



# **COUNTRY REPORT**

## **IMMIGRATION DETENTION IN ROMANIA: WITH A LITTLE HELP FROM THE EU**

*NOVEMBER 2019*



**GLOBAL DETENTION PROJECT**



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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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## GLOSSARY

|                |   |
|----------------|---|
| <b>AA</b>      | Asylum Act  |
| <b>AMIF</b>    | Asylum, Migration and Integration Fund  |
| <b>AO</b>      | Aliens Ordinance  |
| <b>CAT</b>     | UN Committee against Torture  |
| <b>CNRR</b>    | Romanian National Council for Refugees  |
| <b>HRC</b>     | UN Human Rights Committee   |
| <b>IGI</b>     | General Inspectorate for Immigration  |
| <b>IGI-DAI</b> | Directorate for Asylum and Integration of the General Inspectorate for Immigration                                |
| <b>JRS</b>     | Jesuit Refugee Service  |
| <b>OPCAT</b>   | Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment |
| <b>SPT</b>     | UN Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment        |



## KEY FINDINGS

- Romanian immigration law does not explicitly mention detention, instead employing euphemistic language like “placement in specially designed closed spaces.”
- Asylum detention was introduced in 2015 with transposition of the EU Reception Conditions Directive.
- Children whose age is in question may be detained pending an age assessment.
- Reports indicate that the country’s vulnerability assessments and referral procedures regarding people with special needs are inadequate.
- The law does not provide for “alternatives” to pre-removal detention.
- Although Romanian law provides that children should be granted access to education while in detention, detained minors generally appear to receive no schooling.
- Romanian detention centres rely on civil society for the provision of a range of goods and services, including food, clothing, and hygiene products.
- Romania only rarely provides reports to the European Migration Network.
- The country’ detention practices receive financing from the EU.



## 1. INTRODUCTION

Romania has one of Europe's weakest economies and remains outside the Schengen area. During the migration "crisis," it was not an important destination or transit site for the hundreds of thousands of migrants and refugees who entered Europe. However, following the construction of high-tech security fences along the Bulgarian-Turkish border in 2016, as well as increased naval patrols in the Aegean Sea, the country began to witness a steady stream of refugees and asylum seekers arriving via the Black Sea, brought by smugglers attempting to avoid crackdowns elsewhere.<sup>1</sup> Numbers peaked between July and August 2017, when 475 people arrived having undertaken the risky sea crossing.<sup>2</sup>

While the number of arrivals remained small, some observers noted that the country's authorities were "totally overwhelmed." Nevertheless, key government officials sought to assuage public anxieties, in contrast to the discourses of fear employed by politicians in neighbouring countries. Romania's Interior Minister, for example, said at the time: "What I want people to understand very well is this is a phenomenon that we can manage; we are neither hesitant nor overwhelmed."<sup>3</sup>

Romania's approach to migration has been shaped by EU integration. In negotiating its 2007 entry to the union, the country significantly modified its immigration policies and strengthened its border control procedures to comply with EU requirements. The country's position as a potential entry point into western Europe was a key EU security concern.<sup>4</sup> Between 1998 and 2003, the country received 62 million EUR as part of the EU programme of community assistance to central and eastern European countries, with funds used for training personnel and purchasing surveillance equipment.<sup>5</sup> Between 1999 and 2003, it

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<sup>1</sup> J. Hilton and D. Cupolo, "Old Route, New Dangers: Migrant Smugglers Revive Black Sea Route to Europe," *IRIN*, 16 October 2017, <https://www.refworld.org/docid/59e4bce74.html>

<sup>2</sup> Jesuit Refugee Service (JRS) "Romania: Rough Justice for Black Sea Arrivals," *Protection at External Borders (PEB)*, 15 January 2018, [https://jrseurope.org/campaign\\_detail?PTN=PROMO-20170516044859&TN=PROJECT-20180115054646](https://jrseurope.org/campaign_detail?PTN=PROMO-20170516044859&TN=PROJECT-20180115054646); Giller, K "Smugglers Make Test Runs with Migrants Across Deadly Black Sea Route," *The Guardian*, 12 September 2017, <https://www.theguardian.com/global-development/2017/sep/12/smugglers-make-test-runs-with-migrants-across-even-more-deadly-black-sea-route-romania>

<sup>3</sup> J. Hilton and D. Cupolo, "Old Route, New Dangers: Migrant Smugglers Revive Black Sea Route to Europe," *IRIN*, 16 October 2017, <https://www.refworld.org/docid/59e4bce74.html>

<sup>4</sup> Migreurop, "European Borders: Controls, Detention and Deportations," 2010, [http://www.migreurop.org/IMG/pdf/rapport-migreurop-2010-en\\_-\\_2-121110.pdf](http://www.migreurop.org/IMG/pdf/rapport-migreurop-2010-en_-_2-121110.pdf)

<sup>5</sup> Migreurop, "European Borders: Controls, Detention and Deportations," 2010, [http://www.migreurop.org/IMG/pdf/rapport-migreurop-2010-en\\_-\\_2-121110.pdf](http://www.migreurop.org/IMG/pdf/rapport-migreurop-2010-en_-_2-121110.pdf)

opened two immigration detention centres, and in 2000, authorities amended the country's asylum law, which was followed by a significant decline in the number of applicants.<sup>6</sup>

Although the EU planned Romania's accession to Schengen for March 2011, opposition from several EU states has led to delays. Reasons given for this opposition include poor border control, corruption, and the threat of "benefit tourism" involving the country's Roma population.<sup>7</sup> Romania has still benefitted from the Schengen facilitation fund, which is intended to support the investment that the EU requires to fulfil the Schengen *acquis*. The country received some 600 million EUR to secure its external EU borders and to implement the [Schengen Information System](#).<sup>8</sup>

The country's efforts to increase border security are reflected in the numbers of non-citizens refused entry at its borders. Over the past six years, numbers have increased two-fold: from 3,410 in 2013 to 7,260 in 2018. At the same time, the numbers of people expelled decreased from 2,235 (2013) to 1,705 (2018).<sup>9</sup>

While authorities initially opposed the EU refugee quota system—voting with [Hungary](#) and [Slovakia](#) against the plan—it later agreed to accept 4,200 persons, although by August 2017 only 727 people had been relocated.<sup>10</sup> Already prior to the "refugee crisis," in 2009, Romania agreed to host an "Emergency Transit Centre" for people in urgent need of evacuation from their first asylum countries. Evacuees can be placed in the centre for up to six months while they await resettlement. The centre, described as "the first of its kind in Europe," was established in Timișoara, based on a tripartite agreement between Romania, UNHCR, and the IOM.<sup>11</sup> Managed by UNHCR, the centre has a total capacity of 200 (as of 2018),<sup>12</sup> and in recent months, it has housed people evacuated from Libya (303 persons between 2017 and September 2019).<sup>13</sup>

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<sup>6</sup> B. Michalon, "The Control of Migration in Post-Communist Romania," *Border Criminologies*, 11 December 2013, <https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2013/12/control-migration>

<sup>7</sup> T. D. Alkopher and E. Blanc, "Schengen Area Shaken: The Impact of Immigration-Related Threat Perceptions on the European Security Community," *Journal of International Relations and Development*, 20(3), 2017, [http://eprints.lse.ac.uk/82528/1/Blanc\\_Schengen%20area%20shaken\\_2017.pdf](http://eprints.lse.ac.uk/82528/1/Blanc_Schengen%20area%20shaken_2017.pdf)

<sup>8</sup> E. Ottavy, "Camps in Poland and Romania: Accession to the EU, a Step Towards Detention of Foreigners," in: M. Ceccorulli and N. Labanca (eds.), *The EU, Migration and the Politics of Administrative Detention*, 2014, Routledge.

