



COUNTRY REPORT

IMMIGRATION DETENTION IN **BULGARIA:** FEWER MIGRANTS AND REFUGEES, MORE FENCES

APRIL 2019



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THE GLOBAL DETENTION PROJECT MISSION

The Global Detention Project (GDP) is a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status. Our mission is:

- To promote the human rights of detained migrants, refugees, and asylum seekers;
- To ensure transparency in the treatment of immigration detainees;
- To reinforce advocacy aimed at reforming detention systems;
- To nurture policy-relevant scholarship on the causes and consequences of migration control policies.

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Front cover image: Sofia Busmantsi Detention Centre (Special Home for Temporary Placement of Foreigners), Bulgaria.

This report is also available online at www.globaldetentionproject.org

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GLOSSARY

CAT	UN Committee against Torture
CERD	UN Committee on the Elimination of Racial Discrimination
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
GDP	Global Detention Project
HRC	UN Human Rights Council
LARB	Law on Asylum and Refugees
LFRB	Law on Foreigners in the Republic of Bulgaria
MoU	Memorandum of Understanding
UPR	Universal Periodic Review



KEY FINDINGS

- Despite a 91 percent drop in irregular arrivals since 2015, detention remains a key feature in the country’s response to migration flows.
- Conditions in detention are generally substandard and marred by allegations of abuse and poor access to procedural standards.
- Asylum seekers are sometimes held in “pre-removal” detention while their claims are processed.
- Depending on their nationality, asylum seekers can face severe discrimination, which observers argue is intended to serve as a method of deterrence.
- While migration law prohibits the detention of unaccompanied children, it is permitted under asylum law.



1. INTRODUCTION

Bulgaria is often viewed as a transit country into the European Union. While it received an important number of arrivals during the refugee “crisis,” the number of irregular non-citizens apprehended in the country has decreased dramatically, including a 90 percent drop between 2015 and 2017.¹ Despite this decrease, immigration detention has remained a key tool in Bulgaria’s response to migration and asylum flows, in addition to other measures such as the construction of a border fence.

A 2019 report on the treatment of asylum seekers in four frontline European Union (EU) countries, which was produced by several European NGOs—including the Global Detention Project (GDP), the Bulgarian Foundation for Access to Rights (FAR), and the Hungarian Helsinki Society (HHC)—found that “Exceptional measures of a temporary character” like mass detention have become “normalised” in Bulgarian public discourse. The report noted the contradictory rationales used to characterise these measures, which are presented as a “humanitarian” response even as officials describe the actions as protecting the public from national security threats.”²

In 2018, Bulgaria was one of several central and eastern EU countries that refused to endorse the Global Compact for Safe, Orderly and Regular Migration (GCM).³ Although the country held the EU presidency for the first time while the GCM was being drafted, the government argued that the non-binding document, which was signed by more than 150 countries, would weaken its ability to control migration.⁴

Bulgaria, which has the lowest gross domestic product per capita in the European Union, has experienced a steady emigration haemorrhage since 1990.⁵ Nevertheless, it has spent some 85 million EUR on a razor-wire fence along its south-eastern border to prevent irregular crossings. Construction began in 2014, at the height of the “refugee crisis” when the country was experiencing an influx of Syrian refugees, and was completed in October

¹ V. Ilareva, “Advocacy Report on the “Red Line” Detention of Asylum Seekers upon Entry in Bulgaria,” *Foundation for Access to Rights (FAR) / European Programme for Integration and Migration (EPIM)*, July 2018, <https://bit.ly/2PJfZM>; see also: Hungarian Helsinki Committee *et al*, “Crossing a Red Line: How EU Countries Undermine the Right to Liberty by Expanding the Use of Detention of Asylum Seekers Upon Entry,” February 2019, <https://www.globaldetentionproject.org/crossing-red-line>

² Hungarian Helsinki Committee *et al*, “Crossing a Red Line: How EU Countries Undermine the Right to Liberty by Expanding the Use of Detention of Asylum Seekers Upon Entry,” February 2019, <https://www.globaldetentionproject.org/crossing-red-line>

³ Austria, Italy, Latvia, and Romania also abstained. The Czech Republic, Hungary, and Poland voted against the compact. Slovakia did not participate in the vote.

⁴ UN News, “General Assembly Endorses First-Ever Global Compact on Migration, Urging Cooperation among Member States in Protecting Migrants,” 19 December 2018, <https://www.un.org/press/en/2018/ga12113.doc.htm>

⁵ According to a consensus of local experts, Bulgaria’s population shrunk by 2 million to 7.1 million in the years following 1990 – See: K. Hope, “Bulgaria Battles to Stop its Brain Drain,” *Financial Times*, 11 January 2018, <https://on.ft.com/2NrgToQ>

2017. Described as a “temporary fence facility” by the government, it stretches for over 236 km along the country’s border with Turkey.⁶

Many migrants, asylum seekers, and refugees have experienced pushbacks back into Turkey, a practice that numerous NGOs have denounced. According to Save the Children, “the largest number of violent pushbacks (involving children in 2018) was reported at the borders between Bulgaria and Turkey (154).”⁷ UNHCR has also raised the issue of pushbacks with Bulgarian authorities.⁸

The massive costs associated with building the border fence have also been a source of controversy. In 2017, the Supreme Cassation Court “ordered the State Agency for National Security and the State Financial Inspection Agency to investigate allegations of corruption amongst senior state officials” in relation to the project.⁹

Bulgarian border control has been bolstered by the deployment of the European Border and Coast Guard (formerly Frontex) along its land borders with Turkey and Serbia. In 2017, this was comprised of “126 officers (including crew members of the deployed assets) supported by 6 thermo-vision vehicles, 38 patrol cars, 1 CO₂ detector, 39 smartdeck cameras and 3 mobile offices.”¹⁰

According to reports, certain nationalities of asylum applicants face discrimination in the treatment of their claims in Bulgaria, which observers say is used as a deterrence measure.¹¹ This would likely amount to a violation of both domestic and international laws. Often held in detention for more than three months while their applications are assessed, asylum seekers from countries like Pakistan, Ukraine, Algeria, and Turkey have reportedly had their claims systematically rejected, resulting in a zero percent recognition rate for those nationalities. The recognition rate for Afghan asylum seekers was just 1.5 percent in 2017,¹² compared to the 46 percent overall EU average.¹³

⁶ European Migration Network, “Annual Report on Migration and Asylum 2017 – National report Part 2 – Bulgaria,” 2017, <https://bit.ly/2xwA31M>

⁷ Save the Children, “Hundreds of Children Report Police Violence at EU Borders,” 24 December 2018, <https://bit.ly/2T8wCrb>

⁸ UNHCR, “Desperate Journeys - Refugees and Migrants Arriving in Europe and at Europe’s Borders: January-August 2018,” 2018, <http://www.unhcr.org/desperatejourneys/>

⁹ C. Leviev-Sawyer, “Bulgarian Prosecution Orders Probe into Alleged Corruption in Turkish Border Fence Project,” *IBNA*, 8 June 2017, <https://bit.ly/2MP9ryP>; Bulgaria was ranked lowest among EU countries at 71/180 in the 2017 Corruption Perceptions Index – see: Transparency International, “Corruption Perceptions Index - 2017,” <https://www.transparency.org/country/BGR>

¹⁰ European Commission, “Fifth Report from the Commission to the European Parliament, the European Council and the Council on the Operationalisation of the European Border and Coast Guard,” 2 September 2017, <https://bit.ly/2xwfm63>

¹¹ I. Savova (Bulgarian Helsinki Committee), “Country Report: Bulgaria – 2017 Update,” *Asylum Information Database*, February 2018, <http://www.asylumineurope.org/reports/country/bulgaria>

¹² “Report of the Fact-Finding Mission by Ambassador Tomáš Bocek, Special Representative of the Secretary General on Migration and Refugees to Bulgaria, 13-17 November 2017, SG/Inf(2018)18,” *Council of Europe*, 19 April 2018, <https://rm.coe.int/report-of-the-fact-finding-mission-by-ambassador-tomas-bocek-special-r/16807be041>; I. Savova (Bulgarian Helsinki Committee), “Country Report: Bulgaria - 2017 Update,” *Asylum Information Database*, February 2018, <http://www.asylumineurope.org/reports/country/bulgaria>

¹³ Eurostat, “EU Member States Granted Protection to More than Half a Million Asylum Seekers in 2017,” 19 April 2018, <https://bit.ly/2z8INR4>



2. LAWS, POLICIES, PRACTICES

2.1 Key norms. The Constitution of the Republic of Bulgaria sets out safeguards against arbitrary detention (Article 30). Two laws regulate entry, residence, detention, and removal of migrants and asylum seekers: The [1998 Law on Foreigners in the Republic of Bulgaria](#)¹⁴ (LFRB) (*Закон За Чужденците В Република България*), as amended as of April 2019,¹⁵ and the [Law on Asylum and Refugees](#)¹⁶ (LARB) (*Закон за убежището и бежанците*), as amended as of April 2019.

