



Asylum systems in 2016

Overview of developments from selected European countries

March 2017



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

Information is drawn from the 2016 Update of the AIDA Country Reports for Austria, Belgium, Bulgaria, Cyprus, Germany, Spain, France, Greece, Croatia, Hungary, Ireland, Italy, Malta, the Netherlands, Poland, Sweden, the United Kingdom, Switzerland and Serbia. The update of the country report on Turkey is pending at the time of writing.

Asylum procedure

An amendment to the law created the possibility to introduce exceptional provisions. These essentially aim at preventing access to asylum procedures and send asylum seekers back to other countries and refuse them entry, once a fixed quota of asylum applications has been admitted for examination on the merits in Austria. A quota for 37,500 applications was introduced for 2016, and is planned to decrease in the following years.

The time limit for the submission of an appeal had to be raised following a judgment of the Constitutional Court (VfGH). The appeal period for challenging return decisions is 2 weeks, up from the previous 1-week deadline. For decisions of the BFA which are not accompanied by a return decision, the appeal period is now 4 instead of the previous 2 weeks. The appeal period was not raised with regard to cases where an asylum application is rejected and a return decision was ordered.

The duties of the legal advisors provided by the state for the appeal procedure were clarified by a decision of the Administrative High Court. As of 1 October 2016, they are under the obligation to participate in hearings before the Federal Administrative Court and to represent applicants during the proceedings, if the asylum seeker so wishes. The Constitutional Court decided that differentiating the scope of legal advice according to the type of procedure – asylum, basic care or return proceedings – is discriminatory and, therefore, unconstitutional.

Reception conditions

After the arrival of less asylum seekers in 2016, many emergency centres were closed in the course of the year.

Content of protection

Following the “temporary asylum” (*Asyl auf Zeit*) reform, the previously indefinite right of residence granted with asylum is now issued for the duration of 3 years since June 2016. The right to residence becomes indefinite *ex officio*, when no cessation proceedings have been commenced within these 3 years. The BFA issues yearly reports on the situation in important countries of origin. If these reports indicate that a substantial change has taken place in the countries, cessation proceedings have to be commenced.

Several changes to the asylum procedure and content of international protection were introduced through the Aliens Law Amendment Act 2016 (FrÄG 2016) entering into force on 1 June 2016. A draft Aliens Law Amendment Act 2017 (FrÄG 2017) entailing further modifications has been submitted to the Parliament in December 2016.

[Full report available here](#)

Asylum procedure

The Belgian authorities maintained the pre-registration phase throughout 2016 and will continue to do so in 2017. Asylum seekers receive a letter with a number which they can use online to verify the day on which they can register their application. This letter literally states: “You have not yet lodged your asylum application in Belgium.” Although the AO commits itself to registering the asylum claim as soon as possible, it also admitted that it could take up to 2 weeks, meanwhile leaving asylum seekers in a vulnerable situation.

In 2016, the Belgian list of safe countries of origin was expanded to include Georgia and Albania, despite a ruling of the Council of State declaring the designation of Albania unlawful. The Secretary of State will take into account other Member States’ designations in the course of 2017 with a view to expanding the Belgian list.

The reform of the legal aid system, providing assistance to asylum seekers through Pro Deo lawyers, has sought to reduce appeals with no prospect of success.

Reception conditions

In 2015 and 2016 the government opened a number of emergency reception facilities. In Belgium, the permitted period for setting up exceptional modalities of reception conditions as per Article 18(9) of the recast Reception Conditions Directive is legally limited to 10 days. However, in reality, we have noticed that asylum seekers have spent months in the emergency reception facilities, where social assistance, privacy and living conditions are limited. By the end of 2016 the government started closing down all emergency reception facilities.

In June 2016, the government announced the closure of more than 10,000 reception places in 2016. Reception capacity has declined from 35,697 places in May 2016 to 26,362 places in January 2017. This sharp reduction has put pressure on the reception network.

Detention of asylum seekers

There has been an increase in the use of detention on grounds of protection of public order, on the basis of Article 54(2) of the Aliens Act. This has led to detention based on accusations that were later deemed untrue or which the judiciary decided not to prosecute. When courts later reviewed the legality of detention orders, they regularly ruled that they were illegal.

In his policy note presented in late 2016, the Secretary of State announces the establishment of closed centres for families close to the 127-Bis Repatriation Centre near the Brussels National Airport, with a view to carrying out returns. More generally, pre-removal detention capacity is to be increased in 2017.

Content of international protection

The law was amended on 28 April 2016 to restrict the period of residence granted to beneficiaries of international protection. Refugees no longer receive permanent residence upon recognition, but a temporary right of residence of 5 years.

[Full report available here](#)

Asylum procedure

Several major changes were introduced into the national asylum system in the end of 2015 as a result of the still ongoing transposition of recast EU Directives. The most important change relates to the unification of asylum procedure stages in one, single regular procedure. Dublin and accelerated procedures are now considered as non-mandatory phases of the status determination.

Regarding asylum seekers' access to territory and procedure the national situation remained unchanged. The Bulgarian police continue to apprehend irregular arrivals, to fingerprint and detain them for deportation.

Reception conditions

Until mid-2016 the national reception centres' population gradually increased to reach from 12% of occupancy as of 31 January 2016 a 35% occupancy as of 31 July 2016. This situation remained until the beginning of August 2016 when the Serbian border authorities fully closed their border with Bulgaria. This resulted in a gradual increase of the reception centres population, reaching by the end of September 2016 an occupancy of 110%. It resulted in overcrowded facilities and additional deterioration of already poor sanitary and living conditions in the majority of the centres.

