt from providing accommodation and sickness insurance for themselves and their family members, as well as the proof of income should they submit their application for family reunification following the first three months of their grant of refugee

status.<sup>125</sup> Article 2(i) of Dublin defines family as a union that existed in the country of origin, such as between the married or unmarried partners in a stable, dependent relationship<sup>†</sup>; the minor and unmarried children of such couples; or the parents or guardian when the applicant is an unaccompanied minor and is unmarried.

In **Bulgaria**, the family reunification clauses apply to spouses, children under the age of 18 who are unmarried, children who are 18 years old or above but need to be under the care of their parents due to medical or other needs

which prevent them from subsisting on their own, and elderly parents who need to be in the care of their children.<sup>126</sup> Bulgaria has been lauded by both asylum seekers and UNHCR as a country demonstrating good family

*Bulgaria has been lauded by both asylum seekers and UNHCR as a country with good family reunification practices*

reunification practices. In **Bulgaria** the conditions for family reunification are the same for both refugees and beneficiaries of subsidiary protection, an impressive practice that goes beyond the EU Family Reunification Directive.<sup>127</sup> **Bulgaria** also sets a progressive example in the EU by recognizing partners in proven long-term stable relationships as grounds for family reunification even if they are not legally married.<sup>128</sup>

One of the major problems regarding the conceptualization of family in the EU member states is the question of preexisting family before arrival in a safe country. Bulgaria does not mandate that family formation must have occurred before individuals departed their country of origin, effectively recognizing that partnerships may have formed during flight, transition, and travel. Moreover, for refugees in Bulgaria, divorce or the ending of a partnership does not terminate the right of stay

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<sup>†</sup> The provision on 'unmarried' couples only exists for cases where the legislation or practices of the member state concerned treats unmarried couples the same as married couples under its law relating to aliens.

of children or spouses, another exemplary practice.<sup>129</sup> This is a much more inclusive and supportive approach than other **Central European countries**, which are more rigid and discriminate against families that form after initial departure. While Bulgaria's flexibility is generally positive, extra scrutiny must be applied when partnerships include vulnerable minor children.

Same-sex partnerships or marriages are included in the definition of family in countries such as **Switzerland, the Netherlands and Austria**. **Bulgaria** does not yet recognize same-sex partnership for its citizens or refugees.<sup>130</sup>

### Family Unity and Applications of the Dublin Regulations

According to Dublin Regulations, if an asylum seeker identifies the location of their family members in other member states the authorities contact that country to solicit information on possible family links. The persons should express their consent in writing for Dublin transfers, and they need to be prepared for a lengthy research period. Outgoing transfers for family reasons may be cumbersome both for the refugees and for member states. **Germany**, where most outgoing transfer requests happen, takes strict formal interpretation of the family unity provisions and may reject claims due to technical mistakes. Reports indicate that sometimes asylum seekers are not informed of the procedures of the Dublin cases, and German authorities do not always notify them when a take-charge request is made to another member state. In return, German authorities may refuse to issue a claim based on take-charge requests, citing the lack of DNA information or other documents.<sup>131</sup>

### Unaccompanied Minors

Article 10(3) of the Family Reunification Directive specifically provides that asylum-seeking unaccompanied children should be reunited with their parents, and where no parent can be traced, with a guardian or any other member of the family. In addition, Article

5(5) of the Directive obliges member states to take into account the best interest of the child. UNHCR maintains "an unaccompanied minor child should be reunited as promptly as possible with his or her parents or guardians as well as with siblings."<sup>132</sup>

For UAMs whose parents are deceased or cannot be located, another family member or customary guardian may be eligible to join the child in **Bulgaria**. Once again, with this policy Bulgaria sets an example of best practice, which should be emulated in other EU member states. Many other countries mandate that in order for family members of UAMs to qualify for reunification, they must be direct ascendants of the child and cannot be the child's siblings; such is the case in **Poland and Slovenia**. Bulgaria's liberal application of guidelines in recognizing customary family and guardianship relations follows UNHCR, which calls for "the inclusion of a comprehensive family reunification policy embracing extended family members, where dependency is shown between them and the sponsor. UNHCR embraces the concept of a dependent person as someone who relies substantially and directly on another person for his or her existence, in particular for economic reasons, but emotional dependency is also considered."<sup>133</sup> UNHCR further highlights that emotional and economic relationships between refugees should be treated on par with relationships grounded in blood and lineage. From the region, **Hungary and the Czech Republic** are most inclusive in their definition and use of the dependency concept, allowing for other direct relatives to qualify for family reunification should they be unable to care for themselves due to illness. It is important for **Bulgaria** to support the concept of extended families, as it is an integral aspect of many of the cultures from which many refugees originate – these relationships must be upheld when considering family reunification, especially in the cases of UAMs.

### Documentation and Visas

In many EU countries asylum seekers are asked to provide documentary evidence such as birth

certificates and marriage documents to prove their family links. This is often impossible for refugees originating from conflict-ridden states such as Somalia and Afghanistan. In the EU, many cases of family reunification are rejected based on the lack of documentary evidence. DNA testing can prove family links, however it takes time and is quite costly. In addition, DNA testing cannot prove marriage or extended family ties.<sup>134</sup> UNHCR reports indicate a trend of lengthy family reunification procedures within EU states due to the loss of documents.<sup>135</sup>

Situations become even more complicated for single parents, who are often required to show parental transfer to prove they have custody of the child. However, for many it is almost impossible to gather proof of death or disappearance of their loved one when fleeing a war zone. For other families, reunification with non-biological or *de facto* adopted children is also extremely difficult, as many countries do not have a legal adoption process; furthermore, this does not take into consideration situations of forced migration where individuals other than parents become responsible for children.<sup>136</sup> These complexities must be taken into account when reviewing family reunification cases.

**Bulgaria** again sets a good example here, following the EU Family Reunification Directive by recognizing other documents that prove family ties such as photos and private letters.<sup>137</sup> Bulgaria goes further by also accepting written statements and oral testimony garnered through interviews as evidence of family links, should other documentation be irretrievable.<sup>138</sup> Again, while Bulgaria has progressive policies in this area, extra scrutiny must be applied in the case of vulnerable minors to prevent exploitation and abuse.

### Family Tracing

In the current Dublin Regulations there is no provision related to family tracing. Article 6(4) maintains that “member states take appropriate action to identify the family members, siblings or the relatives of the unaccompanied minor in the territory of the

member states, whilst protecting the minor’s best interests.” It also maintains that member states have a right to request the assistance of international organizations, such as the Red Cross or UNHCR, and to facilitate a child’s access to tracing services of these organizations.

There are a number of practices regarding family tracing, almost all of which require the UAM to provide some relevant identity document and family links. In some countries, such as **the Netherlands**, the state services (IND) will trace the family members of UAMs if concrete information on location and identity is present. In **Switzerland** and **Austria**, if a UAM claims to have family members in other member states, state refugee agencies contact the other member state and request information in accordance with Article 21 of Dublin.<sup>139</sup>

### Policy Recommendations

As stated several times throughout the preceding section, Bulgaria is currently setting a good example for the rest of Europe in family reunification. Nevertheless, the country must guard against complacency and adopt changes where needed. Accordingly, we recommend the following actions:

- There is no EU-wide family tracking system. Using similar procedures and infrastructure to the EURODAC fingerprint database, Bulgaria should form its own database of asylum applicants who are searching for family members. A unified system would streamline the family tracing process; moreover, by sharing it with other European countries, Bulgaria could become a leader in this area and bolster its reputation.
- Bulgarian authorities accept family reunification in cases where applicants possess a valid passport and a valid marriage certificate. Alternatives to a passport, such as a school diploma with photo or a driver’s license, should also be considered.

- There is currently heavy reliance on Red Cross family tracing services. The links with Red Cross should be extended, and an explicit partnership agreed upon. As part of this measure an office should be dedicated to the Red Cross in each reception center. All UAMs and those seeking family members should register at these offices.
- Consider establishing an office for coordinating family reunification across the EU in Sofia. This office can spearhead the process of developing an EU-wide family reunification database and be a center for information and best practice sharing.