Bulgarian law employs euphemistic language in characterising the administrative detention of migrants and asylum seekers, referring to “compulsory accommodation” in “special homes for temporary accommodation of foreigners” (LFRB Article 44(6)). Regulations for the Application of the Law on the Foreigners in the Republic of Bulgaria (2011), which were last amended in June 2018, clarify the implementation of the LFRB.¹⁷

2.2 Grounds for detention. Article 44(6) of the LFRB includes the following grounds for administrative immigration-related detention: 1) to effect removal; 2) to prevent absconding; 3) when non-citizens obstruct the execution of their removal; and 4) when non-citizens do not fulfil conditions for non-custodial measures. In addition, Article 45(b) of the LARB includes grounds for detention during the asylum process (see: 2.3 Asylum seekers).

In 2016, Bulgaria introduced new provisions concerning establishing or verifying a person’s identity. The provision allows relevant authorities¹⁸ to issue short-term “accommodation” (detention) orders for up to 30 days to establish identity and to assess the subsequent measures that should be taken. This type of detention is to take place in “special units” within the Migration Directorate’s detention centres.¹⁹ The introduction of short-term detention, according to observers, legalised the existing practice of detaining non-citizens at

¹⁴ Закон За Чужденците В Република България

¹⁵ Law on Foreigners in the Republic of Bulgaria, amended up to 2016 (in English), <http://www.bulgarian-citizenship.com/wp-content/uploads/2017/12/FOREIGNERS-IN-THE-REPUBLIC-OF-BULGARIA-ACT.pdf> as amended as of April 2019, (in Bulgarian), <https://lex.bg/bg/laws/ldoc/2134455296>

¹⁶ Закон за убежището и бежанците

¹⁷ The Sofia Globe, “Bulgarian Government Approves Changes to Foreigners Act Regulations,” 20 June 2018, <https://bit.ly/2Kw8bnf>

¹⁸ As per LFRB Article 44.1: “the Chairman of the State Agency “National Security,” the Directors of the Chief Directorates “National Police,” “Border Police” and “Fighting Organised Crime,” the Directors of the Capital and Regional Directorates, the Director of the Migration Directorate, the Directors of the regional directorates “Border Police” at the Ministry of Interior and of officials authorized by them.”

¹⁹ V. Ilareva, “Advocacy Report on the “Red Line” Detention of Asylum Seekers upon Entry in Bulgaria,” *Foundation for Access to Rights (FAR) / European Programme for Integration and Migration (EPIM)*, July 2018, <https://bit.ly/2PJfZM>; see also: Hungarian Helsinki Committee *et al*, “Crossing a Red Line: How EU Countries Undermine the Right to Liberty by Expanding the Use of Detention of Asylum Seekers Upon Entry,” February 2019, <https://www.globaldetentionproject.org/crossing-red-line>

the border in the Elhovo “distribution centre,” which previously had occurred in the absence of specific detention orders.²⁰

2.3 Asylum seekers. Article 45b(1-4) of the LARB provides grounds for asylum seekers to be “accommodated in a closed centre” (i.e. placed in detention) temporarily and for the shortest possible period of time. Detention is allowed in order to 1) establish and verify the non-citizen’s identity or nationality; 2) establish the facts and circumstances on which the application for international protection is based where this cannot be done in any other way and there is a risk that the non-citizen may abscond; 3) where it is necessary to protect national security or public order; 4) to establish the state responsible for examining the asylum application and to transfer the foreigner to the competent state and where there is also a risk of absconding. However, according to Article 54b(2), foreigners cannot be placed in detention solely because they have applied for asylum, while Article 45c(2) provides that the decision to detain an asylum seeker should take into consideration whether they belong to a vulnerable group.

Asylum seekers are, however, most commonly placed in immigration detention under LFRB Article 44(13).²¹ (See: 2.2 Grounds for detention.)

In 2017, 3,700 persons applied for asylum in Bulgaria,²² a sharp decrease compared to the 19,336 applications received in 2016 and 11,081 in 2014, the year that work started on the fence at the Bulgarian-Turkish border. Prior to the 2014-2016 surge, applications were substantially lower: 1,387 applications were lodged in 2012 and 893 in 2011.²³ According to the Ministry of Interior, the main countries of origin for asylum seekers in 2017 were Afghanistan, Iraq, Syria, Pakistan, and Iran.²⁴ During that year, 1,459 persons applying for asylum did so from an immigration detention centre.²⁵

The detention of asylum seekers, however, appears to contravene Article 31 of the Convention Relating to the Status of Refugees.²⁶ In 2017, the UN Committee on the

²⁰ V. Ilareva, “Advocacy Report on the “Red Line” Detention of Asylum Seekers upon Entry in Bulgaria,” *Foundation for Access to Rights (FAR) / European Programme for Integration and Migration (EPIM)*, July 2018, <https://bit.ly/2PJlfZM>; see also: Hungarian Helsinki Committee *et al*, “Crossing a Red Line: How EU Countries Undermine the Right to Liberty by Expanding the Use of Detention of Asylum Seekers Upon Entry,” February 2019, <https://www.globaldetentionproject.org/crossing-red-line>

²¹ V. Ilareva, “Advocacy Report on the “Red Line” Detention of Asylum Seekers upon Entry in Bulgaria,” *Foundation for Access to Rights (FAR) / European Programme for Integration and Migration (EPIM)*, July 2018, <https://bit.ly/2PJlfZM>; see also: Hungarian Helsinki Committee *et al*, “Crossing a Red Line: How EU Countries Undermine the Right to Liberty by Expanding the Use of Detention of Asylum Seekers Upon Entry,” February 2019, <https://www.globaldetentionproject.org/crossing-red-line>

²² State Agency for Refugees, “Actual Information and Reports,” <https://www.aref.government.bg/index.php/bg/aktualna-informacia-i-spravki>

²³ UNHCR, “Statistical Yearbook 2016”; “Statistical Yearbook 2014”; “Statistical Yearbook 2012,” and “Statistical Yearbook 2011,” <https://www.unhcr.org/statistical-yearbooks.html>

²⁴ UNHCR, Bulgarian Helsinki Committee, and General Directorate of Border Police, “Bulgaria, 2017 Annual Border Monitoring Report – Access to Territory and International Protection,” 25 June 2018, <https://bit.ly/2H2tlso>

²⁵ UNHCR, Bulgarian Helsinki Committee, and General Directorate of Border Police, “Bulgaria, 2017 Annual Border Monitoring Report – Access to Territory and International Protection,” 25 June 2018, <https://bit.ly/2H2tlso>

²⁶ Article 31 (1): “1. The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.” <https://bit.ly/2RV8Q1H>

Elimination of Racial Discrimination (CERD) urged Bulgaria to end the practice of mandatory detention for undocumented asylum seekers.²⁷ During the UN Universal Periodic Review (UPR) of Bulgaria in 2015, Brazil recommended that Bulgaria reform its legislation authorising the detention of asylum seekers on the basis of illegal entry,²⁸ echoing a 2011 recommendation by the Committee against Torture (CAT).²⁹ More recently, in November 2018, the Human Rights Committee (CCPR) recommended that Bulgaria “avoid placing asylum seekers in detention except as a last resort and for the shortest period possible, establish a mechanism for the identification of vulnerable applicants, (and) provide effective alternatives to detention.”³⁰