Safe and appropriate accommodation for unaccompanied asylum seeking children is not secured in practice. Since the 2015 amendments to the law, the statutory social workers are replaced by a legal representative for unaccompanied children appointed from the respective municipality and with explicitly enumerated responsibilities. However, municipalities' constant lack of financial and administrative capacity to recruit and appoint additional staff led this new national legal arrangement to be generally recognised as a failure to provide guardianship. Only in December 2016 did the relevant municipalities appoint one guardian per reception centre.

Detention of asylum seekers

As of 1 January 2016, the law allows for detention of asylum seekers in accordance with the recast Reception Conditions Directive. Following riots in Harmanli in August and November 2016, two "closed reception centres" have been opened with a view to detaining asylum seekers.

Content of international protection

Following a third "zero integration" year since the end of 2013, in December 2016 the government finally introduced a long-expected Integration Decree, with respect to integration of recognised individuals. It envisage funding for municipalities to which the integration of refugees and subsidiary protection holders is entrusted. However, these legal provisions remain futile and out of use as none of 265 local municipalities nationwide has so far applied for such funding in order to commence the integration process with any of those granted in Bulgaria either of the two international protection types.

[Full report available here](#)

Asylum procedure

An amendment to the Refugee Law, transposing the recast Asylum Procedures Directive, was tabled in March 2016 and adopted in October 2016. An amendment to the Legal Aid Law, transposing relative articles of the recast Asylum Procedures Directive, was tabled in March 2016 and adopted in November 2016.

The Administrative Court has been established and as of January 2016 has taken over from the Supreme Court as the first instance judicial review authority for asylum decisions. In order to ensure that asylum seekers in Cyprus have a right to an effective remedy against a negative decision before a judicial body on both facts and law in accordance with Article 46 of the recast Asylum Procedures Directive, the relevant authorities have taken steps to modify the procedure as follows: abolish the Refugee Reviewing Authority (RRA), which is a second level first-instance decision-making authority that examines recourses (appeals) on both facts and law, but is not a judicial body, and instead provide a judicial review on both facts and law before the recently established Administrative Court. In practice, the RRA has yet to be abolished and continues to review asylum decisions.

Regarding the representation of unaccompanied children, the recent amendment maintains that the Director of Social Welfare Services acts as representative of unaccompanied children in the asylum procedures but for judicial proceedings the Commissioner for Children's Rights is responsible to ensure representation.

Reception conditions

An amendment to the Refugee Law, transposing the recast Reception Conditions Directive, was tabled in March 2016 and adopted in October 2016.

[Full report available here](#)

Asylum procedure

The BAMF intensified its efforts to fast-track procedures with the establishment of more than 20 new “arrival centres”. In these centres various processes such as registration, identity checks, the interview and the decision-making are “streamlined”. Asylum seekers are categorised in “clusters” with the aim of conducting the asylum procedure for some groups of asylum seekers – those with an alleged low chance and those with an alleged high chance of being granted protection – within a few days.

Accelerated procedures were introduced in March 2016 for certain groups of asylum seekers, most prominently, asylum seekers from safe countries of origin. At the end of 2016 these accelerated procedures were only carried out in two branch offices of the BAMF, so this amendment did not have a major impact in practice.

The quality of many asylum procedures was strongly criticised in a “memorandum” published by twelve NGOs in November 2016. One important issue of the memorandum was that many decisions in asylum procedures are not taken by the BAMF staff member who has conducted the interview but by a decision-maker in “decision-making centres”. More than 66% of asylum decisions were taken in “decision-making centres” in 2016.

Reception conditions

In most parts of Germany asylum seekers with a work permit can start a job without having to undergo the “priority review” i.e. labour market test entailing an examination of whether there is a German national or a foreigner with a better residence status equally suited for the job. The priority review is suspended in 133 of 156 labour agency areas (areas to which a local labour office is assigned) between August 2016 and August 2019.

Following an amendment to the Asylum Seekers’ Benefits Act, it is possible as of August 2016 to reduce benefits for an asylum seeker, if he or she does not cooperate with the authorities to establish his or her identity.

Detention of asylum seekers

New facilities for “detention pending deportation” were opened in several Federal States in 2016, following court decisions from previous years which had declared detention in regular prisons illegal.

Content of international protection

Family reunification was suspended for those beneficiaries of subsidiary protection who have been granted this status after 17 March 2016, until March 2018. This change came into effect only eight months after beneficiaries of subsidiary protection had been given the same privileged position as refugees in terms of family reunification conditions.

Since August 2016, refugees and beneficiaries of subsidiary protection are generally obliged to take up their place of residence within the Federal State in which their asylum procedures has been conducted. Furthermore, authorities can oblige them to take up place of residence in a specific municipality within the Federal State. The obligation to live in a certain place remains in force for three years.

[Full country report available here](#)

Asylum procedure

During 2016, there have been several critiques by organisations defending migrants and refugees' rights concerning access to the territory in Spain. The last incident happened on 31 December 2016, when a group of more than 1,000 migrants from Sub-Saharan Africa tried to jump a high double fence between Morocco and the Spanish enclave of Ceuta. With the exception of 2 people, all others were returned to Morocco. A similar assault on 9 December 2016 saw more than 400 migrants entering the tiny enclave. A coalition of 85 Spanish NGOs wrote an open letter to the Spanish Minister of Interior, demanding clarification over the potential push backs and the orders given to the Spanish Border Guards.