## Section V: Observations from Fieldwork

In Bulgaria the Team met a wide variety of actors directly involved in supporting asylum seekers, including volunteers, international NGOs, and multilateral organizations. These interviews granted us insights that are relevant to SAR beyond our three original research questions. In this section we present these findings and give additional cost-effective recommendations that can deliver high returns in helping SAR carry out its mandate.

### Information provision

During our visits at the reception centers we observed that information is being provided to new residents at reception centers in accordance with the law. However, information provision appears to remain at this bare minimum. Asylum seekers are often unaware of practical information about the asylum system and Bulgaria in general. This can be improved.

**Information about the reception center, activities available, and possibilities for life in Bulgaria should be offered in a clearer manner. Information should be constantly provided through dialogue with asylum applicants, not only during the initial briefing that is required by law.**

Social workers and NGOs, owing to their expertise and personal contact with asylum seekers, would be well placed to provide this needed information. BRC, the Council of Refugee Women in Bulgaria, Caritas, and IOM all have valuable expertise and knowledge to impart to asylum seekers; **SAR should work with them to establish a schedule of regular information sessions, focusing on possibilities for integration into Bulgarian society.** Such sessions would have the added benefit of fostering relationships between asylum applicants and providers of essential integration services such as language instructors. These relationships will become increasingly valuable in the event that refugee status is granted.

## Psychological assistance and counseling for vulnerable people

Individuals who have experienced prolonged conflict, warfare, and situations of vulnerability – as is the case for the majority of asylum seekers entering Bulgaria – often suffer from physical and mental trauma. Furthermore, asylum seekers, especially children who have been separated from their families, those who encountered physical or sexual harassment before or during travel, and those who faced other experiences of violence and fear, face high levels of psychological and social stress. Refugees face additional stress when adapting to life in host countries and navigating the asylum process.

Research has shown that, if these stresses are not ameliorated through psychological counseling, there can be detrimental impacts that prevent refugees from becoming active and productive members of society. Children especially need psychological care, as their long-term psychological and education development are particularly vulnerable.

During visits at the reception centers in Bulgaria it was apparent that this needed psychological support is not being adequately provided, partly due to a shortage of qualified personnel. The care provided at asylum seekers' registration appears to be limited in most cases solely to a physical examination. Cultural and linguistic differences, lack of sufficient resources or understanding, and the stigma surrounding mental illness may be causes of this lack of mental healthcare. A systematic methodology for identifying vulnerable individuals who have experienced post-traumatic stress disorder, gender-based violence, or other traumas was also absent. Due to the harmful repercussions of not providing adequate psychological support to these vulnerable asylum seekers, we recommend the following:

- Make a mental health assessment executed by specialists mandatory during the registration process. Provide specific psychological assistance to all vulnerable

individuals, particularly children and those that have experienced trauma.

- Ensure that a system is in place to identify individuals who experienced gender-based violence, and provide them with specialized care and psychological support by licensed professionals.
- Constantly support those with mental health issues, train social workers to recognize signs that warrant psychological care, and provide information on the availability of care. Ensure that information is provided in native languages, through writing and with the help of interpreters.
- Make asylum seekers aware of their legal right to psychological care.

### Coordination with NGOs

SAR can decrease the burden on its budget by formalizing contracts with service providers such as NGOs and private sector actors. These organizations – many of whom we met during fieldwork – have specific expertise in meeting the particular needs of asylum seekers. SAR should assess which services would be best provided by outside actors, and which would be best provided by internal SAR staff.

All tasks outside of the RSD procedure or registration could feasibly be outsourced, although their implementation should be subject to state supervision. After careful analysis, SAR should mandate a certain base level of services – including education, activities, and food service – and open a bidding or contracting procedure for NGOs or other actors to share the responsibility of provision.

### Relationships between staff, asylum seekers, and residents

The relationship between staff and asylum seekers, as well as among asylum seekers themselves, affects the efficiency of the reception center system. In Bulgaria reception centers operate according to the letter of the law; however, the atmosphere at reception centers often felt tense and uncomfortable. We feel that steps can be taken to improve centers' atmosphere for the benefit of all.

**Communication and interaction with residents needs to be improved through cultural mediators.** Social workers, under time constraints, cannot always provide individual attention. The so-called “mayor,” or respected member of the asylum seeker community whom SAR informally designates to facilitate communication between center staff and asylum seekers may be a useful conduit for some information. However, this individual may not have enough institutional knowledge to adequately represent asylum seekers' needs or inform them of available government and NGO services. A formal cultural mediator is therefore necessary to act as a focal point between asylum seekers (and their “mayor”) and center staff to ensure that questions are answered and needs met. Establishing this position can foster deeper dialogue at reception centers and ease the administrative burden on SAR staff. **Possessing crucial language skills and having experience in the asylum process, former refugees who are settled in Bulgaria could easily fulfill this task. Moreover, former refugees already work as interpreters in SAR's reception centers; their duties could be expanded and formalized as cultural mediators.**

### Atmosphere and social activities

Providing more opportunities for asylum seekers to develop tangible skills and form social bonds not only increases the possibility of successful integration but also ensures mental well-being. Social and cultural activities therefore help to reintroduce normalcy into the lives of individuals who have been faced with unprecedented hardships.

Attempts have been made to provide children with activities in the form of English classes, often taught by volunteers and without a concrete, goal-oriented curriculum. In addition to strengthening and formalizing the language curricula with the aim of preparing children for enrollment in mainstream schools, a broader spectrum of activities should also be provided. Additionally, social and cultural activities geared toward adults who remain very poorly integrated could improve the centers' atmosphere. Constructive activities such as

cooking, discussion groups in Bulgarian or other European languages, sports, and art classes would all be advisable choices. These classes can also foster greater cultural exchange as they could involve people from outside the center. Moreover, such activities could create a strong foundation for integration through interaction with Bulgarians and those refugees who are already settled in Bulgaria.

NGOs that are already involved in these types of activities in Bulgaria such as BRC, IOM, and the Council of Refugee Women in Bulgaria would be well placed to offer such activities.

**Activities should be tailored to meet the needs of various demographic, cultural, linguistic, and gender groups that are present at the reception center.** Residents at reception centers should be informed of these activities not only through written notices placed in prominent locations and in several languages, but also verbally through the center staff or cultural mediators. **SAR should agree on a set minimum amount of such activities and collaborate with NGOs to ensure their fulfillment.**

In addition, other inexpensive initiatives would make the atmosphere of reception centers more congenial for all parties. At the time of the Team's visits, most of the centers lacked dedicated communal spaces apart from playgrounds for children and dining halls.

**Using available empty spaces – such as a wide hallway, a meeting room, or any space large enough – SAR should create communal areas.** Shared by both residents and staff during leisure time, these gathering spaces could help to bring people together to socialize. We recommend providing board games, playing cards, books, and if possible a TV in these areas. The materials needed for this initiative would be only several chairs and games; the cost would therefore be minimal and could be covered largely through donations.



## Section VI: Long-Term Planning

### Forecasting

Europe's current refugee crisis may seem dire and endless, but it is not without precedent: as early as 2003 UNHCR estimated that the average duration of a major refugee situation (one comprising at least 25,000 refugees and lasting at least 5 years) was 17 years.<sup>140</sup> As protracted conflicts are increasingly commonplace, wars are becoming more deadly;<sup>141</sup> as climate change threatens to exponentially worsen displacement, the numbers of refugees and forcibly displaced persons worldwide have risen to as many as 20 million and 60 million respectively today.<sup>142</sup> As crises across the Middle East and Northern Africa, South Asia, and Sub-Saharan Africa continue without any end in sight, the flow of refugees and other migrants to Europe is not likely to stop. Bulgaria cannot risk falling into the trap of repetitive short-termism. Treating refugee policy as a temporary issue produces sub-optimal solutions and ignores opportunities. Consequently, this section of the report will address likely future scenarios affecting Bulgaria, including developments in the main states of origin for refugees arriving in Bulgaria – Afghanistan, Syria, and Iraq – as well as developments within the EU.