In 2018, the European Committee for the Prevention of Torture (CPT) also recalled its position that asylum seekers should only be deprived of liberty as an exceptional measure, and that they should be held separately from foreign nationals who have not lodged an application for international protection.³¹ The CPT’s general stance is that asylum seekers should enjoy broader safeguards than “irregular migrants.”³²

As quoted by the [Foundation for Access to Rights \(FAR\)](#), the Bulgarian Supreme Administrative Court ruled in January 2018 that “the submission of an application for international protection is a statutory fact that puts an end to immigration detention. ... The reasoning of the court has been that the return procedure is suspended and therefore removal detention of asylum seekers does not serve a lawful purpose.”³³

There is a history of discriminatory treatment against certain nationalities of asylum seekers in Bulgaria. In 2017, single young Afghan adults, as well as applicants from Turkey, Algeria,

²⁷ UN Committee on the Elimination of Racial Discrimination (CERD), “Concluding Observations on the Combined Twentieth to Twenty-Second Periodic Reports of Bulgaria, CERD/C/BGR/CO/20-22,” 31 May 2017, <https://bit.ly/2lqepQk>

²⁸ UN Human Rights Council, “Report of the Working Group on the Universal Periodic Review, Bulgaria, A/HRC/30/10,” 8 July 2015, <https://bit.ly/2MtlPoa>

²⁹ UN Committee against Torture (CAT), “Consideration of Reports Submitted by States Parties under Article 19 of the Convention Concluding Observations of the Committee against Torture, CAT/C/BGR/CO/4-5,” 14 December 2011, <https://bit.ly/2tlgP7s>

³⁰ UN Human Rights Committee (CCPR), “Concluding Observations on the Fourth Periodic Report of Bulgaria, CCPR/C/BGR/C/4,” 15 November 2018, <https://bit.ly/2N1M8Tt>

³¹ European Committee for the Prevention of Torture, “Report to the Bulgarian Government on the Visit to Bulgaria Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 25 September to 6 October 2017,” 4 May 2018, <https://rm.coe.int/16807c4b74>

³² See: ““Detained irregular migrants” is the term used to denote persons who have been deprived of their liberty under aliens legislation either because they have entered a country illegally (or attempted to do so) or because they have overstayed their legal permission to be in the country in question. It should be noted that asylum seekers are not irregular migrants, although the persons concerned may become so should their asylum application be rejected and their leave to stay in a country rescinded. Whenever asylum seekers are deprived of their liberty pending the outcome of their application, they should be afforded a wide range of safeguards in line with their status, going beyond those applicable to irregular migrants.” *In* European Committee for the Prevention of Torture (CPT), “Extract from the 19th General Report of the CPT - Safeguards for Irregular Migrants Deprived of their Liberty,” October 2009, <https://bit.ly/2A4ZQjB>

³³ V. Ilareva, “Advocacy Report on the “Red Line” Detention of Asylum Seekers upon Entry in Bulgaria,” *Foundation for Access to Rights (FAR) / European Programme for Integration and Migration (EPIM)*, July 2018, <https://bit.ly/2PJfZM>; see also: Hungarian Helsinki Committee *et al*, “Crossing a Red Line: How EU Countries Undermine the Right to Liberty by Expanding the Use of Detention of Asylum Seekers Upon Entry,” February 2019, <https://www.globaldetentionproject.org/crossing-red-line>

Indonesia, and China, were screened while in detention as a method of deterrence.³⁴ According to the Bulgarian Helsinki Committee, these nationalities spent an average of 3.8 months in detention—significantly longer than the 19-day average detention period for other immigration detainees in 2017. According to NGO reports, short-term detention to determine identity was mostly applied to Syrians in [Lyubimets Detention Centre](#) in the first six months of 2018 and to Iraqis in the [Sofia Busmantsi Detention Centre](#). Advocates have observed that the introduction of short-term detention legalised the existing practice of detaining non-citizens at the border in the Elhovo “distribution centre,” which used to take place without a detention order.³⁵

2.4 Children. According to Article 44(9) of the LFRB, accompanied minors can be “forcibly accommodated” (i.e. detained) for up to three months. In its response to the CPT’s 2017 report following its visit to the Lyubimets centre, the Bulgarian government stated: “The placement of migrant minors accompanied by a parent or other adult is regulated by the Law ... as an exceptional option. ... Forced accommodation does not apply to minors. ... The measure applies if necessary due to the principle of family reunification and the lack of a developed system of resident social services for families of illegally staying migrants.”³⁶

In practice, 736 children were detained in 2017, a marked decrease from 2016 (6,068) and 2015 (7,647).³⁷ Children are particularly at risk as they may share dormitories with unrelated men (see: 3.3 Conditions in detention).

LFRB Article 44(9) provides that “forced accommodation” does not apply to unaccompanied minors. However, Article 45e(2) appears to allow the detention of “minor aliens seeking international protection.” This paradoxical situation is the result of the transposition of the recast Reception Conditions Directive 2013/33/EU that introduced the detention of asylum seekers for the first time in January 2016.³⁸

According to the Bulgarian Helsinki Committee, “in practice, both asylum-seeking and other migrant unaccompanied children continue to be detained in pre-removal detention centres. Unaccompanied children arrested by the Border Police upon entry or, if arrested during their attempt to exit Bulgaria irregularly, are assigned (“attached”) to any of the adults present in

³⁴ I. Savova, “Country Report: Bulgaria - 2017 Update,” *Asylum Information Database*, February 2018, <http://www.asylumineurope.org/reports/country/bulgaria>

³⁵ V. Ilareva, “Advocacy Report on the “Red Line” Detention of Asylum Seekers upon Entry in Bulgaria,” *Foundation for Access to Rights (FAR) / European Programme for Integration and Migration (EPIM)*, July 2018, <https://bit.ly/2PJlfZM>; see also: Hungarian Helsinki Committee *et al*, “Crossing a Red Line: How EU Countries Undermine the Right to Liberty by Expanding the Use of Detention of Asylum Seekers Upon Entry,” February 2019, <https://www.globaldetentionproject.org/crossing-red-line>

³⁶ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Response of the Bulgarian Government to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its Visit to Bulgaria from 25 September to 6 October 2017, CPT/Inf (2018) 46,” 23 October 2018, <https://rm.coe.int/16808e839e>

³⁷ Ministry of the Interior, Decision to grant access to public information No.812104-158 of 29.06.2018, *in V. Ilareva*, “Advocacy Report on the “Red Line” Detention of Asylum Seekers upon Entry in Bulgaria,” *Foundation for Access to Rights (FAR) / European Programme for Integration and Migration (EPIM)*, July 2018, <https://bit.ly/2PJlfZM>

³⁸ V. Ilareva, “Detention of Asylum Seekers: Interaction Between the Return and Reception Conditions Directives in Bulgaria,” *eumigrationlawblog*, 25 November 2015, <https://bit.ly/2zZ0XBx>

the group with which the children travelled, which has been a steady practice ongoing for last couple of years.”³⁹

According to the Annual Border Monitoring Report under the Tripartite Memorandum of Understanding (MoU) (see: 2.11 Domestic monitoring) there were 198 cases of unaccompanied children being “attached” to unrelated adults by police authorities in 2016, and 141 in 2017.⁴⁰ In November 2018, the Human Rights Committee highlighted the practice when it stated “While noting that national law prohibits detention of unaccompanied children, the Committee is concerned that this rule is reportedly circumvented in practice by “attaching” unaccompanied children to unrelated adults or registering such children as adults (art. 9 and 24).”⁴¹ The issue was similarly raised in 2015 during the UPR of Bulgaria by the UN Human Rights Council (HRC), when Sweden and Belgium recommended that children should not be detained with unrelated adults.⁴²