<sup>9</sup> Eurostat, "Asylum and Managed Migration," <https://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>

<sup>10</sup> K. Giller, "Smugglers Make Test Runs with Migrants Across Deadly Black Sea Route," *The Guardian*, 12 September 2017, <https://www.theguardian.com/global-development/2017/sep/12/smugglers-make-test-runs-with-migrants-across-even-more-deadly-black-sea-route-romania>

<sup>11</sup> UN High Commissioner for Refugees (UNHCR), "Emergency Transit Center (ETC) Officially Opened in Timisoara, Romania," March 2009, <https://www.unhcr.org/ceu/807-ennews2009emergency-transit-center-etc-officially-opened-in-timisoara-romania-html.html>

<sup>12</sup> The UNHCR-operated emergency transit centre is located in the same premises as the reception centre, discussed below, see: Jesuit Refugee Service (JRS), "Country Report: Romania. 2018 Update," *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, 2019, <http://www.asylumineurope.org/reports/country/romania>

<sup>13</sup> UN High Commissioner for Refugees (UNHCR), "UNHCR Evacuates Vulnerable Refugees out of Libya as Fighting Resumes," 18 October 2018, <https://www.unhcr.org/news/press/2018/10/5bc8494b4/unhcr-evacuates-vulnerable-refugees-libya-fighting-resumes.html>; UN High Commissioner for Refugees (UNHCR), "UNHCR Resettlement Update #80 - Libya-Niger Situation," <https://reliefweb.int/report/libya/unhcr-resettlement-update-80-libya-niger-situation>



In 2018, Romania endorsed the Global Compact for Migration even as many of its neighbours vehemently opposed the non-binding accord. In a press release, the government stated, “Romania’s action line is based on solidarity, multilateral commitment and the necessity of a collective response and a comprehensive approach towards the challenges of today’s migration. At the same time, it aims at opposing negative outcomes generated by an irregular and ungoverned migration such as xenophobia, intolerance and racism.”<sup>14</sup>

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<sup>14</sup> President of Romania, “President of Romania, Mr Klaus Iohannis, Approved the Proposal of the Government of Romania to Endorse the Global Compact for Migration,” 28 November 2018, <https://bit.ly/2ZIT4um>



## 2. LAWS, POLICIES, PRACTICES

**2.1 Key norms.** Romania's first consolidated migration-related law, the Aliens Ordinance (AO), was adopted in 2001.<sup>15</sup>

While the country was being considered for accession to the EU in the early 2000s, a number of twinning projects—projects established by the European Commission to support reforms in EU candidate states—were initiated to improve the management of Romania's borders and other migration-related matters. In 2002, a working group was established within Romania's Interior Ministry tasked with revising the 2001 Aliens Ordinance to incorporate the EU *acquis*.

The government hastily passed the Ordinance regarding the regime for foreigners in Romania (Aliens Ordinance (AO)) (*Ordonanță De Urgență nr. 194 din 12 decembrie 2002 privind regimul străinilor în România*) in December 2002. This new version of the AO, which has since been amended several times (most recently in November 2018), contains provisions for the rights and obligations of non-citizens entering, residing, and working in Romania, in addition to the exclusion, expulsion, and administrative detention of non-citizens as a result of their status.

The Asylum Act (AA) (*Lege nr. 122 din 4 mai 2006 privind azilul în România*) was adopted four years later, in May 2006. It has also been amended several times, most recently in 2016. The AA sets out the procedures and conditions for applying for international protection, as well as the grounds for detaining asylum seekers.

Conditions of detention are detailed in the 2014 Regulation of Centres for Aliens Taken into Public Custody (Public Custody Centres Regulation) (*Regulament din 30 iulie 2014 centrelor de cazare a străinilor luați în custodie publică*) and the 2016 Regulation of Internal Order in the Regional Centres of Accommodation and Procedures for Asylum Seekers (*Regulamentul din 25 august 2016 de ordine interioară al centrelor regionale de proceduri și cazare a solicitanților de azil*).

**2.2 Grounds for detention.** Romanian immigration legislation does not explicitly mention detention. Rather it refers to “public custody in accommodation centres” (*custodie publică în centrele de cazare*) (Public Custody Centres Regulation, Article 1(a)). According to Article 101(1) of the AO, the act of taking an individual into public custody is a temporary measure to restrain their freedom of movement within Romania, and is ordered so that the necessary steps for removal under escort can be carried out.

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<sup>15</sup> European Commission (EC), “Twinning: Development of the Legislative and Institutional Framework in the Field of Migration, Twinning Project No. RO 2001/IB/JH/01,” 2004.

Under Articles 83(2) and 89(2) of the AO, removal under escort is ordered in cases where the non-citizen is declared undesirable,<sup>16</sup> it is deemed unlikely that they will voluntarily comply with a return decision, or if they have failed to respect a voluntary departure deadline. According to Article 101(2) of the AO, non-citizens who cannot be removed under escort within 24 hours can be detained on one of three grounds 1) If there is the risk of absconding; 2) if the non-citizen avoids or prevents the preparation of the return or escort removal process; 3) if the non-citizen is subject to expulsion, which is the case when they are convicted of terrorist offenses or crimes against national security (AO, Article 89(4)).

According to Article 101(3), the criteria for finding a risk of absconding include: a) the non-citizen is at risk of failing to voluntarily comply with a return obligation; b) the non-citizen is declared undesirable; c) the individual did not observe the time limit for a voluntary departure; and d) the individual's tolerance of stay was revoked. Regarding the first criterion, under Article 83(3), it is reasonable to assume that an individual is at risk of failing to voluntarily execute a return obligation if: a) the non-citizen has illegally crossed, or attempted to illegally cross, Romania's border; b) the non-citizen entered Romania during a previous period of entry ban; c) the identity of the non-citizen cannot be established; d) the non-citizen's asylum procedure has been completed, or they have renounced the procedure, and they have failed to exit Romanian territory as established by the procedure; and e) the non-citizen's conduct gives rise to reasonable suspicion that they intend to evade their expulsion order.

Article 9 of the AO addresses refusal of entry at the border. Accordingly, if it takes more than 12 hours to complete the non-citizen's departure from the crossing point, the non-citizen is to be placed in the transit area or, if this is not possible, in another location outside the border crossing point but which is subject to the transit zone regime.