The flow of Afghan citizens arriving in Europe has increased significantly because of renewed fighting between Afghan forces and the Taliban, which is unlikely to cease in the foreseeable future.<sup>143</sup> Even though some European governments consider several Afghan provinces safe for return, Afghan authorities have reiterated the seriousness of the security situation and actively discourage European states from sending asylum seekers and migrants back to Afghanistan.<sup>144</sup> As Afghan migrants usually arrive in Europe with scant if any identity documentation, it is difficult to establish their province of origin. With

International Security Assistance Forces drawing down their presence and turning the lead on security over to the Afghan National Security Forces, much of the international economic assistance and development support to Afghanistan is also fading, with possibly devastating effects on the Afghan economy. Job opportunities in transport, construction, and service sectors are predicted to diminish.<sup>145</sup> This will likely exacerbate migration flows from the country.

In its sixth year, little suggests that the war in Syria is anywhere close to a comprehensive peace. In addition to the 2.5 million Syrians who have sought asylum abroad, another eight million are internally displaced, and many will likely flee their homeland in the future. Given that major belligerent groups are excluded from any negotiations, conflict in Syria will continue even in the unlikely event of an agreement between other stakeholders. The

Assad regime's encirclement of and advances on Aleppo are worsening the humanitarian crisis by sending tens of thousands of refugees fleeing towards Turkey. A rapid collapse of Aleppo could further aggravate this

scenario. Furthermore, fighting could escalate in the event of Turkish intervention in Kurdish areas in the Syrian north. Stable until recently, these areas could experience significant outflows if fighting spreads.<sup>146</sup> In short, much of Syria is physically and politically destroyed – the level of destruction will make it impossible for refugees abroad to return in the foreseeable future, even in the event of a cessation of conflict.

The Iraqi army and its allies are making gains against Daesh on several fronts. Yet insecurity remains as power shifts and sectarian violence becomes more prevalent. Civilian populations in Iraq in the western Anbar and northern Nineveh provinces are still living in unstable war zones, Sunni communities across the country continue to suffer persecution from Shia Popular Mobilization units, and Baghdad experiences recurring bomb attacks.

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Furthermore, the Iraqi political situation is extremely volatile and the country will likely remain divided in sectarian strife.<sup>147</sup>

The Middle East and North Africa region is particularly prone to conflict spillover from neighboring countries due to cultural, security, and economic links.<sup>148</sup> The vast majority of refugees from the crises in Syria and Iraq have fled to other regional states, where they reside in local host communities. Turkey has taken in more than 2.7 million refugees, Lebanon 1 million, and Jordan 650,000.<sup>149</sup> These countries do not have the capacity to absorb the asylum seekers who are already arrived, let alone a continued and heightened influx of people.<sup>150</sup>

An EU agreement with Turkey, which came into effect in March 2016, is meant to ensure that all migrants who have illegally crossed the Aegean to Greece from Turkey are returned to Turkey and that EU states resettle some of the asylum seekers who are present in Turkey. However, projected numbers for such resettlement are negligible, and will not mitigate the pressures that exist in Turkey. Whether or not implementation of this agreement is successful, migration routes are likely to change as Macedonia, Croatia, and Slovenia have shut their borders, largely ending the so-called “Western Balkans route.” Analysts<sup>§</sup> are preparing for increased crossings from Libya to Italy, from Greece to Albania and from there to Italy, and especially through Bulgaria and Serbia. New patterns involving Bulgaria may also include increased internal EU traffic across Bulgaria’s border with Greece, as well as possible uses of a Black Sea route from Turkey to Bulgaria.<sup>151</sup> Regardless of how migration routes shift throughout the region, in all likely scenarios Bulgaria will continue to experience significant traffic.

### *Asylum seekers might no longer be able to treat Bulgaria as a transit country*

Europe has recently witnessed a tightening of borders and an increase in restrictive measures on refugee mobility, particularly in popular destination countries where isolationism and anti-immigration sentiment are gaining ground. Schengen countries such as France, Sweden, Austria, Denmark, Germany, and Norway have all imposed new border checks.<sup>152</sup> Sweden ended its open door policy for asylum seekers in November, has reverted to accepting only the EU mandated minimums, and is introducing new legal amendments reducing access to full refugee status.<sup>153</sup> Denmark has also implemented substantial border controls.<sup>154</sup>

Austria imposed a low cap on the number of refugees it would let into the country and is sending refugees back to countries of first arrival in the EU, such as Bulgaria.<sup>155</sup> In Norway, the government is proposing legislation to turn away asylum seekers at the border.<sup>156</sup> Due to domestic

electoral pressure, EU policy leader Germany may also follow suit.<sup>157</sup> All this leaves frontline states, until now mainly subject to migration transit, increasingly exposed. Asylum seekers might no longer be able to treat Bulgaria as a transit country, and Bulgaria might no longer be able to consider itself as such.

Recent calls for greater scrutiny of the Dublin Regulations may further exacerbate this effect. At the same time, national policy decisions by EU member states have also undermined the regional policy structure of the regulations – the German Chancellor, for example, announced that all Syrian asylum seekers would be eligible to claim asylum in Germany. Renegotiation of the Dublin system has centered on two proposals from the European Commission: to preserve the regulations, but implement a “corrective fairness mechanism” that would share the burden of asylum claims imposed on countries of first entrance;<sup>158</sup> or to eliminate it altogether and replace it with a mandatory redistribution system, whereby countries take a certain number of asylum

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<sup>§</sup> All mentioned forecasts and trends in this section are based on professional scenario assessments by the Economist Intelligence Unit, the Assessment of Capabilities Project (ACAPS), FRONTEX, Stratfor, and other research institutions.

claims based on their financial and administrative capacities.<sup>159</sup>

Mandatory redistribution has come under severe opposition from Central European countries such as Hungary, which has closed its borders to asylum seekers.<sup>160</sup> However, Germany is in favor of keeping current regulations while incorporating better measures on redistribution. Scrapping the Dublin Regulations as a whole means that northern European countries will not be able to send refugees back to countries of first entrance. This is being met with immense pushback by the UK.<sup>161</sup>

Even though the overall return of refugees to Bulgaria has been minimal to date, due to the previous categorization of Bulgaria by some states as an “unsafe country,” this notion is changing. Nationalist sentiment in places like Germany has led to calls for increasing the number of Dublin returns. Although this ruling is not universal, some German courts have already confirmed Bulgaria as a safe country to which refugees can be returned. Roland Theiss, leader of the CDU in Saarland, stated that, “while life is not easy for refugees in Bulgaria, Germany simply can’t accept all those who are persecuted in their homeland. Whoever is fleeing war is entitled to protection in Europe, but not everyone is entitled to the social benefits in Germany.”<sup>162</sup> Bulgaria can expect that, under domestic social pressure, more countries that previously considered it “unsafe” will revert their stance.

Although negotiations on the amendments to the Dublin regulations are ever changing, and these will continue to adapt to the refugee situation, it is likely that some redistributive measures will be incorporated in the final revision. As an EU member state with a concerted interest in joining the Schengen bloc, Bulgaria will be tasked with sharing the burden of responsibility for processing, protecting the human rights of, and integrating the current, and incoming, influx of asylum seekers as part of this redistribution scheme. This will be in addition to respecting asylum claims made directly on Bulgarian soil.

Bulgaria must therefore prepare itself by directing resources to meet this imminent influx. An integral aspect of preparation will be establishing concrete integration measures to ensure that both Bulgarian society and asylum seekers embrace a new norm of coexistence and cooperation.

## Integration

The full integration of refugees into Bulgarian society is not only a fundamental need given future trends; it is also in the clear security and economic interest of Bulgaria. The education of refugees, social and economic integration, creating a shared national identity, and strengthening community inclusion are frequently cited as leading strategies for preventing radicalization and violent extremism.<sup>163</sup> Conversely, the marginalization, polarization, and social exclusion that result from short-sighted policies represent a great risk. **Integration measures are therefore crucial to national security.**

Furthermore, the economic ramifications of Bulgaria’s aging population and consequent rising health care and pension expenditures are severe. According to the World Bank and other research institutions, there is a clear need to mitigate the decline in the workforce; increasing legal immigration should thus be a strategic goal\*\* for the Bulgarian government.<sup>164</sup> **Bulgaria has at its doorstep a young, able-bodied population looking for work – it would be wise to take advantage of this economic opportunity.**<sup>165</sup> While remaining cognizant of their primary function of providing international protection to vulnerable refugees, SAR and relevant ministries should therefore simultaneously work towards encouraging approved refugees to learn Bulgarian and to take up residence in Bulgaria, rather than “continuing their journey” to points farther west. As mentioned in previous

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\*\* Due to the unemployment in several key sectors and skill-shortages in others, job-seeker assistance and vocational training programs for legal immigrants can help fill vacancies not being filled currently by Bulgarians, thereby strengthening the economy.

sections, this necessitates a greater amount of information provision at reception relating to opportunities in Bulgaria.