The detention of children in general has also been a subject of focus for human rights monitoring bodies. In 2018, the CPT recommended that the detention of minors and their parents “should only occur as a last resort, and if, in exceptional circumstances, such placement cannot be avoided, its duration should be as short as possible.” The CPT found no unaccompanied children in detention in Lyubimets centre during its visit in October 2017. However, it did find 43 accompanied children (including infants) and observed that there were “no adapted food and clothes, no toys, and it was difficult to obtain nappies for infants and sanitary materials for women.”⁴³ Previously, in 2016, the Committee on the Rights of the Child (CRC) recommended that Bulgaria avoid detaining asylum seekers under 18 as well as families with children,⁴⁴ and during the 2015 UPR, Brazil recommended that “detention of asylum seekers, particularly children, be applied only in exceptional circumstances after due diligence.”⁴⁵

In December 2017, the European Court of Human Rights (ECtHR) ruled that Bulgaria had violated Article 3 of the European Convention on Human Rights (ECHR) (prohibition of inhuman or degrading treatment) in its detention of an Iraqi family in a border police-operated short-term detention facility in Vidin.⁴⁶ Intercepted at the Bulgarian/Serbian border,

³⁹ I. Savova, “Country Report: Bulgaria - 2017 Update,” *Asylum Information Database*, February 2018, <http://www.asylumineurope.org/reports/country/bulgaria>

⁴⁰ UNHCR, Bulgarian Helsinki Committee, and General Directorate of Border Police, “Bulgaria, 2017 Annual Border Monitoring Report – Access to Territory and International Protection,” 25 June 2018, <https://bit.ly/2H2tlso>

⁴¹ UN Human Rights Committee (CCPR), “Concluding Observations on the Fourth Periodic Report of Bulgaria, CCPR/C/BGR/C/4,” 15 November 2018, <https://bit.ly/2N1M8Tt>

⁴² Human Rights Council (HRC), “Report of the Working Group on the Universal Periodic Review, Bulgaria, A/HRC/30/10,” 8 July 2015, <https://bit.ly/2MtlPoa>

⁴³ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report to the Bulgarian Government on the Visit to Bulgaria Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 25 September to 6 October 2017,” 4 May 2018, <https://rm.coe.int/16807c4b74>

⁴⁴ UN Committee on the Rights of the Child (CRC), “Concluding Observations on the Combined Third to Fifth Periodic Reports of Bulgaria, CRC/C/BGR/CO/3-5,” 21 November 2016, <https://bit.ly/2N1M8Tt>

⁴⁵ UN Human Rights Council (HRC), “Report of the Working Group on the Universal Periodic Review, Bulgaria, A/HRC/30/10,” 8 July 2015, <https://bit.ly/2MtlPoa>

⁴⁶ “S.F. and others v. Bulgaria (application no. 8138/16) [Article 3 ECHR],” 7 December 2017, [https://hudoc.echr.coe.int/eng#{"itemid":\["002-11765"\]}](https://hudoc.echr.coe.int/eng#{)

three Iraqi minors, accompanied by their parents, were detained for 32 to 41 hours in conditions that the ECtHR stated were the worst that had been presented to the court. The cell that they were held in was dirty, with litter and damp cardboard on the floor, detainees had no option but to urinate on the floor of the cell, and authorities did not give them food or drink for more than 24 hours. Moreover, “the mother had only been given access to the baby bottle and the milk of the youngest applicant, who was one-and-a-half years old, about nineteen hours after they had been taken into custody.”⁴⁷ As the ECtHR concluded, “The combination of the above-mentioned factors must have considerably affected the applicants, both physically and psychologically, and must have had particularly nefarious effects on the youngest applicant in view of his very young age.”⁴⁸

2.5 Other vulnerable groups. Article 17 (new - SG 80/2005, in force from 16.10.2015) of the LARB includes a definition of vulnerable persons: Persons from a vulnerable group “shall be minors, unaccompanied minors, persons with disabilities, elderly people, pregnant women, single parents with juveniles, victims of trafficking in human beings, people with severe health problems, people with mental disorders and those who have suffered torture, rape or other serious forms of mental, physical or sexual violence.”

Although the number of persons placed in immigration detention drastically decreased between 2015 and 2017 (due to a 91 percent drop in irregular arrivals to Bulgaria), the proportion of women placed in immigration detention doubled from 10.7 percent in 2015 to 22 percent in 2017.⁴⁹

LFRB Article 14(2), which regulates places of immigration detention, provides that non-citizens of different genders, families, and minors should be accommodated in “separate parts of the bed sector.”⁵⁰ Furthermore, LARB Article 45e(4) provides that female asylum seekers should be separated from males, unless they are relatives and the women have given their consent.

In practice, the CPT reported that in October 2017, accommodation at Lyubimets Detention Centre was “particularly dangerous for women and minors (including infants), who had to share the same dormitories with often unrelated adult men (the latter accommodated together with their respective families), locked at night in total darkness (electricity being switched off between 11 p.m. and 7 a.m.)” In July 2018, NGOs also reported detainees’

⁴⁷ European Court of Human Rights, “Information Note on the Court’s Case-Law 213, S.F. and Others v. Bulgaria - 8138/16,” December 2017, <https://bit.ly/2IP0FWg>

⁴⁸ European Court of Human Rights, “Information Note on the Court’s Case-Law 213, S.F. and Others v. Bulgaria - 8138/16,” December 2017, <https://bit.ly/2IP0FWg>

⁴⁹ V. Ilareva, “Advocacy Report on the “Red Line” Detention of Asylum Seekers upon Entry in Bulgaria,” *Foundation for Access to Rights (FAR) / European Programme for Integration and Migration (EPIM)*, July 2018, <https://bit.ly/2PJfZM>; see also: Hungarian Helsinki Committee *et al*, “Crossing a Red Line: How EU Countries Undermine the Right to Liberty by Expanding the Use of Detention of Asylum Seekers Upon Entry,” February 2019, <https://www.globaldetentionproject.org/crossing-red-line>

⁵⁰ Ordinance No. 13-1201 of 1 June 2010 on the Procedure for the Temporary Accommodation of Foreigners in the Special Homes for the Temporary Accommodation of Foreigners and Their Units and for the Organization of Their Activity (in Bulgarian:) *Наредба № 13-1201 От 1 Юни 2010 Г. За Реда За Временно Настаиване На Чужденци В Специалните Домове За Временно Настаиване На Чужденци И В Техните Звена И За Организацията И Дейността Им (Загл. Изм. - Дв, Бр. 52 От 2017 Г., В Сила От 30.06.2017 Г.),* <https://lex.bg/bg/laws/ldoc/2135684112>

complaints that dormitories in Busmantsi and Lyubimets were locked at night, meaning that they could not go to the toilet.⁵¹

The CPT thus recommended that women and minors should not share dormitories with unrelated adult male detainees.⁵² In its response to the CPT in October 2018, the Government of Bulgaria announced that a new regime would be introduced, and that dormitories housing families and children would no longer be locked at night.⁵³

2.6 Length of detention. According to LFRB Articles 44(6) and (8), non-citizens can be “imposed a compulsory administrative measure” (i.e. detained) for up to six months, with monthly reviews of their detention. This initial period can exceptionally be extended for an additional 12 months, and the subsequent 18-month immigration detention limit reflects provisions in the EU Returns Directive.⁵⁴ According to the Bulgarian Helsinki Committee, some nationalities spend longer in detention than others: specifically, in 2017 non-citizens from Afghanistan, Turkey, Algeria, Indonesia, and China spent an average of 3.8 months in detention, which was considerably longer than the 19-day average detention period for other nationalities (see section 2.3 Asylum seekers).