In 2015, the [UN Committee against Torture \(CAT\)](#) expressed concern at "reportedly unnecessary" detention pending return and Dublin transfer and recommended that Romania refrain from detaining non-citizens and promote alternatives to detention.<sup>17</sup> In 2017, the [UN Human Rights Committee \(HRC\)](#) urged the country to ensure that detention is reasonable, necessary, and proportionate in light of the circumstances of the case and that detention measures are reassessed over time.<sup>18</sup>

**2.3 Criminalisation.** Romania de-criminalised immigration-status related infractions in 2012. Previously, the Ordinance Regarding the State Border of Romania (*Ordonanță De Urgență nr. 105 din 27 iunie 2001 privind frontiera de stat a României*) provided criminal prosecution for unauthorised entry or exit. Article 70 provided for a prison sentence of between three months and two years for irregularly entering or exiting the country.

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<sup>16</sup> A foreigner may be declared "undesirable" if they "performed, perform or there is strong evidence that they intend to perform such activities as to endanger the national security and public order (AO, Article 86(1)). Such a decision is ordered by the Bucharest Court of Appeal at the notification of the designated prosecutor from the Prosecutor's Office (AO, Article 86(2)).

<sup>17</sup> UN Committee against Torture (CAT), "Concluding Observations on the Second Periodic Report of Romania, CAT/C/ROU/CO/2," 5 June 2015, <https://www.ohchr.org/EN/countries/ENACARRegion/Pages/ROIndex.aspx>

<sup>18</sup> UN Human Rights Committee (HRC), "Concluding Observations on the Fifth Periodic Report of Romania, CCPR/C/ROU/CO/5," 11 December 2017, <https://www.ohchr.org/EN/countries/ENACARRegion/Pages/ROIndex.aspx>

**2.4 Asylum seekers.** Legal provisions relating to the detention of asylum seekers were introduced in December 2015 with the transposition of the [recast Reception Conditions Directive](#). Yet, while the detention of asylum seekers is legally permitted, it is reportedly rarely applied in practice. In fact, between April 2016 and December 2018, just one asylum seeker was detained (an individual who was detained in Bucharest on the grounds that he posed a danger to public order). The main categories of asylum seekers placed in detention are those who applied for asylum from detention or whose applications are channeled through the accelerated procedure.<sup>19</sup>

The AA stipulates that “restrictive measures” can be imposed “to limit abuse of the asylum procedure” or if the asylum seeker poses a threat to national security. Possible restrictive measures include imposition of a designated place of residence, reporting duties, and detention. However, like the AO, the AA does not explicitly refer to detention, instead speaking of “placement in specially designed closed spaces” (*plasarea în spații închise special amenajate*) or, like the AO, of “taking into public custody” (*menținerea în custodie publică*) (Article 19<sup>2</sup>(1)). Custodial measures for asylum seekers can take two forms: “placement in specially arranged enclosed spaces” or “placement in custody” (AA, Article 19<sup>2</sup>(1)-(2)).

“Specially arranged closed spaces” are in practice detention rooms within Regional Centres (reception centres for asylum seekers) (AA, Article 19<sup>9</sup>). Asylum seekers may be detained in such facilities a) to verify identity; b) to establish the elements upon which an application for international protection is based, especially if there is a risk of absconding; or c) if the applicant poses a danger to national security (AA, Article 19<sup>5</sup>). A risk of absconding exists when there is information that justifies the assumption that the asylum applicant may not attend their interview. This information includes the fact that the applicant; a) illegally crossed, or attempted to illegally cross, the state border after filing their application; b) was caught attempting to illegally cross the state border and filed an application for international protection having been placed in detention; c) there are reasons to believe that they intend to leave Romania after filing their application for international protection (AA, Article 19<sup>6</sup>(3)-(4)).

Asylum seekers may be detained in a public custody centre if: a) they are subject to a transfer under the [Dublin Regulation](#) and their detention is required in order to ensure transfer to the responsible member state; and b) the non-citizen lodged an application for international protection from detention (AA, Article 19<sup>13</sup>(1)). Those subject to the Dublin Regulation can be detained based on a risk of absconding, which is deemed likely when a non-citizen: a) irregularly crossed the state border and is detected in the Eurodac system as having lodged one or more applications for international protection in the territory of another member state; b) irregularly crossed the border of an EU member state or Schengen country, or was caught trying to irregularly cross the border and applied for asylum from detention; c) has irregularly crossed, or attempted to illegally cross, the Romanian border after filing an application for international protection in Romania; d) has applied for asylum in Romania having been transferred to the responsible member state; e) did not comply with alternatives to detention; or f) opposes their transfer to the responsible member state (AA, Article 19<sup>14</sup>(2)).

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<sup>19</sup> Jesuit Refugee Service (JRS), “Country Report: Romania. 2018 Update,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), 2019, <http://www.asylumineurope.org/reports/country/romania>

If a non-citizen applies for international protection from detention, they will continue to be detained until they are granted access to the ordinary asylum procedure (AO, Article 101(8)). The relevant asylum authorities have three days to examine the application after it has been lodged from detention, and to decide whether the individual should be granted access to the ordinary asylum procedure. If the application is refused and the applicant lodges a complaint against the decision, they will remain in detention until a final judgement is made (AA, Article 19<sup>15</sup>(1)-(2)).

Non-citizens applying for asylum at border crossing points are to remain in the transit area until their application is rejected or entry into Romania is approved. This may last for up to a maximum of 20 days, and throughout this period asylum seekers are to be held close to the border in special accommodation centres which have transit zone status (AA, Article 87(1)-(2)). According to the Directorate for Asylum and Integration of the General Inspectorate for Immigration (IGI-DAI), a total of 15 applications were lodged at the border in 2018.

The country's detention of asylum seekers has been criticised by rights monitoring bodies—such as the CAT in 2015.<sup>20</sup> In 2017, the HRC expressed concern regarding 2014 and 2015 amendments to the Asylum Law, as well as 2015 amendments to the Aliens Law, which had extended the grounds for detaining asylum seekers. The HRC urged Romania to use alternatives to detention for asylum seekers and migrants and, when an individual is detained, to ensure that their detention is reasonable, necessary, and proportionate, and that it is reassessed over time.<sup>21</sup>

**2.5 Children.** Children can only be detained when accompanied by at least one of their parents or a legal representative (Public Custody Centres Regulation, Article 29(3)).

If a non-citizen declares that they are a child but cannot prove their age and serious doubt exists regarding their age, they will be considered an adult and the General Inspectorate for Immigration (IGI) will request a forensic examination to determine their age. While they await the age assessment's result, the individual may be detained, while if they refuse to be examined, they will automatically be considered an adult (AO, Article 131<sup>1</sup>).

Likewise, under the AA, asylum-seeking children cannot be detained in specially designated enclosed spaces unless serious doubt exists regarding their age and an age assessment is ordered by the IGI (Article 19<sup>5</sup>(2)).