Since June 2016, the Ministry of Interior has changed subcontractors for the provision of interpreters to the OAR and all police offices that register asylum applications in the Spanish territory, for which NGOs do not provide services anymore. The contract was awarded to the Ofilingua translation private company. Since then, several shortcomings have been reported, mainly due to the fact that the agency does not have a specific focus on migration and asylum, for which it did not count on the needed expertise due to the sensible thematic of asylum and did not have the contacts of most of the needed interpreters by the OAR. Also, interpreters who were working before with NGOs are now paid much less and their working conditions have worsened, thereby potentially affecting the quality of their work.

OAR's approach to the protection of victims of trafficking has started changing between the last months of 2016 and January 2017. In that period, 12 sub-Saharan women and their children were granted international protection.

As of the end of December 2016, Spain had pledged a total of 900 places for relocation, 150 of which for refugees relocated from Italy and 750 from Greece. However, as of early January 2017 only 690 refugees had been relocated. The main nationalities concerned in the relocation process are Syrians for relocation from Greece and Eritreans from Italy. Relocated refugees receive the same treatment as all other asylum seekers and refugees in Spain. Their asylum claims are not officially being assessed under the urgent procedure, although in the practice they receive faster asylum decisions, receiving subsidiary protection a general rule. Upon arrival in Spain, asylum seekers are referred to the OAR for the registration of their asylum application. At the same time, they are immediately placed within the official reception system as all other asylum seekers, in equal conditions relating to duration of reception, conditions and level of financial allowances.

Reception conditions

In 2016, more non-governmental organisations were enlisted to provide accommodation: 4 additional organisations were subcontracted by the Ministry of Employment to manage new reception places for asylum seekers and refugees in Spain. The total number of accommodation places has increased from 1,656 places at the end of 2015 to 4,104 at the end of 2016. On the other hand, the Migrant Temporary Stay Centres (CETI) in Ceuta and Melilla have continued to face severe overcrowding in 2016. The two centres, whose maximum capacity is 1,308 places, hosted 2,009 persons at the end of the year.

[Full report available here](#)

Asylum procedure

The amended law on immigration was on 7 March 2016. The immigration reform allows Prefectures to systematically use house arrest orders against asylum seekers placed under the Dublin procedure, during the determination of the Member State responsible for their asylum claim. The time limits for challenging a removal order taken against denied asylum seekers have been shortened. The regular deadlines to challenge such an order are normally one month. Where a detained asylum seeker has been ordered to leave the country, the delays to contest the order are only 15 days.

During 2016, NGOs have started to be present with asylum seekers during their OFPRA interview. 14 NGOs are today accredited to support asylum seekers during their interview.

Access to the asylum claim registration is really difficult. In several areas, platforms in charge of the registration have been overwhelmed and the Prefectures have not been able to process asylum claims within the deadlines foreseen by the law. These dysfunctions have prevented many asylum seekers from getting access to the procedure in reasonable times and from getting access to accommodation.

Reception conditions

The national scheme is now completely managed by OFII. The organisations running accommodation centres have faced several difficulties regarding the orientations made by OFII. On many occasions, social workers have reported that the vulnerability was not taken into account, especially regarding disabilities.

8,703 places of accommodation have been added in 2016. Despite this increase number, the national reception scheme is insufficient to accommodate all the asylum seekers. These limitations have been particularly highlighted by the crisis in Calais and in Paris. The dismantlement in Calais led the government to create 241 centres of accommodation and orientation (CAO) to channel people living in the slums. Asylum seekers living in camps in Paris have also been channelled to these centres. Two humanitarian centres have also been created by Paris municipality in Paris and in Ivry-sur-Seine to empty out camps settled in the downtowns.

Access to the living allowance remains an issue, 18 months after the law was adopted. Many asylum seekers are not paid in due time or do not perceive the foreseen amount. The stakeholders supporting the asylum seekers encounter many difficulties to communicate with OFII about these issues.

Detention of asylum seekers

Asylum seekers placed under the Dublin procedure and subjected to a house arrest order can be placed in detention if they do not present themselves for their appointment at the Prefecture. Before the placement is upheld, the Prefect can also require from the Judge of Freedoms and Detention to send police forces to the residence of the asylum seekers in order to ensure they are not absconding.

[Full country report available here](#)

2016 was marked by the closure of the Western Balkan route and the implementation of the EU-Turkey statement of 18 March 2016. Substantial asylum reforms, many of which driven by the implementation of the EU-Turkey statement, took place in 2016. Law (L) 4375/2016, adopted in April 2016 and transposing the recast Asylum Procedures Directive into Greek law, was subsequently amended in June 2016 and March 2017, while a draft law transposing the recast Reception Conditions Directive has not been adopted yet. The impact of the EU-Turkey statement has been a *de facto* divide in the asylum procedures applied in Greece. Asylum seekers arriving after 20 March 2016 are subject to a fast-track border procedure and excluded from relocation in practice.

Asylum procedure

Coupled with persisting obstacles to accessing the asylum procedure due to the need for applicants to have a Skype appointment prior to appearing before the Asylum Service, the closure of the Western Balkan route and containment of about 50,000 persons in Greece led to significant pressure on the Asylum Service. From 8 June to 30 July 2016, a pre-registration exercise was launched in the mainland, leading to the “basic registration” of 27,592 applications which would later be fully registered (lodged). By the end of 2016, 12,905 of these applications had been fully registered.