In practice, the average detention time in Busmantsi and Lyubimets rose from 25 and 24 days to 59 and 52 days between 2015 and 2017.⁵⁵ After their first visit to the Lyubimets centre in 2017, the CPT noted “the average detention period was 2 to 3 months, but the delegation spoke with several foreign nationals (mostly single adult males) who claimed having been at the establishment for much longer periods (more than a year).”⁵⁶ In November 2018, the Human Rights Committee recommended that Bulgaria “reduce the length and practice of detaining migrants.”⁵⁷

⁵¹ V. Ilareva, “Advocacy Report on the “Red Line” Detention of Asylum Seekers upon Entry in Bulgaria,” *Foundation for Access to Rights (FAR) / European Programme for Integration and Migration (EPIM)*, July 2018, <https://bit.ly/2PJfZM>; see also: Hungarian Helsinki Committee *et al*, “Crossing a Red Line: How EU Countries Undermine the Right to Liberty by Expanding the Use of Detention of Asylum Seekers Upon Entry,” February 2019, <https://www.globaldetentionproject.org/crossing-red-line>

⁵² European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report to the Bulgarian Government on the Visit to Bulgaria Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 25 September to 6 October 2017,” 4 May 2018, <https://rm.coe.int/16807c4b74>

⁵³ Council of Europe, “Response of the Bulgarian Government to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its Visit to Bulgaria from 25 September to 6 October 2017, CPT/Inf (2018) 46,” 23 October 2018, <https://rm.coe.int/16808e839e>

⁵⁴ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, <https://bit.ly/2RxG9Yx>

⁵⁵ V. Ilareva, “Advocacy Report on the “Red Line” Detention of Asylum Seekers upon Entry in Bulgaria,” *Foundation for Access to Rights (FAR) / European Programme for Integration and Migration (EPIM)*, July 2018, <https://bit.ly/2PJfZM>; see also: Hungarian Helsinki Committee *et al*, “Crossing a Red Line: How EU Countries Undermine the Right to Liberty by Expanding the Use of Detention of Asylum Seekers Upon Entry,” February 2019, <https://www.globaldetentionproject.org/crossing-red-line>

⁵⁶ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report to the Bulgarian Government on the Visit to Bulgaria Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 25 September to 6 October 2017,” 4 May 2018, <https://rm.coe.int/16807c4b74>

⁵⁷ UN Human Rights Committee (HRC), “Concluding Observations on the Fourth Periodic Report of Bulgaria, CCPR/C/BGR/C/4,” 15 November 2018, <https://bit.ly/2N1M8Tt>

2.7 Procedural guarantees. According to NGO research, an amendment to the LFRB in 2017 significantly reduced the legal avenues available to non-citizens wishing to challenge the prolongation of detention. LFRB Article 46a provides that detention can be challenged within 14 days after detention, but such an appeal is not suspensive. The court must make a decision within one month and the first instance decision may be appealed before the Supreme Administrative Court which has two months to deliver a decision. The legality of short-term placement in detention under LFRB Article 44(13) may be appealed under the Administrative Appeal Procedure Code.⁵⁸ The appeal is not suspensive and the court must rule on the appeal immediately.

In December 2017, the automatic review of detention every six months (and up to the 18 months limit) was repealed.⁵⁹ As a result, the only possibility to challenge a 12-month prolongation of detention after the initial six months is through an individual appeal no later than 14 days after the detention order is served.⁶⁰

In November 2018, the Human Rights Committee recommended that Bulgaria “should ensure that any detention is justified as reasonable, necessary and proportionate in the light of the individual’s circumstances, that it is subject to periodic judicial review, and that asylum seekers and migrants have access to qualified legal aid when the interests of justice so require.”⁶¹ In 2017, the Committee on the Elimination of Racial Discrimination (CERD) also recommended that Bulgaria ensure due process and fair trial guarantees for detainees.⁶² Meanwhile, in 2011 the CAT recommended that police officers should be instructed to ensure that all detainees are granted access to a lawyer from the outset of their detention, as is legally required.⁶³

In 2017 the ECtHR found a violation of Article 5§4 of the ECHR (right to a speedy decision on the lawfulness of detention) in the case of a stateless man of Palestinian origin.⁶⁴

Article 45c(3) of the LFRB provides that detention orders must be issued in writing and must indicate the detention ground and the time limit for appeal, as well as the possibility for

⁵⁸ Administrative Procedure Code (Административнопроцесуален Кодекс), <https://www.lex.bg/bg/laws/ldoc/2135521015>

⁵⁹ Article 46a(3)-(4) LARB, repealed by Law amending the LARB, State Gazette No 97, 5 December 2017, see: I. Savova, “Bulgarian Helsinki Committee, Country Report: Bulgaria - 2017 Update,” *Asylum Information Database*, February 2018, <http://www.asylumineurope.org/reports/country/bulgaria>

⁶⁰ V. Ilareva, “Advocacy Report on the “Red Line” Detention of Asylum Seekers upon Entry in Bulgaria,” *Foundation for Access to Rights (FAR) / European Programme for Integration and Migration (EPIM)*, July 2018, <https://bit.ly/2PJlfZM>; Voice in Bulgaria, “Know your Rights: Changes in Bulgaria’s Immigration Detention Rules,” 23 July 2018, <https://bit.ly/2AE61eN>

⁶¹ UN Human Rights Committee, “Concluding Observations on the Fourth Periodic Report of Bulgaria, CCPR/C/BGR/C/4,” 15 November 2018, <https://bit.ly/2N1M8Tt>

⁶² UN Committee on the Elimination of Racial Discrimination (CERD), “Concluding Observations on the Combined Twentieth to Twenty-Second Periodic Reports of Bulgaria, CERD/C/BGR/CO/20-22,” 31 May 2017, <https://bit.ly/2lqepQk>

⁶³ UN Committee against Torture (CAT), “Consideration of Reports Submitted by States Parties Under Article 19 of the Convention Concluding Observations of the Committee against Torture, CAT/C/BGR/CO/4-5,” 14 December 2011, <https://bit.ly/2tlgP7s>

⁶⁴ European Court of Human Rights (ECtHR), “8M.M. v. Bulgaria, (no. 75832/13),” June 2017, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-174116%22%5D%7D>

receiving free legal assistance. Article 45e guarantees visits by persons providing legal assistance and legal counsel, as well as representatives from NGOs and international organisations.

According to NGOs however, these guidelines tend not be adhered to in practice. Instead, asylum seekers and other persons in detention are “informed orally by the detention staff of the reasons of their detention and the possibility to challenge it in court, but not about the possibility and the methods of applying for legal aid.” Moreover, as a principle, detainees are not informed in a language that they can understand.⁶⁵

2.8 Detaining authorities and institutions. As per LFRB Article 44, “compulsory administrative measures” (i.e. detention) can be imposed by bodies under the Ministry of Interior including the Chairman of the State Agency for National Security, the Migration Directorate, the Directors of the Chief Directorates of the National Police, the border police and police fighting against organised crime, and regional directorates (as well as officials authorised by them).

2.9 Non-custodial measures. Article 44(5)(1-3) of the LFRB provides for non-custodial measures including weekly reporting to a local Ministry of Interior office; release on bail or provision of a guarantor; and deposit of a valid passport or travel documents. According to GDP sources, release on bail is not used in practice, and the deposit of documents and weekly reporting are used infrequently. In July 2018, a regulation was adopted concerning concrete procedures for release measures by means of a money bond of 500 to 5,000 BGN (approximately 255 to 2,555 EUR) or by handing over a travel document (passport).⁶⁶ Article 45(a) of the LARB also provides for the non-citizen’s “mandatory appearance” every two weeks during proceedings.

The CERD (2017) and the Human Rights Committee (2018) recommended that Bulgaria develop alternatives to detention, and the CRC has also emphasised the need for “unconditional release.”⁶⁷

2.10 Regulation of detention conditions. Conditions are regulated through Ordinance № 13-1201 of 1 June 2010 on the Provision of Temporary Accommodation of Foreigners in the Special Houses for the Temporary Accommodation of Foreigners and their Staff and for their

⁶⁵ I. Savova, “Country Report: Bulgaria - 2017 Update,” *Asylum Information Database*, February 2018, <http://www.asylumineurope.org/reports/country/bulgaria>

⁶⁶ Voice in Bulgaria, “Know Your Rights: Changes in Bulgaria’s Immigration Detention Rules,” 23 July 2018, <https://bit.ly/2AE61eN>

⁶⁷ UN Committee on the Elimination of Racial Discrimination (CERD), “Concluding Observations on the Combined Twentieth to Twenty-Second Periodic Reports of Bulgaria, CERD/C/BGR/CO/20-22,” 31 May 2017, <https://bit.ly/2lqepQk>; UN Human Rights Committee, “Concluding Observations on the Fourth Periodic Report of Bulgaria, CCPR/C/BGR/C/4,” 15 November 2018, <https://bit.ly/2N1M8Tt>; UN Committee on the Rights of the Child (CRC), “Concluding Observations on the Combined Third to Fifth Periodic Reports of Bulgaria, CRC/C/BGR/CO/3-5,” 21 November 2016, <https://bit.ly/2N1M8Tt>

Organisation and their Activity (amended, as of 30 June 2017), issued by the Minister of the Interior.⁶⁸

2.11 Domestic monitoring. Article 45e of the LARB guarantees visits by persons providing legal assistance and legal counsel, as well as NGO and IGO representatives. Various Bulgarian NGOs have access to detainees in places of detention, including lawyers from the Bulgarian Helsinki Committee (BHC), the Foundation for Access to Rights (FAR), the Center for Legal Aid - Voice in Bulgaria (CLA), and Bulgarian Lawyers for Human Rights (BLHR).