According to the IGI-DAI, no children are detained in public custody. However, in 2019 the **Jesuit Refugee Service (JRS)** challenged this when it reported that 80 children had been placed in detention centres in 2017.<sup>22</sup>

During their detention, (accompanied) children should have free access to the education system (AO, Article 104(6)). However, according to the directors of Arad and Otopeni

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<sup>20</sup> UN Committee against Torture (CAT), "Concluding Observations on the Second Periodic Report of Romania, CAT/C/ROU/CO/2," 5 June 2015, <https://www.ohchr.org/EN/countries/ENACARegion/Pages/ROIndex.aspx>

<sup>21</sup> UN Human Rights Committee (HRC), "Concluding Observations on the Fifth Periodic Report of Romania, CCPR/C/ROU/CO/5," 11 December 2017, <https://www.ohchr.org/EN/countries/ENACARegion/Pages/ROIndex.aspx>

<sup>22</sup> Jesuit Refugee Service (JRS), "Country Report: Romania. 2018 Update," *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, 2019, <http://www.asylumineurope.org/reports/country/romania>

detention centres, none of the children detained were enrolled or attended school.<sup>23</sup> The daily programme for children is established by the head of the centre based on the recommendation of a psychologist and doctor (Public Custody Centres Regulation, Article 41). Detention of families with children is to be reviewed by the IGI on a monthly basis (as opposed to the usual three months) (AO, Article 101(13)).

Various observers have criticised Romania's detention of children. In 2017, the HRC expressed concern regarding the fact that the country's age assessment procedure allows minor asylum seekers to be detained in centres for adults, and urged authorities to ensure that children are not deprived of their liberty except as a measure of last resort and for the shortest period of time, taking into account their best interests.<sup>24</sup> Meanwhile, in a 2018 submission to the Universal Periodic Review (UPR), UNHCR noted that the assessment of a child's best interests is completed on an ad hoc and informal basis.<sup>25</sup>

**2.6 Other vulnerable groups.** Romanian law does not prohibit the detention of vulnerable persons, although Article 82 (1) of the AO does state that a return measure cannot be ordered against a non-citizen who is over the age of 65, unless they are declared undesirable. Vulnerable persons in detention have the right to medical care and treatment appropriate to their special situation (AO, Article 104(7)). According to the AO, vulnerable persons include: children, people with disabilities, the elderly, women, pregnant women, single parents with minor children, victims of torture, rape, and other forms of serious mental, physical, or sexual violence (Article 2(z)).

According to UNHCR, insufficient resources and staff have contributed to insufficient identification and referral procedures. UNHCR thus recommended that Romania ensure that vulnerability assessments are conducted prior to any decision to detain, as well as during detention.<sup>26</sup> According to the JRS, two persons were released from [Arad Detention Centre](#) in 2018 due to their medical condition. One of these cases was a young child who, among several conditions, was suffering from severe viral conjunctivitis, and as a result the rest of their family was also released.<sup>27</sup>

**2.7 Length of detention.** Romania's provisions on the length of detention mirror the provisions of the Returns Directive. The maximum length of pre-removal detention is 18 months (AO, Article 101). Initially detention is ordered for a period of 30 days. If the individual has not been removed from the country within this period, the court of appeal in whose territorial jurisdiction the centre is located—upon request from the IGI—may order an extension for up to six months. In exceptional circumstances detention can be extended by the same process for a further 12 months (AO, Article 101). The same time periods apply to

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<sup>23</sup> Jesuit Refugee Service (JRS), "Country Report: Romania. 2018 Update," *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, 2019, <http://www.asylumineurope.org/reports/country/romania>

<sup>24</sup> UN Human Rights Committee (HRC), "Concluding Observations on the Fifth Periodic Report of Romania, CCPR/C/ROU/CO/5," 11 December 2017, <https://www.ohchr.org/EN/countries/ENACARegion/Pages/ROIndex.aspx>

<sup>25</sup> UN High Commissioner for Refugees (UNHCR), "Submission on Romania: 29<sup>th</sup> UPR session," 2018, <https://www.refworld.org/topic,50ffbce5124,50ffbce5145,5b081a554,0,,ROM.html>

<sup>26</sup> UN High Commissioner for Refugees (UNHCR), "Submission on Romania: 29<sup>th</sup> UPR session," 2018, <https://www.refworld.org/topic,50ffbce5124,50ffbce5145,5b081a554,0,,ROM.html>

<sup>27</sup> Jesuit Refugee Service (JRS), "Country Report: Romania. 2018 Update," *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, 2019, <http://www.asylumineurope.org/reports/country/romania>

asylum seekers placed in detention centres (AA, Article 19<sup>13</sup>) as well as asylum seekers in the Dublin procedures (Article 19<sup>14</sup>(6)-(7)).

Out of the 220 people detained in Arad Detention Centre in 2018, 100 were detained for less than 10 days; 35 were for between 10 days and one month; 75 were held for more than one month; nine for more than six months; and one person for more than one year. The average duration in **Otopeni Detention Centre** is four-six months. However, the average duration for certain nationalities can be longer. For example, persons from Pakistan are detained for an average of eight-ten months due to the fact that the Pakistan embassy does not reply to the IGI's requests.<sup>28</sup>

Asylum seekers placed in “specially designated closed spaces” can be placed in such facilities for 60 days—an initial 30 days, which is extendable by an additional 30 days (AA, Article 19<sup>7</sup>(1)-(5)).

Asylum seekers who are detained at the border are to be held in transit areas until they are granted access to the territory of Romania or until their application is rejected. However, they may not be detained for more than 20 days (AA, Article 87(1)), so that if a decision on the individual's asylum application is not been made within 20 days, the person will be permitted to enter the country (AA, Article 87(5)). The JRS has however reported a case in which a person who did not apply for international protection was held at Bucharest-Otopeni Airport for 30 days.<sup>29</sup>

**2.8 Procedural guarantees.** Detention in both detention centres and “specially designated closed spaces” must be ordered—at the request of the IGI—in writing, and reasoned in law and in fact, by the Prosecutor's Office attached to either the Bucharest Court of Appeal (in the case of detention in detention centres) or the court of appeal in whose jurisdiction the accommodation centre is located (in the case of detention in “specially designated closed spaces”) (AO, Article 101(2); AA, Article 19<sup>7</sup>(1)).