One of the main modifications brought about by L 4375/2016 has been the establishment of an extremely truncated fast-track border procedure, applicable in exceptional cases. In practice, fast-track border procedure applies to arrivals after 20 March 2016 and takes place in the Reception and Identification Centres (RIC) of Lesbos, Chios, Samos, Leros and Kos. Under the fast-track border procedure, which does not apply to Dublin family cases and vulnerable cases, interviews are also conducted by EASO staff, while the entire procedure at first and second instance has to be completed within 14 days. The procedure has predominantly taken the form of an admissibility procedure to examine whether applications may be dismissed on the ground that Turkey is a “safe third country” or a “first country of asylum”; although these concepts already existed in Greek law, they have only been applied following the EU-Turkey statement. The admissibility procedure started being applied to Syrian nationals in April 2016 and was only applied to other nationalities with a rate over 25% (e.g. Afghans, Iraqis) since the beginning of 2017. In the meantime, for nationalities with a rate below 25%, the procedure entails an examination of the application on the merits without prior admissibility assessment as of July 2016. A Joint Action Plan of the EU Coordinator on the implementation of certain provisions of the EU-Turkey statement recommends that Dublin family reunification cases be included in the fast-track border procedure and vulnerable cases be examined under an admissibility procedure.

The composition of the Appeals Committees competent for examining appeals was modified by a June 2016 amendment to the April 2016 law, following reported EU pressure on Greece to respond to an overwhelming majority of decisions rebutting the presumption that Turkey is a “safe third country” or “first country of asylum” for asylum seekers. The June 2016 reform also deleted a previous possibility for the appellant to obtain an oral hearing before the Appeals Committees upon request. Applications for annulment have been submitted before the Council of State, invoking *inter alia* issues with regard to the constitutionality of the amendment. A recent reform in March 2017 enabled EASO staff to assist the Appeals Committees in the examination of appeals. Since the operation of the (new) Appeals Committees on 21 July and until 31 December 2016, the recognition rate of international protection is no more than 0.4%. This may be an alarming finding as to the operation of an efficient and fair asylum procedure in Greece. Respectively, by 19 February 2017, 21 decisions on admissibility had been issued by the new Appeals Committees. As far as GCR is aware, all 21 decisions of the new Appeals Committees have confirmed the first-instance inadmissibility decision.

Reception conditions

Despite the commitment of the Greek authorities to meet a target of 2,500 reception places dedicated to asylum seekers under the coordination of the National Centre for Social Solidarity (EKKA) by the end of 2014, this number has not been reached to date. As of January 2017, a total 1,896 places were available in 64 reception facilities mainly run by NGOs, out of which 1,312 are dedicated to unaccompanied children. As of 13 January 2017, 1,312 unaccompanied children were accommodated in long-term and transit shelters, while 1,301 unaccompanied children were waiting for a place. Out of the unaccompanied children on the waitlist, 277 were in closed reception facilities (RIC) and 18 detained in police stations under “protective custody”. A number of 20,000 accommodation places were gradually made available under a UNHCR accommodation scheme dedicated initially to relocation candidates and since July 2016 extended also to Dublin family reunification candidates and applicants belonging to vulnerable groups

A number of temporary accommodation places were created on the mainland in order to address the pressing needs created after the imposition of border restrictions. However, the majority of these places consists of encampments and the conditions in temporary facilities on the mainland have been sharply criticised, as of the widely varying and often inadequate standards prevailing, both in terms of material conditions and security.

Detention of asylum seekers

Following a change of policy announced at the beginning of 2015, the numbers of detained people have been reduced significantly during 2015. The launch of the implementation of the EU-Turkey Statement has had an important impact on detention, resulting in a significant toughening of detention policy and the establishment of blanket detention of all newly arrived third-country nationals after 20 March 2016, followed by the imposition of an obligation to remain on the island, known as “geographical restriction”.

A Police Circular issued on 18 June 2016 provided that third-country nationals residing on the islands with “law-breaking conduct” (*παραβατική συμπεριφορά*), will be transferred, on the basis of a decision of the local Director of the Police, approved by the Directorate of the Police, to pre-removal detention centers in the mainland where they will remain detained. Serious objections as raised as to whether in this case the administrative measure of immigration detention is used with a view to circumventing procedural safeguards established by criminal law. Moreover, GCR findings on-site do not confirm allegations of “law-breaking conduct” in the vast majority of the cases. A total 1,626 people had been transferred to mainland detention centres by the end of 2016.

As announced by the Ministry of Migration Policy on 28 December 2016, and described in the Joint Action Plan on the implementation of the EU-Turkey Statement on 8 December 2016, the construction of new detention centres on the island, in order to increase detention capacity, is planned to take place with EU support “as soon as possible”. In February 2017 a pre-removal detention facility was established on the island of Kos.

[Full country report available here](#)

Asylum procedure

The exponential rise in the number of asylum seekers entering Croatia compared to previous years has also led to a substantial increase in incoming Dublin requests and transfers, mainly from Austria, Switzerland and Germany.

A number of organisations, including ECRE, the “Welcome” Initiative, Are You Syrious, Human Rights Watch and Save the Children have reported that push backs from the Croatian territory to Serbia have occurred during 2016 and early 2017.

The Decision establishing a List of Safe Countries of Origin was adopted in May 2016 and contains 10 countries. In practice, the Ministry of Interior has applied the “safe country of origin” concept mainly with regard to nationals of Algeria and Morocco so far.