A Tripartite MoU on Modalities of Mutual Cooperation and Coordination to Support the Access of Persons Seeking Protection to the Territory and the Procedure for Granting Protection was signed on 14 April 2010 by UNHCR, the BHC, and the General Directorate of Border Police (GDBP) with the Ministry of Interior.⁶⁹ The MoU “grants access to any national border and/or 24-hour detention facility at the land or air border, including transit halls at international airports, without limitation to the number of monitoring visits.” Access is granted without prior permission or the imposition of specific conditions.

2.12 International monitoring. In recent years, detention policies and practices in Bulgaria have received regular and in-depth scrutiny from regional and international human rights mechanisms and bodies.

Following its visit to Bulgaria in October-November 2017, the CPT issued an extensive list of detailed recommendations in 2018, such as that asylum seekers should only be deprived of liberty as an exceptional measure.⁷⁰ (For more of the CPT’s recommendations, see: 2.3 Asylum seekers, 2.4 Children, 2.5 Other vulnerable groups, and 3.3 Conditions in detention.)

The Council of Europe's Commissioner for Human Rights visited Bulgaria in February 2015, and similarly challenged the detention of asylum seekers in urging Bulgaria not to adopt legislation providing for their systematic detention. The Commissioner also called on the country to immediately cease the detention of persons pending registration as asylum seekers, and to use detention for the purpose of removal only as a last resort, for the shortest possible period of time, and on the basis of individual assessment. He also reiterated that migrant children, both accompanied and non-accompanied, should never be detained as detention is not in their best interest.⁷¹

Following visits in 2016, UNHCR highlighted that “virtually all people entering Bulgaria in an irregular manner are detained as a matter of course.” Responding to the visits, the High

⁶⁸ Ordinance No. 13-1201 of 1 June 2010 on the Procedure for the Temporary Accommodation of Foreigners in the Special Homes for the Temporary Accommodation of Foreigners and Their Units and for the Organization of Their Activity (in Bulgarian:) *Наредба № 13-1201 От 1 Юни 2010 Г. За Реда За Временно Настаняване На Чужденци В Специалните Домове За Временно Настаняване На Чужденци И В Техните Звена И За Организацията И Дейността Им (Загл. Изм. - Дв, Бр. 52 От 2017 Г., В Сила От 30.06.2017 Г.),* <https://lex.bg/laws/ldoc/2135684112>

⁶⁹ UNHCR, Bulgarian Helsinki Committee, and General Directorate of Border Police, “Bulgaria, 2017 Annual Border Monitoring Report – Access to Territory and International Protection,” 25 June 2018, <https://bit.ly/2H2tlso>

⁷⁰ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report to the Bulgarian Government on the Visit to Bulgaria Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 25 September to 6 October 2017,” 4 May 2018, <https://rm.coe.int/16807c4b74>

⁷¹ Commissioner for Human Rights, “Report by Nils Muizniek Following his Visit to Bulgaria from 9 to 11 February 2015,” *Council of Europe*, [https://rm.coe.int/ref/CommDH\(2015\)12](https://rm.coe.int/ref/CommDH(2015)12)

Commissioner stated that criminalising migrants for entering and exiting Bulgaria irregularly raised concerns about the country's compliance with international law and warned against recent legislation allowing for the detention of asylum seekers. The monitoring team also found that “conditions in some migrant detention facilities were degrading, with the extremely dilapidated and insanitary Elhovo transit centre in eastern Bulgaria of particular concern.”⁷²

In 2017 the CERD adopted a series of recommendations (see: 2.3 Asylum seekers, 2.7 Procedural guarantees, 2.9 Non-custodial measures, 2.12 Criminalisation, and 3.3 Conditions in detention).⁷³ Similarly, the CRC issued recommendations in 2016 (see: 2.4 Children, and 2.9 Non-custodial measures),⁷⁴ as did the Human Rights Committee in 2018 (see: 2.3 Asylum seekers, 2.4 Children, 2.6 Length of detention, 2.7 Procedural guarantees, and 2.9 Non-custodial measures). During the UPR of Bulgaria in 2015, UN members states such as Brazil and Sweden also made a number of recommendations (see: 2.4 Children, 2.3 Asylum seekers, and 3.3 Conditions in detention).⁷⁵

2.13 Criminalisation. Under Article 279(1) and (2) of the Criminal Code of Bulgaria, failure to enter Bulgaria—or cross the Bulgarian border—without a permit is an offence punishable with imprisonment for up to five years (and six years for re-entry), as well as a fine of up to 300 BGN (approximately 153 EUR).⁷⁶ Article 31 of the Convention Relating to the Status of Refugees, which prevents state authorities from imposing penalties upon asylum seekers on grounds of irregular entry or presence, has been transposed in Article 279(5) of the Criminal Code. However, in practice the non-penalisation clause has largely been respected since 2014: in 2015, there were no convictions, in 2016 there were 17, and in 2017 there were 15. However, there are reports that 3.5 percent of asylum seekers arriving at the border “were prevented to apply for asylum at the border, allegedly, in order to be convicted beforehand.”⁷⁷

In 2017, the CERD recommended that Bulgaria investigate excessive use of force by law officials at the border and within detention facilities, refrain from engaging in pushbacks and refoulement, and decriminalise irregular border crossing.

2.14 Privatisation. The GDP does not have information regarding the extent to which private actors are involved in providing services in Bulgarian detention centres.

2.15 Cost of detention. The GDP does not have information concerning the cost of specific immigration detention-related activities in Bulgaria.

⁷² Office of the High Commissioner for Human Rights, “Jailing Migrants is not the Solution to Bulgaria’s Migration Challenges – Zeid,” *United Nations*, 11 August 2016, <https://bit.ly/2POR3Yn>

⁷³ UN Committee on the Elimination of Racial Discrimination (CERD), “Concluding Observations on the Combined Twentieth to Twenty-Second Periodic Reports of Bulgaria, CERD/C/BGR/CO/20-22,” 31 May 2017, <https://bit.ly/2lqepQk>

⁷⁴ UN Committee on the Rights of the Child (CRC), “Concluding Observations on the Combined Third to Fifth Periodic Reports of Bulgaria, CRC/C/BGR/CO/3-5,” 21 November 2016, <https://bit.ly/2N1M8Tt>

⁷⁵ Universal Periodic Review (UPR), “Report of the Working Group on the Universal Periodic Review, A/HRC/30/10,” *Human Rights Council*, 8 July 2015, <https://bit.ly/2Sc4dR3>

⁷⁶ Criminal Code of the Republic of Bulgaria (1968, amended 2017) (English version), <https://bit.ly/2Fieck7>

⁷⁷ UNHCR, Bulgarian Helsinki Committee, and General Directorate of Border Police, “Bulgaria, 2017 Annual Border Monitoring Report – Access to Territory and International Protection,” 25 June 2018, http://www.bghelsinki.org/media/uploads/special/2017_annual_report_access_to_territory_and_asylum_procedure_en.pdf

2.16 Externalisation, readmission, and third-country agreements. Bulgaria is bound by 14 EU multilateral readmission agreements, including with: Albania, Bosnia-Herzegovina, Cape Verde, Georgia, Hong Kong, Macao, Macedonia, Moldova, Montenegro, Pakistan, the Russian Federation, Serbia, Sri Lanka, and Ukraine. In May 2016, Bulgaria signed the first bilateral protocol between Turkey and an EU state implementing the readmission agreement linked to the [March 2016 EU-Turkey agreement](#).⁷⁸

Bulgaria has also concluded bilateral readmission agreements with Armenia, Macedonia (FYROM), Kosovo, Lebanon, Serbia, Switzerland, and Uzbekistan.⁷⁹ In its 2014 report to the European Migration Network, the Bulgarian National Contact Point (EMN-NCP) wrote: “As Bulgaria applies readmissions mainly with neighbouring countries there is no ground to assess added value of the bilateral readmission agreements signed.”⁸⁰ In 2017, Bulgaria removed 405 non-citizens to other countries under readmission agreements, including 105 to Turkey (all Turkish citizens).