Upon their arrival in a detention centre, non-citizens should be informed in writing and in a language they either speak or understand, of the grounds upon which their detention was ordered, as well as their rights and obligations while in detention. They have the right to legal, medical, and social assistance and they are to be granted the possibility of communicating with diplomatic and consular representatives of their country of origin, their family members, and legal representatives (AO, Article 104). Similarly, upon detention in a “specially designated closed space,” asylum seekers should be informed, in writing and in a language they are reasonably supposed to understand, of the reasons for their detention and the procedures through which they may challenge it. In addition, the AA provides for the possibility of requesting public juridical assistance (AA, Article 19<sup>11</sup>(1)). In practice, however, non-citizens receive a document written in Romanian and English and there is no interpreter at this stage.<sup>30</sup>

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<sup>28</sup> General Inspectorate for Immigration (IGI), Director of Arad Public Custody Centre, in: Jesuit Refugee Service (JRS), “Country Report: Romania. 2018 Update,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, 2019, <http://www.asylumineurope.org/reports/country/romania>

<sup>29</sup> Jesuit Refugee Service (JRS), “Country Report: Romania. 2018 Update,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, 2019, <http://www.asylumineurope.org/reports/country/romania>

<sup>30</sup> Jesuit Refugee Service (JRS), “Country Report: Romania. 2018 Update,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, 2019, <http://www.asylumineurope.org/reports/country/romania>

Asylum seekers kept at border crossing points are entitled to legal and social assistance as well as humanitarian aid from NGOs and UNHCR. They should receive information relating to the border procedure and relevant rights and obligations, including the right to appeal and the right to request public legal aid, in writing and in a language they are reasonably supposed to understand (AA, Article 87(6) and (7)).

Non-citizens detained in either a detention centre (under Article 101(2) of the AO) or a “specially designated closed space” (under Article 19<sup>7</sup>(1) of the AA) have the right to lodge a complaint with the court of appeal in whose jurisdiction the facility is located (AO, Article 101(10); AA, Article 19<sup>7</sup>(7)). The complaint should be submitted within five days of the detention being ordered and the court of appeal should make a decision within three days of receipt. The court’s judgement is final (AO, Article 101(10); AA, Article 19<sup>7</sup>(7)). In practice however, few appeals are submitted.<sup>31</sup>

A non-citizen may also request that the IGI review the feasibility of an escorted removal during the period of detention. This procedure may also occur ex-officio. If it is found that an escorted removal cannot be completed within the detention time limit, the non-citizen should be released from detention and granted “tolerance of stay.” If a non-citizen’s application for review is rejected, they can challenge the decision at the relevant court of appeal within five days. The court must respond to the complaint within three days, and the court’s judgement is final (AO, Article 101(12)). Similarly, according to the AA, if new information emerges or circumstances change, subsequently challenging the justification of detention, a non-citizen may be released. Such a termination must be ordered by the IGI ex-officio or upon the asylum seeker’s request. If the IGI refuses a termination request, the decision must be issued in writing and justified in facts and in law. A complaint against such a refusal may be lodged by the applicant within five days and the court of appeal then has three days to respond to the complaint (Article 19<sup>8</sup>(4)).

Detention orders are to be reviewed by the IGI every three months. In the case of detained families with children, the detention order is to be reviewed once a month (AO, Article 101(13)).

Legal assistance in detention centres is provided by the [Romanian National Council for Refugees](#) (CNRR). However, in practice asylum seekers face difficulties in accessing legal aid while in detention. For example, it is almost impossible for legal counsellors to contact asylum seekers in time to help them prepare for their personal interview.<sup>32</sup> Often detainees do not have access to interpretation services. Following its visit to Otopeni Detention Centre in May 2016, the [UN Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#) (SPT) highlighted the lack of professional interpreters.<sup>33</sup>

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<sup>31</sup> Avocatul Poporului, “Raport privind vizita desfășurată la Centrul pentru Cazarea Străinilor luați în Custodie Publică Arad,” 2018, [http://www.avp.ro/rapoarte\\_mnp/2018/raport\\_mnp\\_40\\_2018.pdf](http://www.avp.ro/rapoarte_mnp/2018/raport_mnp_40_2018.pdf)

<sup>32</sup> Jesuit Refugee Service (JRS), “Country Report: Romania. 2018 Update,” *Asylum Information Database (AIDA)*, *European Council on Refugees and Exiles (ECRE)*, 2019, <http://www.asylumineurope.org/reports/country/romania>

<sup>33</sup> UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), “Visit to Romania Undertaken from 3 to 12 May 2016: Observations and Recommendations Addressed to the State party,” 8 March 2018, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fOP%2fROU%2f1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fOP%2fROU%2f1&Lang=en)



Detainees may submit complaints regarding the functioning of a detention centre to the head of the centre, public authorities, courts, and NGOs (Public Custody Centres Regulation, Article 22).

**2.9 Non-custodial measures (“alternatives to detention”).** The AO does not provide for non-custodial “alternatives to detention.” However, when an order of removal under escort cannot be executed within 24 hours of the non-citizen’s apprehension, the IGI should apply, on a case-by-case basis, the provisions of either “tolerance of stay” or detention (AO, Article 90). If there are strong indications that the individual does not need to be taken into custody, “tolerance of stay” may be granted (AO, Article 106<sup>1</sup>(2)(f)). Such a measure restricts freedom of movement, as it has a limited territorial validity and the non-citizen is obliged to report regularly to the IGI. If these obligations are not respected, the measure may be revoked by the IGI and the non-citizen may be placed in detention (AO, Articles 101(3) and 106<sup>2</sup>). As “tolerance of stay” is granted only when grounds for detention do not exist, the GDP does not consider this measure an alternative to detention.

The AA, meanwhile, provides for two non-custodial measures: (a) obligation to report to the headquarters of the IGI; and (b) designated stay in a Regional Centre (reception centres for asylum seekers) (Article 19<sup>2</sup>). According to the IGI-DAI, in 2018 42 asylum seekers were ordered designated stay.<sup>34</sup>

In the past few years, both the HRC and CAT have urged Romania to employ alternatives to detention.<sup>35</sup>

**2.10 Detaining authorities and institutions.** Detention is to be ordered by the prosecutor’s office, at the request of the IGI (AO, Article 101(2); AA, Article 19<sup>7</sup>(1)).

Immigration detention centres are administered by the IGI (AO, Article 103(2)). The Directorate for Asylum and Integration (DAI), which falls under the authority of the IGI, manages “specially designated closed spaces,” which are located in Regional Centres for Accommodation and Procedures for Asylum Seekers.<sup>36</sup> The Interior Ministry, meanwhile, is responsible for establishing transit areas (AA, Article 87(2)).

**2.11 Regulation of detention conditions.** The 2014 Public Custody Centres Regulation establishes the admission procedures, internal rules, and security of detention centres, while the 2016 Regulation of Internal Order spells out the rules for people detained in “specially designated closed spaces.”

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<sup>34</sup> Jesuit Refugee Service (JRS), “Country Report: Romania. 2018 Update,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), 2019, <http://www.asylumineurope.org/reports/country/romania>

<sup>35</sup> UN Committee against Torture (CAT), “Concluding Observations on the Second Periodic Report of Romania, CAT/C/ROU/CO/2,” 5 June 2015, <https://www.ohchr.org/EN/countries/ENACARegion/Pages/ROIndex.aspx>; UN Human Rights Committee (HRC), “Concluding Observations on the Fifth Periodic Report of Romania, CCPR/C/ROU/CO/5,” 11 December 2017, <https://www.ohchr.org/EN/countries/ENACARegion/Pages/ROIndex.aspx>

<sup>36</sup> Jesuit Refugee Service (JRS), “Country Report: Romania. 2018 Update,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), 2019, <http://www.asylumineurope.org/reports/country/romania>

Upon admission to a detention centre, non-citizens should be informed about the facility's rules (Public Custody Centres Regulation, Article 5) and undergo body searches and medical examinations (Articles 7 and 8). Detainees are entitled to one hour of outdoor exercise (Article 26) and may: communicate with people outside the centre and receive visits from consular representatives, NGOs, family members, and legal representatives; receive packages or money; participate in cultural-educational and recreational activities; practice religion; and use a telephone in the centre at their own expense (they are also to receive 20 minutes' worth of free calls each month) as well as their own mobile phone (upon request, provided it is not equipped with a camera, and only if they are not under escort) (Articles 11, 12, and 13).