In April 2016, a call for expression of interest in providing legal aid in appeal procedures before the Administrative Courts was issued for NGOs for the first time. The Croatian Law Centre has accredited 3 lawyers to provide legal aid in appeals.

Reception conditions

Due to the increase in the number of arrivals, the Reception Centres for Asylum Seekers in Zagreb and Kutina have reached close to, or in the case of Kutina full, capacity. If the trend continues, reception capacities would be soon be full.

Several organisations, including UNICEF, Doctors of the World (MdM), the Rehabilitation Centre for Stress and Trauma, the Croatian Red Cross, the Society for Psychological Assistance (SPA) and the Centre for Peace Studies, have reported great problems and major deficiencies in the provision of health care for asylum seekers and refugees. Due to deficiencies in the system, many organisations have targeted their activities in that direction.

Detention of asylum seekers

The new wing of the Reception Centre for Foreigners in Ježevo for women and children has become operational, with a capacity of 28 places. However, at the end of November 2016, the facility was empty. No vulnerable groups have been detained throughout 2016.

The planned new centres in Trilj and Tovarnik, on the Bosnian and Serbian border respectively, have still not been completed.

Content of international protection

No language course has been organised throughout 2016.

[Full country report available here](#)



Asylum procedure

Since March 2016, an ever-growing number of migrants continue to gather in the “pre-transit zones”, which are areas partly on Hungarian territory that are sealed off from the actual transit zones of Röszke and Tompa, by fences in the direction of Serbia. Lists are managed by a so-called community leader or list manager who is chosen by the people waiting at the given place and who communicates both with the Serbian and Hungarian authorities. Only 5 people per transit zone are allowed per day.

Legal amendments that entered into force on 5 July 2016 allow the Hungarian police to automatically push back asylum seekers who are apprehended within 8 km of the Serbian-Hungarian or Croatian-Hungarian border to the external side of the border fence, without registering their data or allowing them to submit an asylum claim, in a summary procedure lacking the most basic procedural safeguards. Between 5 July and 31 December 2016, 19,057 migrants were denied access at the Serbian border.

In May 2016, the IAO started to issue Dublin decisions on returns to Greece again. The IAO is of the opinion that the *M.S.S.* case is no longer applicable, since Greece has received substantial financial support and the reception conditions in Greece are not worse than in some other EU countries. Following interventions at the European Court of Human Rights, the practice changed again in December 2016 and no more Greece Dublin transfer decisions are issued.

Reception conditions

The centre in Nagyfa was closed in August 2016, while Bicske, the closest reception to Budapest, was closed in December 2016. Balassagyarmat, Kiskunhalas, Körmend and Vámoszabadi are still operating and located in smaller towns and further away from the capital.

Since 1 April, 2016 asylum seekers are not entitled to receive pocket money.

Detention of asylum seekers

The newly built asylum detention centres in Kiskunhalas was opened on 11 April 2016. The new facility has gradually been filled by the end of July and it ran with almost full capacity during the summer. Asylum detention is implemented in 3 places: Kiskunhalas, Nyírbátor and Békéscsaba. In 2016 there were often periods when there were more asylum seekers detained than in open reception centres.

Content of international protection

The duration of Hungarian IDs issued to refugees was reduced from 10 years to 3 years, whereas in the case of persons with subsidiary protection, it was reduced from 5 years to 3 years as of 1 June 2016. According to the same reform, refugee and subsidiary protection statuses are to be reviewed every 3 years.

As a result of legislative changes in April and June 2016, all forms of integration support were eliminated. Since the entry into effect of Decrees 113/2016 and 62/2016 and the June 2016 amendment to the Asylum Act, beneficiaries of international protection are no longer eligible to any state support such as housing support, additional assistance and others.

[Full report available here](#)

Asylum procedure

The most significant development in the period since the previous update is the commencement of the International Protection Act 2015, which was signed into law in December 2015 and officially entered into effect on 31 December 2016.

The Act will introduce a single procedure whereby applications for international protection will encompass a concurrent determination of eligibility for refugee status; subsidiary protection and permission to remain, respectively. An applicant will make a single application under which all grounds for protection will be considered. Up until 2017, these assessments have been carried out separately, in a bifurcated procedure, leading to applicants spending a significant amount of time in the asylum process. The new system aims to address the delays by introducing a single protection procedure, whereby all avenues for international protection are assessed under a single application – i.e. if an applicant is found not to be eligible for refugee status, his or her eligibility under subsidiary protection will be assessed without needing to begin the process under a new application.

Additionally, the 2015 Act will abolish the Office of the Refugee Applications Commissioner, which will be subsumed into the Department of Justice as the International Protection Office (IPO). The Refugee Appeals Tribunal will be replaced by the International Protection Appeals Tribunal (IPAT).

Reception conditions

Ireland has not opted into the Reception Conditions Directive, and the new Act makes no mention of reception conditions, maintaining the approach of the previous system under the Refugee Act 1996 as amended. This means that applicants for international protection will still be accommodated under the administrative system of Direct Provision which has no statutory legal framework. The Irish Refugee Council made extensive recommendations to the government on the draft of the International Protection Bill at the time calling for a legal framework for reception conditions and facilities to be included, however this has not been addressed in the adopted legislation. Asylum applicants continue to be housed in the Direct Provision system and although the Department of Justice and Equality has stated that the Working Group report on improvements to the Protection Process, including Direct Provision and other supports for asylum seekers recommendations have been implemented, partially implemented or are in progress, there is only little changes in practice.