It is helpful to see integration as three inter-related processes that are essential in building a sustainable, productive society. As a **legal** process, refugees are granted almost all of the rights enjoyed by citizens, as described elsewhere in this report. Those granted refugee status are given access to education, the labor market, and health facilities, as well as the right to family unity, and eventual residency rights and citizenship.<sup>166</sup> As an **economic** process, integration allows refugees to be economically independent and less reliant on state aid, as well as to contribute to the economic development of their new home countries.<sup>167</sup> Finally, as a **social and cultural** process, integration combats discrimination and encourages cohesion between the refugee and host communities, allowing refugees to become full and productive members of society.<sup>168</sup> Integration is therefore a multi-faceted process that requires efforts by all parties concerned, namely the Bulgarian government, its institutions, the Bulgarian people, and the refugees themselves.

Below are policy changes largely within SAR's mandate to strengthen integration. To ensure continuity and considering the Agency's considerable relevant expertise and institutional memory as the agency responsible for integration of refugees at points in the past, SAR should go beyond its current mandate where necessary and take a pivotal role in organizing cross-agency cooperation. SAR should secure the necessary resources to implement these policies either by lobbying to the Ministry of Interior or applying for EU funding programs.

## Employment

Entrance into the workforce is paramount for refugees and asylum seekers. Labor market integration can and should be a focus even before the granting of asylum or humanitarian status, especially with respect to those from countries of origin with high likelihood of approval.<sup>169</sup> As a country with less than 75%

of the EU's average GDP per capita, Bulgaria is entitled to receive funding from **ESF** to fund up to 85% of project costs for labor market integration initiatives. The fund lists improving human capital, improving adaptability of industries, and improving access to employment for vulnerable populations as stated objectives – asylum seekers are therefore a target demographic.<sup>170</sup> To acquire these funds and put them to the best possible use it will be necessary to coordinate an “Operational Programme” with EC. Currently, Bulgaria has no dedicated program for integrating asylum seekers into the labor market, yet ESF explicitly states, “The Commission stands ready to examine and rapidly approve amendments to the 2014-2020 Operational Programmes in order to better accommodate (more) actions to support the integration of migrants.”<sup>171</sup>

The ideal program will identify asylum seekers with key employable skills, and provide them with relevant training to prepare them for entry into the Bulgarian economy. This could include Bulgarian language training specific to the job sector, helping the asylum seeker to acquire any needed licenses, and other professional counseling. **The demand for software specialists is three times the current output of talent from the country's educational institutions; ESF funding can and should be used to develop programs in these fields tailored to asylum seekers.**<sup>172</sup> It will be necessary to coordinate with NGOs and other providers of vocational training, as well as potentially with employers' and business associations and chambers of commerce, both to develop a pitch for the ESF and to clearly delegate responsibilities. **Planning for ESF funding should become a staple agenda item at the monthly coordination meetings between SAR and NGOs.**

ESF has already funded many similar initiatives in other EU countries. For example, the “EPIC” (Employment for People from Immigrant Communities) program in **Ireland** has been providing job counseling and training services to approximately 250 people per year since 2008. Over 70% of the program's 425,000 Euro budget comes from the ESF.<sup>173</sup> Likewise, in

**Germany** “Jobbrücke Plus” (Job Bridge Plus) has already registered 469 participants, providing them job search advice, internships, and vocational training. Set to run through June 2019, the program has a budget of more 2.5 million Euro, 80% of which is funded by ESF.<sup>174</sup>

Funding is available; Bulgaria has labor needs in key industries. **As a key entry point for asylum seekers, Bulgaria therefore has a valuable chance to capitalize on the ESF funding drive. By doing so the country can become a leader for the rest of Europe in labor market integration strategies.**

### Education and Language

Language education is crucial from the moment the asylum claim is filed. Language proficiency increases the ability to network, seek jobs, find accommodation, and break free of isolation and dependency on the state. Many countries, including **Spain**, foster integration through a combination of civic integration courses, adult education, skills evaluation, and job-related training for asylum seekers.<sup>175</sup> Refugees should have access to basic levels of Bulgarian classes upon arrival in Bulgaria, even before refugee status has been granted. Classes should be consistent and have a clearly defined curriculum that prepares refugees for job market entry and higher education.

Education is important at all age levels, but especially during the formative years of primary and secondary school. SAR should work with the Ministry of Education to provide assistance to these age groups in the form of textbooks and other school supplies. Furthermore, a comprehensive education integration strategy requires creativity and cooperation between the government refugee agency and municipalities, especially on the inclusion of children in local schools through transitional programs. In Solna, **Sweden**, state and municipal agencies coordinate to offer sports clubs and other after-school activities for asylum seekers.<sup>176</sup> The government of **Latvia** used funding from the previous European Integration Fund (EIF) to develop Latvian language and teaching materials for migrant teenagers, which are now available in all

Latvian schools.<sup>177</sup> Meanwhile, **Austria** developed an innovative way to engage and teach immigrant children by creating “Learning Cafes” where they could study, do their homework, and organize activities, further building a sense of community.<sup>178</sup>

Entrance to higher education requires educational certificates; however, such documents are often either lost during refugees’ journey to Bulgaria, or do not exist at all.<sup>179</sup> SAR should therefore work with the Ministry of Education to design a standardized test of educational equivalency for refugees.

Numerous European countries provide public and private funding options for secondary education costs for refugees. The Albert Einstein German Academic Refugee Initiative, funded by the **German** government, is a scholarship assistance program for refugees and the program is implemented worldwide by UNHCR. The initiative provides scholarships to refugees at colleges and universities at their host countries.<sup>180</sup> Another scholarship program, The Foundation for Refugee Students, advises and supports refugees and asylum seekers wishing to study in **the Netherlands**.<sup>181</sup> Bulgarian private universities, such as the New Bulgarian University, offer English as the main language of instruction and offer some scholarships for refugees. Public universities in Bulgaria should follow this example, and offer scholarship options to qualified refugees.

### Housing and Social Support

The provision of support mechanisms and affordable housing are areas in which SAR and municipalities must work in tandem. It is essential that refugees not be segregated into ghettos. Units should instead be spread across urban areas, preferably in proximity to labor opportunities, to solidify social integration.<sup>182</sup> Many countries, including **Germany, Norway, and Sweden**, use private decentralized accommodation early in the asylum process. Providing decentralized facilities simultaneously allows for administrative flexibility and gives more autonomy to asylum seekers, thus normalizing their stay from an early stage. Such units should be based within



walking distance of an administration center for necessary services.<sup>183</sup>

Proximity is less necessary after asylum seekers are granted asylum. Nevertheless, center staff can still be a valuable resource in the long-term integration process. In several EU member states, such as **Poland** and **Lithuania**, authorities have established dedicated centers for helping refugees integrate into their new communities. In **Lithuania**, the center provides housing and other forms of social assistance for a limited time before the refugees find housing and jobs. Lithuania also received funding from the previous EIF to set up a consultation center that promotes integration through social support, legal advice, psychosocial programs, and other training.<sup>184</sup> **In Bulgaria, SAR should support or collaborate with BRC's current information center to provide services similar to Lithuania's consultation center.** In **Poland**, support centers for refugees are located around the country's major population centers that provide advice and support to refugees already living on their own. **Portugal** hired intercultural mediators through funding from EIF who work at public service centers, such as hospitals, in order to facilitate dialogue and provide better services for refugees and migrants.<sup>185</sup> **Establishing similar centers or dedicating personnel of this kind in Bulgaria would prepare municipalities for future integration needs.**