Each detainee should have their own bed—there should be at least 50 centimetres of space between beds—and rooms should have adequate lighting, heating, and ventilation (Article 28). Men and women are confined separately, except for families who are placed together and receive adequate privacy (Article 29). Detainees should receive three meals a day, which, if requested, should respect religious and philosophical requirements (Article 30), and they should also receive personal hygiene items and clothes, if needed (Article 31). All detainees are also entitled to free primary health care and in-hospital emergency treatment, while detention centres should feature a medical centre staffed by nurses (Article 32).

Non-compliance with a detention centre's rules is sanctioned with warnings, suspension of certain entitlements (such as participation in recreational activities, purchasing items, and receiving visits (with the exception of lawyers)), or isolation for 24 hours. This last policy is extendable for up to a maximum of five days or, in exceptional cases, for up to ten days (Articles 43 and 44).

Detention facilities are guarded by the centre's staff, in cooperation with personnel provided by the IGI. They are equipped with means for immobilisation as well as individual defence (Article 60).

Meanwhile, persons detained in “specially designated closed spaces” may exercise outdoors for two hours a day (Regulation of Internal Order, Article 30), use their mobile phones upon request and for maximum of 20 minutes a day, and receive visits from NGOs, families, and lawyers (Article 25).

**2.12 Domestic monitoring.** According to Article 103(4) of the AO, national, international, and non-governmental organisations working in the field of migration and who are legally authorised and accredited, may visit public custody centres based on agreements with the ICI or subject to prior authorisation.

In July 2009, Romania ratified the [UN Convention against Torture](#) and its [Optional Protocol \(OPCAT\)](#) and designated the country's ombudsperson (the [People's Advocate \(Avocatul Poporului\)](#)) as the National Preventive Mechanism (NPM).<sup>37</sup> The NPM visited the Arad Detention Centre in September 2018, following which it recommended hiring a nurse, collaborating with local medical centres to facilitate health assistance in the detention centre, and installing at least two telephones that accept cards.<sup>38</sup> In December 2018, the ombudsperson visited Otopeni Detention Centre and issued various recommendations,

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<sup>37</sup> Association for the Prevention of Torture (APT), “OPCAT Database: Romania,” [https://apt.ch/en/opcat\\_pages/opcat-situation-61/](https://apt.ch/en/opcat_pages/opcat-situation-61/)

<sup>38</sup> Avocatul Poporului, “*Raport privind vizita desfășurată la Centrul pentru Cazarea Străinilor luați în Custodie Publică Arad*,” 2018, [http://www.avp.ro/rapoarte\\_mnp/2018/raport\\_mnp\\_40\\_2018.pdf](http://www.avp.ro/rapoarte_mnp/2018/raport_mnp_40_2018.pdf)

including urging the management of the centre to develop precise records of vulnerable detainees and design specific programmes for them; to inform detainees about their rights in a language they can understand; to ensure that telephones are functioning; to provide for educational and recreational programmes; to hire a social assistant; to ensure that food is culturally sensitive; to ensure medical presence at the centre; and to collaborate with a dentist.<sup>39</sup>

The JRS visits detention centres once a week or once every two weeks.<sup>40</sup> The CNRR, which is present in Arad every day and visits Otopeni once a week, implements projects funded by the EU's [Asylum, Migration and Integration Fund \(AMIF\)](#).<sup>41</sup>

**2.13 International monitoring.** Various international monitoring bodies have visited or reported on immigration detention in Romania.

As a state party to the [European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#), Romania receives regular monitoring visits from the [European Committee for the Prevention of Torture \(CPT\)](#). However, during its past visits to Romania (2018, 2014, and 2010), the committee did not visit immigration detention facilities.<sup>42</sup>

Having ratified the OPCAT, Romanian detention sites may also be monitored by the UN Subcommittee on the Prevention of Torture (SPT). Following the SPT's visit to Otopeni in 2016, it urged Romania to ensure that detainees are not locked in their rooms, to provide professional interpretation assistance, and to guarantee adequate medical and psychological treatment.<sup>43</sup>

In the past four years, two treaty bodies have issued immigration detention recommendations to Romania, namely the HRC in 2017 and the CAT in 2015. The HRC urged Romania to use alternatives to detention for asylum seekers and migrants and, in cases where the individual is detained, ensure that detention is reasonable, necessary, and proportionate in light of the circumstances and that it is reassessed over time. The committee also recommended that the country ensure that children are not deprived of their liberty except as a measure of last resort and for the shortest period of time, taking their best

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<sup>39</sup> Avocatului Poporului, "*Raport privind vizita deslaurata la Centrul de Cazare a Strainilor luati in Custodie Publica Otopeni*," 2018,

[http://www.avpoporului.ro/index.php?option=com\\_content&view=article&id=359&lang=ro-ro&Itemid=160](http://www.avpoporului.ro/index.php?option=com_content&view=article&id=359&lang=ro-ro&Itemid=160)

<sup>40</sup> Jesuit Refugee Service (JRS), "Country Report: Romania. 2018 Update," *Asylum Information Database (AIDA)*, *European Council on Refugees and Exiles (ECRE)*, 2019,

<http://www.asylumineurope.org/reports/country/romania>

<sup>41</sup> Avocatul Poporului, "*Raport privind vizita desfășurată la Centrul pentru Cazarea Străinilor luați în Custodie Publică Arad*," 2018, [http://www.avp.ro/rapoarte\\_mnp/2018/raport\\_mnp\\_40\\_2018.pdf](http://www.avp.ro/rapoarte_mnp/2018/raport_mnp_40_2018.pdf); Avocatului Poporului,

"*Raport privind vizita deslaurata la Centrul de Cazare a Strainilor luati in Custodie Publica Otopeni*," 2018, [http://www.avpoporului.ro/index.php?option=com\\_content&view=article&id=359&lang=ro-ro&Itemid=160](http://www.avpoporului.ro/index.php?option=com_content&view=article&id=359&lang=ro-ro&Itemid=160)

<sup>42</sup> Council of Europe (CPT), "The CPT and Romania," 2018, <https://www.coe.int/en/web/cpt/romania>

<sup>43</sup> UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), "Visit to Romania Undertaken from 3 to 12 May 2016: Observations and Recommendations Addressed to the State Party," 8 March 2018,

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fOP%2fROU%2f1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fOP%2fROU%2f1&Lang=en)

interests into account.<sup>44</sup> The CAT similarly urged Romania to refrain from detaining asylum seekers and migrants, promote alternatives to detention, and align its policies with the [UNHCR Detention Guidelines](#).<sup>45</sup>

**2.14 Transparency and access to information.** Romania only very rarely provides reports to the [European Migration Network \(EMN\)](#); its most recent report appears to be from 2014.