Content of international protection

The new Act introduces more restrictive provisions for family reunification than those contained in the previous legislation. Under the new provisions, the definition of “member of the family” excludes siblings and parents for adult beneficiaries of international protection, children over the age of 18 and dependants such as grandparents and other extended relatives. Furthermore, restrictive time limits have been placed on sponsors in which they can lodge an application for family reunification (within 12 months of receiving international protection status) and on family members in which they can enter the state upon being granted permission to enter the state (by “a date specified by the Minister when giving the permission”).

[Full country report available here](#)

Asylum procedure

The Decree-Law 13/2017 published on 17 February 2017 has abolished the possibility to appeal the Civil Tribunal decisions on international protection before the Court of Appeal. If the provision is to be transposed into law by Parliament, it will be possible to appeal those decisions issued 180 days from the entry into force of the Decree-Law onwards only before the Court of Cassation within 30 days, no longer within 60. The Decree-Law also foresees limited possibilities for an oral hearing, and states that the request for suspensive effect has to be decided by the judge who rejected the appeal. The reform has sparked strong reactions from NGOs, and even from some magistrates.

During 2016, the administrative courts expressed with several decisions the position that the Dublin procedure should be understood as a phase of the asylum procedure and, consequently, should fall within the competence of civil courts. The first significant decision was taken on 18 December 2015 by the Council of State, and subsequently by the Administrative Court of Lazio, including with a decision of 7 February 2017. On the other hand, on 3 February 2017, the Civil Court of Trieste pronounced the lack of jurisdiction of the ordinary judge and referred to the administrative courts. Therefore, at the moment, asylum seekers notified of a Dublin decision lack an actual remedy against the transfer.

Reception conditions

As of the end of December 2016, temporary reception centres (CAS) hosted over 75% of the population with approximately 137,218 persons, while SPRAR hosted 23,822 and first reception centres 14,694. Conditions in many of these facilities present serious concerns and are not suitable for residence of asylum seekers.

Detention of asylum seekers

At the end of December 2016, the Ministry of Interior issued a Circular ("Circular Gabrielli") announcing the reopening of the closed identification and expulsion centres (CIE), as part of a broader plan aimed at repatriation of irregular foreign nationals, also pursued by concluding new bilateral readmission agreements and reforming the rules on asylum.

On 26 January 2017, the Ministry of Interior sent to the Questure in Rome, Torino, Brindisi and Caltanissetta a telegram requesting them to make available 90 places, 50 for men and 45 for women, inside the currently operating CIE. These places are to be used to identify self-styled Nigerian nationals illegally present in the country for their immediate repatriation. The Ministry of Interior has also encouraged the Questure to carry out targeted operations aimed at tracing Nigerian citizens in an irregular situation on the territory.

Content of international protection

Beneficiaries notified of a protection status in CAS are strongly discriminated against compared to those who obtain or who have already obtained a place in SPRAR. Depending on the discretionary decisions of the responsible Prefectures and on bureaucratic delays, they could be allowed to stay in the reception centre a few months (Trieste), a few days (Milan), or even just one day (Padova, Ancona) after the notification.

[Full country report available here](#)

Malta

Aditus Foundation & Jesuit Refugee Service Malta



Asylum procedure / Reception conditions

In the course of 2015, Malta finalised the introduction of the recast asylum package into national legislation with the transposition of the recast Reception Conditions Directive and the recast Asylum Procedures Directive. This transposition reforms key aspects of the reception of asylum seekers in Malta.

The main feature of the new reception system is that detention is now no longer either mandatory or an automatic consequence of the decision to issue a removal order. Asylum seekers arriving irregularly in Malta are now taken to an Initial Reception Centre (IRC).

Detention of asylum seekers

The amended Reception Regulations have transposed the six grounds for detention of asylum seekers foreseen in the recast Reception Conditions Directive. According to the authorities, 20 asylum seekers were detained in 2016. For most of the cases, the detention was based on the ground that the identity of the individual had yet to be determined and that the elements of the claim could not be ascertained in the absence of detention i.e. risk of absconding.

According to the amended Reception Regulations, when a detention order of an asylum seeker is not taken, alternatives to detention such as reporting or financial guarantees may be applied to non-vulnerable applicants when the risk of absconding still exists, for a period not exceeding 9 months. NGOs' concerns that alternatives to detention could be imposed when no ground for detention was found to exist proved to be true, as in 2016, several persons were released from detention after 2 months and placed under alternatives to detention without any ground to extend the detention as they had already applied for protection and provided all the required information.

Content of international protection

The Family Reunification Regulations provide that family members shall be granted a first residence permit of at least one year's duration which shall be renewable. In the past, the reuniting family members were given a one-year residence document indicating "Dependant family member – refugee", causing difficulties when public service providers (e.g. hospitals) failed to recognise the holder's entitlements as being equal to those of his or her refugee sponsor. Policy has recently changed and reunited family members are now granted a residence permit of 3 years, with the mention "Dependant family member".

[Full country report available here](#)

Netherlands

Dutch Council for Refugees



Asylum procedure

The Secretary of State introduced the “Five Tracks” procedure on 1 March 2016. Each track represents a specific procedure. In practice, Tracks 3 and 5 are not yet applied. New is also Track 2 in which applications from asylum seekers from “safe countries of origin” and asylum seekers who have already been granted international protection in another EU Member State are dealt with.