Communities are constructed in different ways; there is no universal solution to social integration. Ultimately, the cooperation of civil society will be essential in building relationships between host communities and refugees. **SAR needs to draw on its expertise to design innovative, creative solutions to these challenges in partnerships with municipalities, civil groups, and NGOs.**

## Countering Xenophobia

Increasing incidence of racist and xenophobic speech and actions is a worrying trend throughout Europe, including in Bulgaria, and currently Bulgaria has no national strategy to combat this. However, UNHCR has a dedicated public relations department that can help

combat this intolerance.<sup>186</sup> Each year UNHCR creates numerous media campaigns featuring celebrity spokespeople such as Angelina Jolie to shed light on forced migration issues. Many campaigns are successful, and they extend their efforts to assist states such as Bulgaria in developing strategies for fighting xenophobia.<sup>187</sup>

**Together with UNHCR, SAR should design a public relations campaign specific to the Bulgarian context to combat racism and xenophobia.** This initiative could highlight the reasons why asylum seekers flee their home countries, thus humanizing and de-politicizing their plight by fostering empathy and understanding. Development of a coherent framework that outlines the rights and obligations of refugees in Bulgaria could also assist in cultivating public trust and building social cohesion. Replacing hostility with this welcoming discourse would be instrumental in promoting integration.<sup>188</sup>

Public relations campaigns have an established precedent elsewhere in Europe, as well as in Bulgaria. **Slovakia** used the previous EIF towards television programing promoting positive images of migrants. On national and regional channels, journalists held interviews and discussions with migrants about their experiences. In **Bulgaria**, IOM and BRC are currently using funding from AMIF to make a documentary about refugees' and migrants' integration into Bulgarian society.<sup>189</sup> The documentary will follow refugees and migrants throughout 2016 into 2017 as they participate in various integration events and programs. **SAR can increase the impact of such programs by providing institutional support, and should explore further media possibilities that show asylum seekers in a positive light.**

## Section VII: Conclusion

Considering the massive influx of refugees and the extent to which it has affected Europe, it is clear that policies regarding the asylum system must be long-term in scope. Accordingly, the countries listed in this report have adopted admirable practices that adapt to this flow of people in ways that engender economic, institutional, and social sustainability.

The Bulgarian State Agency for Refugees requested the Columbia SIPA Team of Researchers to examine three areas critical to a comprehensive policy framework: detention, unaccompanied minors, and family reunification. The Team situated their analysis of these topics within the context of international, European, and Bulgarian law. A comparative study of best practices from EU member states led to a series of recommendations designed for the Bulgarian context. For detention, the issues scrutinized were grounds for detention, time limits and judicial review, legal assistance and social services provision, detention of UAMs and other vulnerable groups, and alternatives to detention. The section on UAMs focused on specialized care, matters of guardianship, and disappearances. Family reunification analyzed the definition of family, applications of the Dublin Regulations, UAMs, documentation and visas, and family tracing.

In these areas, Bulgaria has made several impressive strides forward given its disproportionate exposure to the refugee influx. Yet, through our interactions with SAR, numerous civil society groups, and NGOs, we feel that Bulgaria can go one step further. SAR can institute policies that are economically efficient, respect the dignity of people regardless of their nationality, and are beneficial for society. The country has thus been presented with a unique opportunity to become a leader in Europe.

Catalyzing upon this sentiment, the Team provided further recommendations regarding reception procedures, including better

information provision, psychological assistance and counseling, and coordination with NGOs.

To echo the recurrent theme and title of this report, Bulgaria must embrace the long term. Substantial efforts at the integration of refugees are vital to Bulgaria's national security and can have positive economic ramifications if designed correctly. SAR is well placed to design such policies; it should take an active role in coordinating across Bulgarian ministries to put them into practice. Successfully instituting integration policies can foster coexistence, collaboration, and cooperation between refugees fleeing conflict and Bulgarian society. To do so is to embody a prominent ideal not only of the European Union, but also of Bulgaria – that, despite differences in culture, a determined society can work together for a brighter future.

## Appendix

**Table: Asylum Systems and Detention Provisions Across the EU Member States and Norway**

	<i>Authorities and roles</i>	<i>Grounds for detention</i>	<i>Types of centers</i>	<i>Limits on detention</i>	<i>Alternatives to detention</i>
<i>Austria</i> <sup>90</sup>	Aliens Police receive asylum claims on the border or on the territory. Federal Agency for Immigration and Asylum assesses Dublin responsibility and evaluates asylum claims. Both under Ministry of Interior. The federal authorities cooperate with provinces in providing basic care. One of the detention centers is run by a private company, G4S.	Mainly people subject to Dublin procedure are detained. Detention may be ordered to secure return if there is a risk of absconding and detention is commensurate. A risk exists if: the person has avoided a deportation order or travel ban; the asylum application has been withdrawn; the person is in pre-deportation detention when lodging asylum application; another country is likely responsible under Dublin; the person does not comply with alternatives to detention; or there is link with Austria via family relations, resources, or residence.	Reception centers, private accommodation contracted by the state, transit centers (for people en route to Germany), detention centers.	Detention is only permissible for as short a period as possible, and cannot exceed four months for adults and two months for minors over the age of 14, subject to exceptional extensions of 6-18 months. For asylum seekers, detention should generally not last longer than four weeks following the final decision on the application. Two days in the alternative measure count as one day of detention.	Border Police has to review the proportionality of detention every four weeks. Alternative measures must be applied in all cases if the authorities have good reasons to believe that the object and purpose of detention (e.g. deportation) could be reached by the application of such measures. Measures include reporting, designated residence, and bail.
<i>Belgium</i> <sup>91</sup>	Federal Police at the borders or Aliens Office (AO) on the territory receives applications. AO decides on the procedure. The Office of the Commissioner General for Refugees and Stateless Persons (CGRS) decides on the admissibility. Council for Aliens Law Litigation (CALL) hears appeals.  AO falls under the Interior Ministry and CGRS falls under the responsibility of both the State Secretary for Asylum and Migration and the Interior Ministry. AO oversees detention centers – the provisions of the Reception Conditions Directive are not applicable to them.	Asylum seekers are detained if they: are undocumented while arriving at the borders; have been removed or expelled from Belgium in the past 10 years; have resided for a period exceeding three months in a safe third country; have valid international travel documents to pursue travel to third country; have voluntarily withdrawn from a border procedure; or have failed to present themselves at a return center for at least 15 days. In addition, the following grounds exist: false information or refusal to cooperate; resistance to fingerprinting; no mention of past asylum claims in other countries; destruction of identification documents; filing of a subsequent application; other EU member state responsible; risk of absconding; public or national threat.	Detention centers, a repatriation center and other Schengen border posts. Observation and orientation center for UAMs.	Asylum seekers: two months total or 15 days at first instance; pre-removal detention: two months; other member state responsible for claim: 15 days (in prison); cases requested by the Ministry of Interior: 15 days; threat to public order: 15 days.	There are no legal restrictions or guidelines as to the assessment of the necessity of the detention and possible alternatives. The Reception Conditions Directive is not considered to be applicable to detention situations. Families with minor children who claim asylum at the border are explicitly excluded from detention in a closed center and are placed in facilities adapted to the needs of such families. UAMs should not be detained but placed in observation and orientation center.
<i>Bulgaria</i> <sup>92</sup>	Border Police is responsible for receiving asylum applications from legal border crossers and for detaining illegal immigrants and receiving asylum applications from them in detention centers. The Border Police works under the mandate of Ministry of Interior. State Agency for Refugees, with the Council of Ministers, evaluates asylum claims and runs open reception centers.	For illegal immigrants: identification when there is a risk of absconding, and prevention of execution of removal order. For asylum seekers: establishing identity, elements of asylum claim if there is a risk of hiding, national and public security, or another state being responsible for claim under Dublin procedure	Reception, detention.	18 months, with extensions after six months ordered by the courts (for illegal immigrants). "As short as possible" for asylum seekers.	Reporting to the police (for illegal immigrants), residence in certain administrative areas.