In 2017, Bulgaria received 446 persons returned from other EU states under the [EU Dublin Regulation](#). According to joint monitoring reports under the Tripartite MoU (see: 2.11 Domestic monitoring), all transferees, except those served with a final rejection from the State Agency for Refugees, were released by the Border Police upon arrival due to a change in national regulations.⁸¹

2.17 Transparency and access to information. Immigration and asylum laws detail provisions and conditions for immigration detention. National civil society organisations are permitted access to places of immigration detention and are also provided with responses to freedom of information requests.⁸² (See: 2.11 Domestic monitoring and 2.12 International monitoring.)

2.18 Trends and statistics. The numbers of irregular non-citizens apprehended in Bulgaria decreased from 34,056 in 2015 to 2,989 in 2017. However, during this same period the percentage of persons placed in immigration detention in relation to the number of apprehensions increased from 81 percent in 2015 (27,724 persons) to 111 percent in 2017 (3,332 persons).

⁷⁸ TRT World, “Turkey, Bulgaria Sign Readmission Deal to Take Back Refugees,” 5 May 2016, <https://bit.ly/2BuNyRH>

⁷⁹ J.P. Cassarino, “Inventory of the Bilateral Agreements Linked to Readmission,” <http://www.jeanpierrecassarino.com/datasets/ra/>; Migration and Home Affairs, “Return & Readmission,” *European Commission*, 20 December 2018, <https://bit.ly/2thDUfe>; European Migration Network, “Good Practices in the Return and Reintegration of Irregular Migrants: Member States’ Entry Bans Policy & Use of Readmission Agreements between Member States and Third Countries,” 5 March 2014, <https://bit.ly/2rLyAIE>

⁸⁰ European Migration Network, “Good Practices in the Return and Reintegration of Irregular Migrants: Member States’ Entry Bans Policy & Use of Readmission Agreements Between Member States and Third Countries,” 5 March 2014, <https://bit.ly/2rLyAIE>

⁸¹ UNHCR, Bulgarian Helsinki Committee, and General Directorate of Border Police, “Bulgaria, 2017 Annual Border Monitoring Report – Access to Territory and International Protection,” 25 June 2018, <https://bit.ly/2H2tlso>

⁸² Ministry of the Interior, Decision to grant access to information No.812104-158 of 29.06.2018, *in V. Ilareva*, “Advocacy Report on the “Red Line” Detention of Asylum Seekers upon Entry in Bulgaria,” *Foundation for Access to Rights (FAR) / European Programme for Integration and Migration (EPIM)*, July 2018, <https://bit.ly/2PJfZM>

Between 2015 and 2017, the average detention time in the Busmantsi and Lyubimets detention centres rose from 25 and 24 days to 59 and 52 days, respectively.⁸³ According to reports under the joint Tripartite MoU in 2017, 743 persons were apprehended that year upon irregular entry, and 2,413 upon irregular exit (445 of whom were deemed “new arrivals”). It marked the third year in a row that persons apprehended upon exit surpassed those apprehended upon entry, reflecting Bulgaria’s role as a country of transit for those en route to central and western Europe.⁸⁴

2.19 External sources of funding or assistance. According to EU documents published in the early 2000s, Bulgaria’s immigration detention estate was established with support from the EU and a European Commission (EC) PHARE twinning project supported by Sweden and Germany.⁸⁵

While EU “neighbourhood” states such as [Libya](#) and [Turkey](#) have received multi-million EU grants for migration management and border control, the European Economic and Social Committee reported that “The EU has refused to finance any part of the fence’s construction at the South Eastern border of Bulgaria.”⁸⁶ In 2016, however, the EC did respond to the Bulgarian authorities’ requests for assistance, announcing up to 108 million EUR in emergency funding to support border and migration management.⁸⁷

According to the Bulgarian government, the staff at both Lyubimets and Busmantsi detention centres participated in five training sessions organised by the International Organisation for Migration (IOM). Held at both detention centres in September 2017, these sessions took place within the framework of the IOM’s project “Working with Vulnerable Migrants and Persons Seeking Protection and Protection of Human Rights.”⁸⁸

⁸³ V. Ilareva, “Advocacy Report on the “Red Line” Detention of Asylum Seekers upon Entry in Bulgaria,” *Foundation for Access to Rights (FAR) / European Programme for Integration and Migration (EPIM)*, July 2018, <https://bit.ly/2PJfZM>; see also: Hungarian Helsinki Committee *et al*, “Crossing a Red Line: How EU Countries Undermine the Right to Liberty by Expanding the Use of Detention of Asylum Seekers Upon Entry,” February 2019, <https://www.globaldetentionproject.org/crossing-red-line>

⁸⁴ UNHCR, Bulgarian Helsinki Committee, and General Directorate of Border Police, “Bulgaria, 2017 Annual Border Monitoring Report – Access to Territory and International Protection,” 25 June 2018, <https://bit.ly/2Fg9PWQ>

⁸⁵ European Neighbourhood Policy and Enlargement Negotiations, “Standard Summary Project Fiche, CRIS Number: BG2003/004-937.08.05,” <https://bit.ly/2TGs8sl>; and Global Detention Project, “Bulgaria Immigration Detention Profile,” August 2011, <https://www.globaldetentionproject.org/countries/europe/bulgaria>

⁸⁶ European Economic and Social Committee, “EESC Fact-Finding Missions on the Situation of Refugees, as Seen by Civil Society Organisations – Mission Report – Bulgaria, 25 and 26 January 2016,” <https://www.eesc.europa.eu/en/documents/mission-report-bulgaria>

⁸⁷ European Commission (EC), “European Commission Announces up to €108 Million in Emergency Funding to Bulgaria to Improve Border and Migration Management,” 16 September 2016, http://europa.eu/rapid/press-release_IP-16-3088_en.htm

⁸⁸ Council of Europe, “Response of the Bulgarian Government to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its Visit to Bulgaria from 25 September to 6 October 2017, CPT/Inf (2018) 46,” 23 October 2018, <https://rm.coe.int/16808e839e>



3. DETENTION INFRASTRUCTURE

3.1 Summary. Bulgaria employs a range of facilities for the purposes of depriving migrants and asylum seekers of their liberty. These facilities are characterised in law using euphemistic language: non-citizens can be “accommodated in **closed-type centres**,” as per Article 45b of the Law on Asylum and Refugees (LARB); or they can be “issued an order for compulsory accommodation in a **special home for temporary accommodation** of foreigners,” as per Article 44(6)(7) of the Law on Foreigners in the Republic of Bulgaria (LFRB).

3.2 Detention facilities. As of early 2019, there were two dedicated immigration detention centres in Bulgaria: in **Busmantsi** (close to the capital Sofia), and in **Lyubimets** (within the southern-central province of Haskovo, close to the Greek and Turkish borders). A third centre was opened in **Elhovo** in 2013, close to the Turkish border, which authorities dubbed a “distribution” or “allocation” centre for short-term detention. With no legal provisions for short-term detention facilities, Elhovo was established through an order by the Ministry of Interior.⁸⁹ In 2015, NGOs reported that persons applying for asylum at the border were sent to the centre without detention orders,⁹⁰ and in January 2017 the facility was closed for “reorganization and repair activities”—although authorities later indicated that it would be closed indefinitely, unless the country faced a surge in arrivals.⁹¹

According to reports by NGOs and the Bulgarian Ombudsman, in 2017 the State Agency for Refugees announced plans to transform Pastrogor Transit Centre (in the same area as the Lyubimets centre) and one block in Harmanly Registration and Admission Centre into closed-type centres for asylum seekers.⁹² However, the GDP has found no information about the implementation of those plans. The ombudsman reported in 2017 that “Amendments to the Rules of Procedure of the State Agency for Refugees (SAR) with the Council of Ministers (promulgated SG no. 70 of 9 September 2016) regulate the powers of the SAR chairperson to designate specific closed-type centres with SAR Local branches.”