The intensity of the judicial review conducted by regional courts has changed in 2016. According to the Council of State in its judgment of 13 April 2016, Article 46(3) of the recast Asylum Procedures Directive does not impose a general intensity of judicial review under administrative law in asylum cases in general and thus also not in cases regarding the credibility of an asylum seeker's statements in particular. In the Dutch context the regional court is not allowed to examine the overall credibility of the statements of the asylum seeker intensively. This is, according to the Council of State, due to the fact that the IND has specific expertise to verify statements of the asylum seeker and is therefore in general in a better position to examine the credibility of the claim. An administrative judge can never substitute the authorities' judgment on the credibility of the asylum seeker's statements by their own judgment on the credibility. Where contradictory or inconsistent statements are made by the asylum seeker, the review can, however, be more intensive; this is different than it used to be.

Reception conditions

Throughout 2016, the number of asylum seekers in reception centres in the Netherlands has decreased. As a result, the use of emergency shelters has been abandoned. Return centres (*terugkeerlocaties*, TL) are also not being used anymore. Rejected asylum seekers that have a right to reception now stay at a regular reception centre (*asielzoekerscentrum*, AZC).

The reception of unaccompanied minors has also changed. In sum, it can be concluded that responsibility is shifting from the COA to Nidos, the guardianship agency.

Detention of asylum seekers

Asylum seekers who have not received a decision within four weeks after applying for asylum at the border will in principle not be detained during the rest of their asylum procedure.

Previously, differentiation existed only between detention on the territory and detention at the border. Now, there is a legal basis for the detention of aliens at the border, of aliens who have made an asylum application at the border, of border detention of aliens whose application falls under the responsibility of another member state (Dublin), of aliens on the territory, and of aliens who have made an asylum application on the territory.

[Full country report available here](#)

Asylum procedure

Access to the procedure remains problematic in Poland. Reports say that, in spite of repeated, clearly formulated requests, invoking the experience of persecution in the country of origin, asylum seekers are refused the right to lodge an application and enter Poland.

A new vulnerability assessment is carried out by an SG officer at the time of lodging an application. The officer screens the applicants to identify victims of trafficking in human beings or persons subject to torture. NGOs point out that this preliminary identification is conducted at the time of lodging asylum application, so often at the border, where the conditions are difficult. Some are of the opinion, that the questions from the application for international protection cannot be considered an early identification at all. The clear evidence that vulnerable persons are not identified correctly is that victims of violence are still placed in detention, while the law prohibits detaining such applicants. NGOs generally confirm that the system of identification envisaged in the law does not work in practice.

Reception conditions

In principle, during the onward appeal procedure before the Voivodeship Administrative Court in Warsaw, asylum seekers are not entitled to material reception conditions. Although in practice, when the court suspends enforcement of the contested decision of the Refugee Board for the time of the court proceedings, asylum seekers are re-granted material reception conditions to the same extent as during the administrative asylum procedure, until the ruling of the court. However, in 2016 the Court mostly refused to suspend enforcement of the negative decision on international protection for the time of the court proceedings, which leaves asylum seekers without any material reception conditions for this time.

Detention of asylum seekers

In 2016, 292 children were placed with their parents in a detention centres. Total of all asylum seekers was 603 persons in whole 2016. In 2016 children were placed in detention centres in Kętrzyn, Biała Podlaska and Przemyśl. Still the best interest of the child is not considered in decisions concerning detention. Generally the right to education for children in detention centres for asylum applicants is not properly implemented. Topics and activities offered to children do not meet the requirements of the general education curriculum.

In October 2016 a family with three minor children (2,4,8 years) was detained in a detention centre in Kętrzyn, after the transfer under the Dublin Regulation from Germany. Even though the family had all medical records with them which confirmed (also during their arrest in Germany, in German) that the physical and mental health state of two members of the family, was not only inadequate to make the transfer, but also certainly did not allowed them to be placed in a detention centre, they were detained in Kętrzyn. None of the medical documents was taken into consideration neither by SG when issuing a motion to the court nor by the regional court during placing them in a detention centre. The family was released after 3 weeks. In the opinion of National Prevention Mechanism representatives, being for 3 weeks in a detention centre was inadequate to their health condition and caused further traumatisation.

[Full country report available here](#)

Sweden

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



Asylum procedure

Sweden introduced amendments to the Aliens Act entering into force on 1 January 2017, with a view to transposing the recast Asylum Procedures Directive. The law spells out the grounds for considering an application manifestly unfounded and provides that an appeal with suspensive effect is allowed for decisions that can immediately be enforced until the court's final review of the appeal. The same rules apply for appeals against decisions of the Migration Agency to deem a first subsequent application inadmissible.

The transposition of the recast Asylum Procedures Directive has also introduced guarantees for unaccompanied children. A refusal of entry with immediate enforcement cannot be executed for at least one week after being notified to the child. The law also states that unaccompanied children should always be entitled to legal assistance in asylum cases and be immediately informed of the appointment of a guardian.

Reception conditions

Owing to the rapid drop in numbers of asylum seekers, the previous congestion in reception centres is no longer a problem. Normal accommodation standards are in place now. The subsistence payments are still at the same level as 1994.

Content of international protection

Up until 20 July 2016, the vast majority of residence permits granted to persons in need of international protection or on humanitarian grounds were all permanent. They could, in principle, only be withdrawn if a person spent a major part of their time in another country or if a person was charged with a serious crime that involved deportation. Occasionally temporary permits were granted, mainly for medical reasons or for temporary hindrances to expulsion. This situation changed from 20 July 2016, when the new temporary law on migration was adopted and entered into force for a 3-year period until 2019.