<i>Croatia</i> <sup>193</sup>	Border Police and Police receive illegal migrants and asylum claims. Reception Center for Foreigners (a separate unit, actually a detention center) registers the application. Asylum department determines the refugee status and Dublin responsibility. All of these bodies are under the Ministry of Interior.	If alternative measures would not work, detention can be assigned for verification of facts, where there is a risk of absconding; for identification and verification; for security and order; to prevent abuse of procedure based on suspicion that the claim is filed to avoid expulsion. Risk of absconding exists if there has been a previous attempt; refusal to cooperate on identification; providing false identity information; violation of the house rules of the reception center; a Eurodac hit; and opposition to a Dublin transfer.	Detention center, accommodation centers.	Three months with a three-month extension. Dublin procedure detention cannot exceed six weeks.	Prohibition of movement outside the reception center; prohibition of movement outside a specific area; reporting to the reception center; withholding documents.
<i>Cyprus</i> <sup>194</sup>	Refugee determination is done through asylum section of Ministry of Interior (Mol). Orders for detention come from Civil Registry and Migration Department, part of Mol, while the Asylum Service (also part of Mol) can only recommend that a detainee be released.	Any of the six grounds for detention in the 2013 Reception Directive, and those who enter illegally who have not applied for asylum. Detention of UAMs prohibited; detention of non-asylum-seeking UAMs possible. Victims of trafficking and torture cannot be detained. Detaining occurs under Aliens and Immigration Law, not Refugee Law, for purposes of return as in the EU Return Directive.	One reception center in the country, private accommodation options much more common. One detention center, Menogia, for both asylum seekers and irregular immigrants.	Possible to apply for release at Supreme Court. No automatic judicial review of detention decision. If denied asylum possibility to apply for administrative appeal. Absolute max is 18 months. Average of eight months for Supreme Court review, but 1-3 months for Habeas Corpus application. Lack of protection against refoulement.	Tolerated stay allowed if individual cannot be returned. No official alternatives; it is up to authorities. However, Refugee Law lists residency requirements as a possibility.
<i>Czech Republic</i> <sup>195</sup>	Ministry of Interior decides on reception or detention. International Protection Unit of the Department for Asylum and Migration Policy (DAMP) is responsible for asylum proceedings. Refugee Facility Administration, also under Ministry of Interior, manages various centers, where the Administration provides accommodation and meals, while the police ensures surveillance and enforcement.	Grounds for detention are very strict and in general the purpose of detention is to enforce an expulsion order. The DAMP must to decide within five days from submission on admissibility. Unless alternatives apply, grounds for detention are: unclear identity; forged or altered documents; threat to national security; transfer to another Dublin state with a risk of absconding; failure to cooperate upon doubts of previous illegal migration (unless contrary to international commitments).	Reception (short-term, cannot leave), accommodation, integration, detention, long-term integration.	120 days in total, decided by the Ministry of Interior.	Remain in the accommodation center determined by the Ministry; report to the Ministry.
<i>Denmark</i> <sup>196</sup>	Immigration Service, under the Ministry of Immigration, Integration, and Housing, helps municipalities run accommodation centers. Detention is carried out by the Prison and Probation Service.	Suspicion of crime that can lead to expulsion, entry into Denmark despite a ban, for expulsion.	Reception, accommodation (including special centers for children), departure, detention.	Three days without court order. Up to four weeks at a time with court order. If another state is responsible, maximum detention is six weeks. Detention pending deportation is up to six months - in special circumstances, up to 12 months.	Withholding of documents, provide bail set by the police, reside at a designated location, or report regularly to the police. People to be deported can also be made to wear an electronic transmitter.
<i>Estonia</i> <sup>197</sup>	Police and Border Guard Board is the party responsible for asylum seekers. Estonian Internal Security Service can also detain asylum seekers. The Board is an agency with the Ministry of Interior.	For identification and verification of entry into Estonia, when there is a risk of escape, when there is a suspicion that the asylum application is filed to prevent expulsion, for protection of security and order, for transfer under Dublin procedure. Other grounds applicable.	Reception, detention.	48 hours by Border Police in detention center or offices if reasons valid. Up to two months with a court order, with a two-month extension.	Residing in a determined place; regular registration with the police; notifying the police when absence will be longer than three days; depositing travel documents.

<i>Finland</i> <sup>198</sup>	Border Guard apprehends illegal border crossers and receives asylum seekers. Immigration Service runs the asylum procedure. Finland has two state-owned reception centers, including a transit center in Helsinki, and more than 30 centers run by municipalities. Helsinki municipality runs the only detention center, in collaboration with the Immigration Service.	An alien can be detained for identification purposes, on the risk of hindering or not finishing the asylum procedure, suspicion of crime, suspicion that the alien has submitted an asylum claim only to escape detention, to determine the state responsible under Dublin, and for national security reasons. The risk of absconding can be added if the alien has changed the residence without having informed the authorities.	Detention (local police stations used in municipalities), transit, reception.	With a court order, six months. If the detained has to be returned but not cooperating, 12 months.  If detention centers are unavailable, four days in police facilities, or, if those are unavailable, 48 hours in border guard facilities.	Obligation to report, withholding travel documents, bail.
<i>France</i> <sup>199</sup>	Prefecture receives and examines claims and decides on detention. The Office for Immigration and Integration (OFII), responsible for nationwide reception, interviews the asylum seeker to assess special needs. French Office of the Protection of Refugees and Stateless People (OFPRA), in charge of status determination, receives completed applications. National Court of Asylum hears appeals. On the border, the Border division of OFPRA issues a binding decision after an interview. All entities fall under the Interior Ministry.	Risk of absconding; transfer under Dublin; awaiting expulsion. No children can be detained except under a transfer order under Dublin.	Reception centers, administrative retention center (in practice, a detention center).	Maximum: 45 days (five days and two possible extensions of 20 days each).  Prolongation request has to be lodged by the Prefect with the Judge of Freedoms and Detention (JLD).	House arrest is the only alternative to administrative detention.  People whose removal is postponed for technical reasons (identification, transportation) can be under house arrest for 45 days, renewable once.  When foreigners subjected to a return decision are accompanied by minor children and do not have a stable address (decent housing within legal conditions), it is possible to envisage house arrest in hotel-like facilities.
<i>Germany</i> <sup>200</sup>	Border guards and police conduct individual assessment and determine the placement in detention or otherwise. Home ministry responsible for detention. Private security forces responsible for special tasks within the facility. Federal Office for Migration and Refugees (BAMF) responsible for asylum applications, Federal States responsible for reception centers.	Any of the six grounds for detention listed in the EU Recast Reception Directive. Many detainee trends vary by Federal State. Dublin detaining common, but usually only by police for a short time. Very few people are actually detained – fewer than 90 asylum seekers as of Oct 2015. Detaining only happens once final appeal has been rejected.	BAMF reception centers, detention centers run by states, Nord Rhine-Westphalia uses repurposed prison. No national specific centers for detention. After initial application period, municipalities take responsibility for accommodation.	Possibility of appeal, and then a re-appeal at higher court within 2-4 weeks. Appeal to administrative court possible; appeals to higher courts not usually possible. Only judge can order detention; must apply to court for detention order. Detention limited to four weeks if asylum application has been filed.	Tolerated stay allowed if individual cannot be returned. Reporting, residence requirements, surrendering documents, bail, guarantor, release to care worker possible. Varies by state and municipality.
<i>Greece</i> <sup>201</sup>	Asylum Service handles most aspects of asylum applications. Asylum Service also issues detention order, but final decision comes from Police Director. Can appeal denial to Appeals Committee.	Preventing absconding, establishing identity, stopping a threat to national security are grounds. Detention often occurs without individual assessment. Asylum applications often come from those about to be deported.	Reception centers run mostly by NGOs, using European Refugee Fund funds. Seekers often stay in the centers for extended periods of time. Originally intended as pre-removal centers, these facilities are detaining asylum seekers as well. Certain open facilities run like detention center in practice.	Limit of six months on detention. By law asylum seekers and vulnerable people are not detained, but it still occurs in practice. Police authorities often de facto hold the decision powers. No automatic judicial review of detention decision. Appeals are possible if asylum declined, with time to submit appeal ranging from three to 30 days. New Procedure shortens max to three months. Detention order can be challenged in administrative court.	Provided for in law, not applied in practice. Alternative measures listed in law are designed to be implemented before detention, not upon release.