**2.15 Trends and statistics.** Between 2017 and 2018, the number of non-citizens placed in immigration detention more than halved: from 690 to 312.<sup>46</sup> The number of persons found to be irregularly present in Romania also decreased between 2017 and 2018—from 3,340 to 2,565. The 2018 figure is similar to 2016, when 2,430 persons were found to be irregularly present in the country.<sup>47</sup>

In 2018, 48 non-citizens applied for asylum from detention centres and 10 from penitentiary facilities.<sup>48</sup>

The total number of persons to be returned has largely remained consistent in recent years: 1,725 in 2018; 1,815 in 2017; and 1,865 in 2016.<sup>49</sup> Of these, 415 were forcibly returned in 2018, 440 in 2017, and 350 in 2016.<sup>50</sup>

**2.16 External sources of funding or assistance.** In 2018, the EU's Asylum, Migration and Integration Fund (AMIF) provided the IGI with 18,674,547 EUR in funding. 41 percent of the funds were for objectives relating to asylum, 36 percent were for objectives specific to integration and legal migration, and 23 percent were for objectives specific to return.<sup>51</sup>

Some of these funds were also used to finance the Romanian National Council for Refugees project "Counselling and Material Assistance in Public Custody Centres." In *Otopeni Public*

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<sup>44</sup> UN Human Rights Committee (HRC), "Concluding Observations on the Fifth Periodic Report of Romania, CCPR/C/ROU/CO/5," 11 December 2017, <https://www.ohchr.org/EN/countries/ENACARegion/Pages/ROIndex.aspx>

<sup>45</sup> UN Committee against Torture (CAT), "Concluding Observations on the Second Periodic Report of Romania, CAT/C/ROU/CO/2," 5 June 2015, <https://www.ohchr.org/EN/countries/ENACARegion/Pages/ROIndex.aspx>

<sup>46</sup> Jesuit Refugee Service (JRS), "Country Report: Romania. 2018 Update," *Asylum Information Database (AIDA)*, *European Council on Refugees and Exiles (ECRE)*, 2019, <http://www.asylumineurope.org/reports/country/romania>

<sup>47</sup> Eurostat, "Third Country Nationals Found to be Illegally Present – Annual Data (rounded)," 6 June 2019, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_eipre&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_eipre&lang=en)

<sup>48</sup> Jesuit Refugee Service (JRS), "Country Report: Romania. 2018 Update," *Asylum Information Database (AIDA)*, *European Council on Refugees and Exiles (ECRE)*, 2019, <http://www.asylumineurope.org/reports/country/romania>

<sup>49</sup> Eurostat, "Third Country Nationals Who Have Left the Territory by Type of Return and Citizenship," 7 May 2019, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_eirt\\_vol&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_eirt_vol&lang=en)

<sup>50</sup> Eurostat, "Third Country Nationals Who Have Left the Territory by Type of Return and Citizenship," 7 May 2019, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_eirt\\_vol&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_eirt_vol&lang=en)

<sup>51</sup> General Inspectorate for Immigration (IGI), "*Evaluarea activității inspectoratului general pentru imigrări, în anul 2018*," 12 Feb 2019, [http://www.asylumineurope.org/sites/default/files/resources/evaluarea\\_activitatii\\_in\\_anul\\_2018.pdf](http://www.asylumineurope.org/sites/default/files/resources/evaluarea_activitatii_in_anul_2018.pdf)

Custody Centre, the CNRR has provided personal hygiene products, food, and clothing. It has also provided weekly legal counselling and assistance to detainees.<sup>52</sup>

Between 2004 and 2005, the Otopeni Public Custody Centre was renovated using EU funds (a sum of 1,500,000 EUR), which had been provided by a [PHARE grant](#).<sup>53</sup>

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<sup>52</sup> Jesuit Refugee Service (JRS), “Country Report: Romania. 2018 Update,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), 2019, <http://www.asylumineurope.org/reports/country/romania>

<sup>53</sup> Jesuit Refugee Service (JRS), “Country Report: Romania. 2018 Update,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), 2019, <http://www.asylumineurope.org/reports/country/romania>



## 3. DETENTION INFRASTRUCTURE

**3.1 Summary.** In Romania non-citizens can be detained for reasons relating to their immigration status in three different types of facilities:

- dedicated detention centres, which are called accommodation centres for foreigners taken into public custody (or “public custody centres”) (Public Custody Centres Regulation, Article 1(a));
- secure sections of reception centres, referred to as “specially designated closed spaces”;
- transit zones (so-called special reception and accommodation centres near border crossing points, which have the legal status of a transit area) (AA, Article 87(2)).

Asylum seekers subject to the Dublin Procedure and non-citizens subject to pre-removal detention under the AO may be detained in either of the two detention centres (located in Arad and Otopeni). Those asylum seekers who are not subject to the Dublin Procedure and who are detained under the AA are placed in “specially designated closed spaces.” These are locked rooms located within Regional Centres for Accommodation of Asylum Seekers. Meanwhile, asylum seekers who apply for international protection at the border may be detained in the transit zones of Timișoara and Otopeni airports and in the Moravita border-crossing area.

Reportedly, “specially designated closed spaces” are very rarely used and there is a lack of information concerning the functioning of transit zones. Instead, the vast majority of detained non-citizens are placed in immigration detention centres.

**3.2 List of detention facilities.** Otopeni Detention Centre, Arad Detention Centre, Tudor Gociu Specially Designated Closed Space (Bucharest), Radauti Specially Designated Closed Space, Galati Specially Designated Closed Space, Timișoara Specially Designated Closed Space, Somcuta Mare Specially Designated Closed Space, Otopeni Airport (Transit Zone), Timișoara Airport (Transit Zone), and Moravita border-crossing.

### 3.3 Conditions and regimes in detention centres.

**3.3a Overview.** Detailed information on conditions in detention is only available for the country's two public custody centres. In general, national<sup>54</sup> and international<sup>55</sup> monitoring bodies have found conditions in these centres to be satisfactory. However, some observers have expressed concerns that the facilities, especially Otopeni, maintain prison-like regimes, and that both centres lack efficient mechanisms for identifying vulnerable persons. It has also been noted that detainees often face difficulties in accessing medical services—particularly mental health services—as well as legal aid.

Although Romanian law provides that children should be granted access to education while in detention, observers have found that detained minors are either not enrolled or not attending school.