Convention refugees will be granted a 3-year temporary permit with the right to family reunification if the application is made within three months of the reference person receiving their permit. Beneficiaries of subsidiary protection will be granted an initial period of 13 months temporary residence permit with no right to family reunification. The permit can be extended another 2 years if protection grounds persist. Persons whose removal would contravene Sweden's international convention-based obligations and who do not qualify for convention or subsidiary status can be granted an initial temporary permit of 13 months which can be prolonged for 2 years if the grounds persist. If such a permit is granted in a subsequent application, then the permit is first granted for thirteen months and then one year at a time subject to the same grounds. This category has no right to family reunification.

The Migration Court of Appeal ruled on 18 January 2017 that the length of the residence permit *per se* cannot be appealed by a beneficiary of international protection, though an appeal against the type of protection granted is possible.

[Full country report available here](#)

Asylum procedure

A new process for children's claims was introduced in July 2016. There are changes to the early parts of the process, as well as new guidance on family tracing.

Reception conditions

A new transfer scheme was introduced to share responsibility for the care of unaccompanied children across a greater number of local authorities. Although the Immigration Act 2016 allows for the scheme to be mandatory, it remains a voluntary process at the time of writing.

The government announced in December 2016 that the contracts for the provision of accommodation have been extended and some changes made to the contracts, particularly to funding.

A little more detail was contained in a response to a Parliamentary Question (PQ) as it had been reported in the media that the age thresholds for children sharing with parents and/or opposite gender siblings, had been changed at the same time.

Detention of asylum seekers

Since the suspension of the Detained Fast Track Process in 2015, a new instruction has been issued to staff dealing with those applications.

Following a January 2016 report on the review of detention policy with regard to vulnerable groups ("Shaw review") and calls to end the detention of pregnant women, the Immigration Act 2016 introduced a time limit for the detention of pregnant women and children.

Content of international protection

No change has been noted to integration policy, but an increased evidence base of problems encountered by refugees when they move from asylum support provided by the Home Office to becoming self-reliant, having to find their own source of income and accommodation. Evidence of extreme destitution and homelessness can be found most recently in a research report by the Refugee Council: England's Forgotten Refugees.

[Full country report available here](#)

Asylum procedure

The planned reform of the Asylum Act which mainly aims at accelerating the procedure was accepted by the Swiss people in a referendum on 5 June 2016.

On 1 October 2016, changes in the Federal Act on Foreign Nationals and in the Criminal Code came into force. Those implement the so-called expulsion initiative that was launched by the right-wing SVP party and adopted by the people in a referendum on 28 November 2010. Foreigners who commit criminal acts (not only severe criminal acts but also for example social welfare fraud) can more easily be expelled under the new rules.

Reception conditions

In May 2016, the SEM opened a new federal reception and processing centre in Berne. There are now six such centres.

Detention of asylum seekers

In May 2016, the Federal Court laid down some ground rules for detention in Dublin cases, mainly confirming that there needs to be an individual assessment of the risk of absconding. It is not sufficient to establish that the person had previously asked for asylum in another Dublin State.

Content of international protection

On 12 October 2016, the Federal Council adopted a report with suggestions on how to reform the status of temporary admission. The outcome remains open, no changes are in force yet.

In December 2016, the Swiss parliament confirmed some changes to the Federal Act on Foreign Nationals, which is re-named in Federal Act on Foreign Nationals and Integration. An important change is the abolition of the special charge of 10% of the salary which had to be paid by asylum seekers and temporarily admitted persons who work, and the facilitation of access to the labour market for temporarily admitted persons: instead of a having to apply for a work permit, the employer only has to inform the authorities of the employment. The changes are not yet in force.

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Asylum reform

The adoption of the new Asylum Act, initially foreseen for 2016, has been postponed. The draft of the new Asylum Act has been shared with civil society representatives for comments, and was also received positively by the European Commission. The new law will introduce both accelerated and border procedures. Bearing in mind that the Asylum Office is understaffed even in light of the single existing procedure, it is reasonable to assume that additional personnel will be required to implement the additional proceedings. It is otherwise difficult to envision adequate implementation of the new law in reality.

Asylum procedure

In July 2016, the Serbian Government adopted a decision to form mixed patrols of the army and police to strengthen the border with FYROM and Bulgaria. The Ministry of Defence reported in December 2016 that more than 18,000 migrants had been prevented from illegally crossing the border from Bulgaria. Between September and December 2016, the Belgrade Centre for Human Rights received 13 complaints concerning collective expulsions or push-backs to FYROM that involved approximately 750 persons. Those removed included people who had predominantly been residing in the reception centre in Preševo, as well as persons who had been intercepted by patrols of the police or army at the border, or mixed patrols deeper within the territory of Serbia.

Reception conditions

By the end of 2016, more than 7,000 people were residing in Serbia, the vast majority of whom (around 82%) were accommodated in camps along the border where they were waiting for their turn to be admitted into Hungary. The remainder stayed in the streets of Belgrade and border areas with Hungary.

The Ministry of Interior opened additional temporary reception centres to respond to the increase in refugees and migrants.

Content of international protection

In December 2016, a Decree on the Manner of Involving Persons Recognized as Refugees in Social, Cultural and Economic Life (“Integration Decree”) was enacted and entered into force in January 2017. The Decree foresees assistance various areas crucial to integration such as access to the labour market and education, including assistance in recognition of qualification and language courses. The Decree only refers to recognised refugees and does not explicitly cover subsidiary protection beneficiaries. However, due to its entry into force in January 2017, it remains to be seen how it will be implemented in practice.

[Full report available here](#)