<i>Hungary</i> <sup>202</sup>	Office of Immigration and Nationality (OIN), through Directorate of Refugee Affairs, under the Ministry of Interior, handles asylum procedure. Asylum detention ordered by OIN. Asylum detention managed by OIN.	High number of asylum seekers in detention – 52% of seekers as of 2 Nov 2015 were detained. More in detention than in open centers. Any of the six grounds for detention. Detention of UAMs prohibited in national law. “Threat to public safety” reason exaggerated – irregular entry listed as crime, and subsequently detained. Individual assessments severely lacking. Other than UAMs, anyone can be detained.	Asylum seekers detained in specialized facilities. Reception centers run by OIN. Asylum detention centers are separate from normal immigration detention.	Periodic, judicial review of detention decision was the practice in 2014. Applicant has eight days to appeal asylum rejection; court has 60 days to give an answer. Court automatically reviews detention every two months; max time limit of six months. But, detention decision cannot be appealed. Can file objection to detention order. Initial detention for 72 hours; after this, OIN can ask for prolongation, but judicial review needed. Judicial review also needed after 72 hours if objection filed. However, judicial review ineffective because those specializing in immigration law not present. Rulings in favor of detention release very uncommon in practice.	Cost of detention included in the decision. Reporting every one to three weeks, residence requirements, surrendering documents, bail.
<i>Ireland</i> <sup>203</sup>	Asylum applications lodged at the Office of the Refugee Applications Commissioner; detention occurs via police force. Reception and Integration Agency, part of Department of Justice, runs reception centers.	Any of the six grounds for detention. If asylum rejected, individual can apply for leave to remain temporarily. Also those who enter illegally who have not applied for asylum. Detention of UAMs prohibited in national law.	Detained in public prisons (as of 2014). Low numbers of detainees and no apparent need for dedicated detention infrastructure.	No automatic judicial review of detention decision. Detained person can apply for bail. Can be detained for renewable period of 21 days.	Reporting, residence requirements, surrendering documents, bail, tagging. No formal alternatives, but residence reporting possible in practice.
<i>Italy</i> <sup>204</sup>	Immigration Police (Questura) or Border Police register claims. The Territorial Commissions for the Recognition of International Protection examine and process the claim.	If asylum claim is placed after being detected in a situation of illegal entry; if application is rejected; upon expulsion order; for national security reasons; when risk of absconding exists; application submitted to obstruct the process; for identification and verification; for crimes committed against humanity. Unaccompanied minors cannot be detained.	CIE - centers for identification and expulsion; CDA - reception centers (not planned or governed by any provision of law currently in force; run as closed detention centers).	90 days (30 days and two possible extensions). Asylum seekers will be held in detention centers until the final decision on the asylum application is reached. For removal, maximum time is 18 months.	Reporting, surrendering documents, residence restrictions. Conditions for alternatives exist: no expulsion order for state security and public order grounds has been issued against the person concerned; there is no risk of absconding; and the request of permit to stay has not been rejected as manifestly unfounded or fraudulent.
<i>Latvia</i> <sup>205</sup>	Border Guard apprehends border crossers and receives asylum seekers, receives asylum claims, registers asylum seekers and conducts initial interviews. Border Guard runs the detention center, while the Migration Authority runs the reception center. Migration Authority decides on asylum. Both are separate units under the Ministry of Interior.	Illegal border crossers are put in detention until filing asylum claim, whereupon they become asylum seekers. Unless reasons exist for their detention, asylum seekers are then housed in the reception center. Detention can be applied in the following cases: identification, absconding, transfer under Dublin procedure, security and public order, when application is filed to prevent expulsion.	Reception, detention, smaller detention units in border crossing points.	Six days without a court order.  Two months (and not exceeding the length of asylum procedure) with a court order. Appeal possible within 48 hours.	Regular reporting to State Border Guard at least once per month if there is suspicion that the claim is unfounded or submitted to avoid deportation, or that the seeker might avoid the procedure, or when personal conditions are not commensurate with detention.
<i>Lithuania</i> <sup>206</sup>	Border Police through Foreigners' Registration Center runs both reception and detention centers. Migration Department is responsible for asylum procedure. Both are under the Ministry of Interior. Ministry of Social Security runs an integration center for accepted refugees.	An alien may be detained on the following grounds: illegal entry, except in the cases of asylum; for expulsion; suspicion of forged documents; to prevent the spread of disease; threat to security.	Reception, detention, integration (provides housing and integration services for up to six months).	48 hours without court order by the police or other law enforcement institution. Appeal on detention issued by court within 10 days. Time limit must be stated when getting the court order but no maximum limits are mentioned.	If the alien poses no threat and cooperates with the authorities, alternatives include regular reporting of whereabouts, entrusting guardianship to an agency (for minors) or legal residents, accommodation at the open reception center (applies to asylum seekers only).

<i>Luxembourg</i> <sup>207</sup>	Home ministry responsible for detention. Mechanisms exist to release people of the lowest priority. Ministry of Foreign Affairs, Department of Integration authorizes detention.	Applied to: those with risk of absconding, those whose identity must be established, those who are viewed as a threat, those who have not complied with alternatives. UAMs not detained. Victims of torture, trafficking, and sexual violence not detained.	Reception centers run by Reception and Integration Agency. Has "Retention Center" near airport. More reception spaces opening in <i>ad hoc</i> manner in other institutions. Institutions completely managed by NGOs such as Caritas and Red Cross.	Can be detained at border for a maximum of 48 hours. If they cannot be returned within this time, issued return decision and placed in detention. Cannot be detained without this return decision. No automatic judicial review of detention decision, but automatic administrative review. Each detention period is limited to one month; can be renewed three times for a max of four months.	Residence requirements, sometimes occurs through reception center system.
<i>Malta</i> <sup>208</sup>	Office of the Refugee Commissioner handles asylum applications. Two-week window to appeal asylum decision. Detention center managed by Detention Service, under Ministry of Home Affairs and National Security.	Preventing absconding, establishing identity, stopping a threat to national security are grounds. Detention of those who have applied for international asylum is prohibited as of 2014, but can continue in cases of doubtful identity or risk of absconding. Asylum seekers detained together with deportees. High percentage of asylum seekers detained, as they are considered irregular migrants, often arriving by boat from Libya. UAMs detained.	Detained in mobile homes. Agency for the Welfare of Asylum Seekers handle six reception centers, two by NGOs. Only one center, Safi Barracks, currently used, capacity 200. Detention center managed by Detention Service, under Ministry of Home Affairs and National Security.	Detention usually occurs for the length of the asylum appeals process, during which people cannot be detained. Absolute limit of one month for detention; application needs to be decided within 12 months, i.e. max detention for asylum seeker is 12 months. Not possible to appeal the decision to detain. Lack of sufficient judicial review widely criticized. Immigration Police conduct assessment on need to detain people who they suspect of not meeting asylum criteria.	Can be released if deportation not possible; residency, surrendering documents, monetary deposit all given as alternatives when detention not ordered.
<i>The Netherlands</i> <sup>209</sup>	Royal Military Police registers seekers on the border. Aliens Police registers seekers in the territory. Immigration and Naturalization Service receives asylum claims and conducts the procedure.	People arriving from another Dublin country, or by boat, are first detained. They are transferred to a central reception center, and then to a process reception center after registration is complete. There is a six-day rest (for seeker) and preparation (for authorities) period between filing a claim and starting the procedure. Grounds for detention: risk to public security; risk of absconding due to expulsion. Risk is demonstrated if at least two grounds are applicable: the asylum seeker has entered the Netherlands illegally and absconded; or has not complied with earlier expulsion order or hindered identification.	Reception, accommodation (for carrying out asylum procedure), detention.	Length of evaluating the asylum claim in addition to a four-week extension for asylum seekers. No maximum term set in the law for others.	Reporting, bail, accommodation in a freedom-restricted institution.
<i>Norway</i> <sup>210</sup>	The Directorate of Foreigners, which is under the Ministry of Justice, handles everything except for the actual collection of asylum requests, which is done by the police. The police also carries out detention.	If the alien does not cooperate or there is evidence of false identity; if there is evidence that the alien will evade expulsion or transfer under Dublin; if the alien is to be expelled and poses danger; if the alien is to be deported from a Norwegian Airport; if the alien has been granted asylum in another state (does not apply to minors). Risk of evasion is assessed separately. Risk factors are: if the alien has evaded expulsion decision or expressly opposed to leave; has been sentenced; has not cooperated when there are doubts about identity or has given false information; has failed to inform about the change of residence; has posed nuisance to other asylum seekers in the accommodation; poses a threat to national security.	Reception, accommodation (hosted by municipalities), detention.	Three days without court order. Overall custody may not exceed 12 weeks without special reasons. Imprisonment may not exceed 18 months, unless the alien is expelled as a result of an imposed punishment or sanction.	Reporting requirements, withholding of documents, residing at a particular address.