⁸⁹ Ministry of Interior, REF. No 1887/07.10.2014, in UNHCR, Bulgarian Helsinki Committee, and General Directorate of Border Police, “Bulgaria, 2014 Annual Border Monitoring Report – Access to Territory and International Protection,” 25 May 2015, <https://bit.ly/2RoT1EA>

⁹⁰ Bulgarian Helsinki Committee, “AIDA Report on Bulgaria, Fourth Update,” October 2015, <http://www.asylumineurope.org/reports/country/bulgaria>; Foundation for Access to Rights (FAR), “An Alarming “Legalization” of the “Distribution Center” in Elhovo is Being Prepared,” April 2016, <http://www.farbg.eu/bg/elhovo/> quoted in V. Ilareva, “Advocacy Report on the “Red Line” Detention of Asylum Seekers upon Entry in Bulgaria,” *Foundation for Access to Rights (FAR) / European Programme for Integration and Migration (EPIM)*, July 2018, <https://bit.ly/2PJfZM>

⁹¹ Ministry of the Interior, Decision to grant access to information No.812104-158 of 29.06.2018, in V. Ilareva, “Advocacy Report on the “Red Line” Detention of Asylum Seekers upon Entry in Bulgaria,” *Foundation for Access to Rights (FAR) / European Programme for Integration and Migration (EPIM)*, July 2018, <https://bit.ly/2PJfZM>; I. Savova, “Country Report: Bulgaria - 2017 Update,” *Asylum Information Database*, February 2018, <http://www.asylumineurope.org/reports/country/bulgaria>

⁹² I. Savova, “Country Report: Bulgaria - 2017 Update,” *Asylum Information Database*, February 2018, <http://www.asylumineurope.org/reports/country/bulgaria>; Bulgarian Ombudsman, “2017 Annual Report of the Ombudsman Acting as National Preventive Mechanism,” <https://bit.ly/2LZqFuy>

Reports indicate that immigration detention facilities in Bulgaria have prison-like settings. Busmantsi centre, which was opened in 2006 in a small town 13 kilometres from Sofia, was established in a former juvenile prison and is surrounded by a high spiked fence. The 400-bed facility was used to detain 1,102 people in 2017.⁹³ That year it was also reported that one derelict block was unused while three other blocks were “infrastructurally sound but hauntingly brutal: clothes hang from barred windows, and immigration police are stationed at every corner ... it is a lifeless soul-sapping place.”⁹⁴

Following a visit to the centre in 2017, the Bulgarian Ombudsman, acting as a National Preventive Mechanism under the Optional Protocol to the Convention against Torture (OPCAT) reported the death of an asylum seeker.⁹⁵ The ombudsman team called for the creation of a medical office inside the centre and found the centre’s arrangement for a doctor to come twice a week to be insufficient.

The Lyubimets centre, which has a capacity of 300, was opened in 2011. 853 persons were detained in the centre in 2017.⁹⁶

3.3 Conditions in detention. Conditions in so-called “special homes for accommodation of foreigners” are well below standards and have been denounced by national civil society and regional international human rights mechanisms. Premises are not only badly maintained but lack any form of recreation—either indoors or outdoors—and TVs and radios do not function. Following a visit to Lyubimets in 2017, the European Committee for the Prevention of Torture (CPT) stated that “the only positive features were an open-door policy during the day and the daily access (between 9 a.m. and noon and between 2 p.m. and 4 p.m.) to a spacious (but bare) asphalted outdoor area.”⁹⁷

In general, the chief Council of Europe anti-torture watchdog found conditions in Lyubimets to be “very poor, with large-capacity dormitories being dilapidated, filthy and crammed with bunk beds.” It detailed the need to reduce occupancy levels in dormitories; replace or repair broken furniture; clean sanitary facilities and ensure they are properly maintained; initiate de-infestation measures to eliminate the problem of bed bugs; provide lockable personal lockers; ensure detainees have access to a toilet at all times; and provide personal hygiene items (sanitary material for women, nappies for infants), clothing and shoes, and appropriate food arrangements (including baby food and suitable nutrition for those with specific dietary habits). In addition, the CPT requested that detainees are provided with information in a language they can understand so that they may request items from the centre's administration.

⁹³ Ministry of Interior, Bulgaria, “Decision No 812104 – 158 of 29 June 2018 to Provide Access to Public Information,” 29 June 2018.

⁹⁴ I. Steel, “Observations from a Bulgarian Refugee Camp,” *International Development Journal*, 12 May 2017, <https://idjournal.co.uk/2017/05/12/refugee-camps-in-bulgaria/>

⁹⁵ Bulgarian Ombudsman, “2017 Annual Report of the Ombudsman Acting as National Preventive Mechanism,” <https://bit.ly/2LZqFuy>

⁹⁶ Ministry of Interior, Bulgaria, “Decision No 812104 – 158 of 29 June 2018 to provide access to public information,” 29 June 2018.

⁹⁷ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “European Committee for the Prevention of Torture, Report to the Bulgarian Government on the Visit to Bulgaria Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 25 September to 6 October 2017,” 4 May 2018, <https://rm.coe.int/16807c4b74>

Concerned by the insufficient provision of healthcare at the centre, the CPT made further recommendations to strengthen support for detainees. These included ensuring that detainees have access to external specialists such as a dentist, gynaecologist, obstetrician, paediatrician, and psychiatrist; providing non-citizens with interpretation when necessary; and improving the quality of medical screening upon arrival. Noting that some custodial staff were equipped with truncheons, even within the accommodation area, the CPT also recommended that authorities cease this “intimidating and unjustified practice.”⁹⁸

In 2017, the CERD recommended that Bulgaria “continue improving the capacity and material conditions of reception centres, and ensure that all asylum seekers have access to basic services, including health care, psychological assistance and education.”⁹⁹ The CERD also called for investigations into the excessive use of force at borders and in places of detention.¹⁰⁰

During the UPR of Bulgaria by the UN Human Rights Council (HRC) in 2015, Sweden recommended that detainees should be treated in a humane and dignified manner and that children should not be detained with unrelated adults.¹⁰¹ In 2016, a Bulgarian court decided that provisions allowing for placement in isolation cells and body searches introduced in the Regulation for Detention Centres (Regulation on the Temporary Placement of Foreigners and the Organization and Activity of the Special Homes for the Temporary Placement of Foreigners) were unlawful as they were not included in the LFRB.¹⁰² This lawsuit was initiated by the Bulgarian Lawyers for Human Rights (BLHR).

⁹⁸ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “European Committee for the Prevention of Torture, Report to the Bulgarian Government on the Visit to Bulgaria Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 25 September to 6 October 2017,” 4 May 2018, <https://rm.coe.int/16807c4b74>

⁹⁹ UN Committee on the Elimination of Racial Discrimination (CERD), “Concluding Observations on the Combined Twentieth to Twenty-Second Periodic Reports of Bulgaria, CERD/C/BGR/CO/20-22,” 31 May 2017, <https://bit.ly/2lqepQk>

¹⁰⁰ UN Committee on the Elimination of Racial Discrimination (CERD), “Concluding Observations on the Combined Twentieth to Twenty-Second Periodic Reports of Bulgaria, CERD/C/BGR/CO/20-22,” 31 May 2017, <https://bit.ly/2lqepQk>

¹⁰¹ UN Human Rights Council, “Report of the Working Group on the Universal Periodic Review, Bulgaria, A/HRC/30/10,” 8 July 2015, <https://bit.ly/2MtlPoa>

¹⁰² R. Pavlov, “A Legal Victory: Detained Migrants in Bulgaria Can No Longer Be Subjected to Body Searches or Solitary Confinement,” *DETAINED*, 16 March 2016, <https://bit.ly/2lwGUvH>



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