<i>Poland</i> <sup>2/1</sup>	<p>Border Guard runs both reception and detention centers for first screening. Office of Foreigners runs reception centers. Both fall under the Ministry of Interior. Border Guard receives applications, while the Office for Foreigners runs both regular and accelerated procedure (and Dublin procedure).</p>	<p>If alternatives cannot be applied, detention is used: in order to establish or verify the alien's identity; to gather information – with the asylum seeker's cooperation – connected with the asylum application, where there is a significant risk of absconding; in order to make or execute the return decision, if an asylum seeker had a possibility to claim for asylum previously and there is a justified assumption that the asylum applicant claimed for asylum to delay or prevent the return; for security reasons; in case of risk of absconding under Dublin procedure.</p> <p>Risk of absconding exists if the asylum seekers have no identity documents or crossed or attempted to cross the border illegally, or entered Poland despite being on the list of undesirable foreigners.</p>	<p>Reception, accommodation, detention centers, and support centers for foreigners living independently.</p>	<p>48 hours without a court order (with a valid reason specified). 60 days with a court order for illegal migrants. If they file an asylum claim in detention center, if reasons for detention remain valid, 90 days. Can be prolonged if decision not reached and reasons remain. Maximum total period is six months.</p>	<p>Regular reporting, bail, residing at a designated place. Several alternatives can be used together.</p>
<i>Portugal</i> <sup>2/2</sup>	<p>The Immigration and Border Service (SEF) implements immigration and asylum policies. Asylum seekers must apply to the SEF or any other police authority. In such cases, the police authority sends the asylum request to the SEF within a period of forty-eight hours, and the application for asylum must be processed. Experts and Portuguese Council for Refugees (CPR) can add reports or information to the case file, and obtain information about the case during this time.</p>	<p>Portugal detains asylum seekers who: presented a claim at the borders and do not meet the legal requirements for entry into the Portuguese territory; on grounds of national security, public order, public health or when there is a flight risk, based on an individual assessment and if it is not possible to effectively implement a less serious alternative measure; or if they apply after having been detained for being an irregular immigrant, they remain in detention during their asylum procedure.</p>	<p>Administrative (nationwide) detention center, and transit detention centers at the airports.</p>	<p>At the border: One to five days. The national director of the Aliens and Borders Service (SEF) must make an admissibility decision within five working days. An appeal may be made against this decision within 72 working hours.</p> <p>The time period of detention for irregular migrants is 60 days. If the migrant has not been removed within that time period, they must be released.</p>	<p>None.</p>
<i>Romania</i> <sup>2/3</sup>	<p>The Romanian Office for Immigration (ORI) is the authority within the Ministry of Administration and Interior in charge of enforcing the legislation on asylum and immigration law in Romania.</p> <p>The asylum application can be registered at the Romanian Immigration Office (BIR), Romanian Border Police, Romanian Police and National Administration of Prisons at the Ministry of Justice. The claim has to be sent to ORI, who is in charge of the interview and examining the application.</p>	<p>Asylum seekers cannot be "detained" but only put in "public custody" according to the law, which is analogous to detention in practice. Grounds for detention: national threat; under removal order; declared as undesirable (for criminal offenses); threat to other people's rights. Romanian authorities will not apply criminal sanctions for illegal entry or residence to asylum-seekers who enter or reside on Romania's territory without authorization.</p>	<p>Immigration detention facilities, secure reception centers located in border zones, and one "Emergency Transport Centre," which is operated in cooperation with the UN High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM).</p>	<p>At the border: no more than 20 days from the time of entry. Foreigners taken in detention: 30 days, up to six months with extension.</p>	<p>None.</p>

<i>Slovak Republic</i> <sup>214</sup>	Migration Office under the Ministry of Interior runs reception, accommodation, and integration centers. Office of Border and Alien Police runs detention centers. Apprehended foreigners are typically put into detention before handing them over to the Migration Office, which carries out the asylum procedure.	If alternatives do not work, detention can be prescribed for identification or verification; for establishing facts about asylum where there is a risk of absconding or suspicion that the claim was filed to avoid expulsion; and for national security reasons.	Reception, accommodation, integration, detention, in addition to small detention centers in international airports.	Maximum six months. If the individual is not cooperating or has not received proper documents from the administration, then length can be extended to 12 months.	Residence reporting or bail.
<i>Slovenia</i> <sup>215</sup>	Ministry of Interior has Migration Authority as a sub-entity. The authority runs a reception center with a detention wing (currently not in use). Police carries out detention, including cases of removal.	Identification; suspicion of abuse of process; endangering the lives of others or property.	Accommodation, detention.	Three months, as long as the grounds remain valid. One-month extension with a court order. Illegally staying aliens (not asylum seekers) cannot be detained for more than six months.	Designated non-secure housing; electronic monitoring, deposit of documents, bail, supervised release (reporting).
<i>Spain</i> <sup>216</sup>	Police register applications on the border or detention centers, inform the Office of Asylum and Refuge (OAR), and request a lawyer. Within Spain, OAR registers the case and performs interviews.  The Inter-ministerial Committee on Asylum and Refugees, an administrative body under the Ministry of Interior, composed of representatives of External Relations, Interior, Justice, Labor, and Immigration and Equality ministries, decides on the claim. The asylum seeker lodges an appeal with the Committee or the National Appeals Court.	If asylum seekers apply for asylum after being placed in detention, they remain detained pending the decision on admission into the asylum procedure. Only foreign nationals who are under an order for removal or deportation and who placed an asylum claim remain in detention.  .	Reception, detention.	First, pre-trial decision: 72 hours.  Maximum in detention: 60 days.  As soon as the authorities know that the person could not be deported or transferred, he or she should be released and sent to open centers for refugees in order to be registered.	None.
<i>Sweden</i> <sup>217</sup>	Main authority is Migration Agency. The Police handle aliens before they request asylum and after they are returned to the Police through a refusal-of-entry decision. Migration Agency is responsible for the enforcement of detention orders. Police may assist upon request. Migration Agency is under the Ministry of Justice.	Aliens over 18 may be detained on these grounds: identification and verification, to enforce probable or actual expulsion, or if there is a risk of absconding.  A child may be detained if there are reasons to believe the child will be refused entry, to enforce such an order, or if there is a risk of absconding even with supervision.	Accommodation, detention. Correctional, remand centers, or police arrest facilities can be used if alien is expelled for a criminal offence, being held in isolation, or upon special grounds.	48 hours without a court order for investigation purposes. Children cannot be detained for longer than 72 hours.  Detention order can be appealed without time limit. With court order, two weeks unless exceptional grounds exist. If refusal-of-entry or expulsion order is issued, then maximum time is two months unless there are exceptional grounds.	Supervision for both adults and children: report to the police authority in the locality or to the Swedish Migration Board at certain times, and possibly surrender the passport or other identity document. Supervision order is reexamined every six months.
<i>United Kingdom</i> <sup>218</sup>	Home Office responsible for detention; UK Visas and Immigration, part of UK Home Office, responsible for processing applications when applicant not in detention through Asylum Casework Directorate. Mechanism exists to release people of the lowest priority.	People that meet any of the six common grounds for detention. Voluntary return home possible.	Detention Centers called "Immigration Removal" Centers, some run by HM Prison Service; others by private companies.	No automatic judicial review of detention decision. Can challenge detention through judicial review. UK is the only EU country that has no time limits on detention.	Tolerated stay allowed if individual cannot be returned. Reporting, residence requirements, surrendering documents, bail, tagging, guarantor, release to care worker are possible alternatives.

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