**3.3b Arad Detention Centre** (Centre for the Accommodation of Foreigners taken into Public Custody) (*Centrul de Cazare a Străinilor luați în Custodie Publică*). Located close to the border with Hungary, the Arad centre first opened in 2001, before being renamed in 2003 and being placed under the authority of the IGI in 2012.<sup>56</sup> Until July 2015, the centre had capacity for 46 persons, however following an “extension and modernisation” project, the centre now consists of two buildings and has 160 places—which can be increased to 206 in emergency situations.<sup>57</sup> The centre can employ 62 people.<sup>58</sup>

Each room in the new block is 24 square metres and can accommodate up to four people. Rooms are equipped with mattresses, tables, benches, and one metal cabinet. Each room has a bathroom with a toilet, sink, and shower with hot and cold water.<sup>59</sup> During a visit in June 2018, the JRS found the centre's hygiene conditions to be good. However, remarks were made concerning the windows, which were opaque and thus prevented detainees from looking outside.<sup>60</sup>

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<sup>54</sup> Avocatul Poporului, “Raport privind vizita desfășurată la Centrul pentru Cazarea Străinilor luați în Custodie Publică Arad,” 2018, [http://www.avp.ro/rapoarte\\_mnp/2018/raport\\_mnp\\_40\\_2018.pdf](http://www.avp.ro/rapoarte_mnp/2018/raport_mnp_40_2018.pdf); Avocatului Poporului, “Raport privind vizita deslaurata la Centrul de Cazare a Strainilor luati in Custodie Publica Otopeni,” 2018, [http://www.avpoporului.ro/index.php?option=com\\_content&view=article&id=359&lang=ro-ro&Itemid=160](http://www.avpoporului.ro/index.php?option=com_content&view=article&id=359&lang=ro-ro&Itemid=160); Jesuit Refugee Service (JRS), “Country Report: Romania. 2018 Update,” *Asylum Information Database (AIDA)*, *European Council on Refugees and Exiles (ECRE)*, 2019, <http://www.asylumineurope.org/reports/country/romania>

<sup>55</sup> UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), “Visit to Romania Undertaken from 3 to 12 May 2016: Observations and Recommendations Addressed to the State party,” 8 March 2018, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fOP%2fROU%2f1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fOP%2fROU%2f1&Lang=en)

<sup>56</sup> Avocatul Poporului, “Raport privind vizita desfășurată la Centrul pentru Cazarea Străinilor luați în Custodie Publică Arad,” 2018, [http://www.avp.ro/rapoarte\\_mnp/2018/raport\\_mnp\\_40\\_2018.pdf](http://www.avp.ro/rapoarte_mnp/2018/raport_mnp_40_2018.pdf)

<sup>57</sup> Avocatul Poporului, “Raport privind vizita desfășurată la Centrul pentru Cazarea Străinilor luați în Custodie Publică Arad,” 2018, [http://www.avp.ro/rapoarte\\_mnp/2018/raport\\_mnp\\_40\\_2018.pdf](http://www.avp.ro/rapoarte_mnp/2018/raport_mnp_40_2018.pdf)

<sup>58</sup> Avocatul Poporului, “Raport privind vizita desfășurată la Centrul pentru Cazarea Străinilor luați în Custodie Publică Arad,” 2018, [http://www.avp.ro/rapoarte\\_mnp/2018/raport\\_mnp\\_40\\_2018.pdf](http://www.avp.ro/rapoarte_mnp/2018/raport_mnp_40_2018.pdf)

<sup>59</sup> Avocatul Poporului, “Raport privind vizita desfășurată la Centrul pentru Cazarea Străinilor luați în Custodie Publică Arad,” 2018, [http://www.avp.ro/rapoarte\\_mnp/2018/raport\\_mnp\\_40\\_2018.pdf](http://www.avp.ro/rapoarte_mnp/2018/raport_mnp_40_2018.pdf)

<sup>60</sup> Jesuit Refugee Service (JRS), “Country Report: Romania. 2018 Update,” *Asylum Information Database (AIDA)*, *European Council on Refugees and Exiles (ECRE)*, 2019, <http://www.asylumineurope.org/reports/country/romania>

Food is provided by the Arad penitentiary facility. The JRS received complaints regarding food quality and variety during its June 2018 visit to the facility.<sup>61</sup>

The medical centre at the centre is staffed by one doctor and three nurses. All detainees receive an initial health check within 72 hours upon detention, as well as mandatory medical consultations twice a week. The doctor working in the centre may prescribe specialised medical consultations and additional clinical tests which are carried out in an external medical facility within the Arad district. A psychologist is also present in the centre.<sup>62</sup>

Legal assistance is provided by the CNRR, which is present in the centre from Monday to Friday, and the JRS, which carries out weekly visits to the centre.<sup>63</sup>

The NPM made an unannounced visit to the facility in September 2018 and found the overall conditions to be satisfactory. He recommended hiring a nurse, collaborating with local medical centres to facilitate health assistance in the detention centre, and installing at least two telephones using cards.<sup>64</sup>

In the first nine months of 2018, six detainees went on hunger strike—one of whom refused food for 10 days. Persons on hunger strike were placed in separate rooms and were monitored by medical staff. In 2018 there were six cases of persons being placed in isolation: on three occasions this was for 24 hours, and on the other three occasions, the detainees were isolated for five days.<sup>65</sup>

**3.3c Otopeni Detention Centre** (Centre for the Accommodation of Foreigners taken into Public Custody (*Centrul de Cazare a Străinilor luați în Custodie Publică*)). The Otopeni Detention Centre is located close to the Henri Coandă Airport, some 15 kilometres from Bucharest.<sup>66</sup> The centre was established in 1999 and was refurbished between 2004 and

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<sup>61</sup> Jesuit Refugee Service (JRS), “Country Report: Romania. 2018 Update,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, 2019, <http://www.asylumineurope.org/reports/country/romania>

<sup>62</sup> Avocatul Poporului, “Raport privind vizita desfășurată la Centrul pentru Cazarea Străinilor luați în Custodie Publică Arad,” 2018, [http://www.avp.ro/rapoarte\\_mnp/2018/raport\\_mnp\\_40\\_2018.pdf](http://www.avp.ro/rapoarte_mnp/2018/raport_mnp_40_2018.pdf)

<sup>63</sup> Avocatul Poporului, “Raport privind vizita desfășurată la Centrul pentru Cazarea Străinilor luați în Custodie Publică Arad,” 2018, [http://www.avp.ro/rapoarte\\_mnp/2018/raport\\_mnp\\_40\\_2018.pdf](http://www.avp.ro/rapoarte_mnp/2018/raport_mnp_40_2018.pdf)

<sup>64</sup> Avocatul Poporului, “Raport privind vizita desfășurată la Centrul pentru Cazarea Străinilor luați în Custodie Publică Arad,” 2018, [http://www.avp.ro/rapoarte\\_mnp/2018/raport\\_mnp\\_40\\_2018.pdf](http://www.avp.ro/rapoarte_mnp/2018/raport_mnp_40_2018.pdf)

<sup>65</sup> Avocatul Poporului, “Raport privind vizita desfășurată la Centrul pentru Cazarea Străinilor luați în Custodie Publică Arad,” 2018, [http://www.avp.ro/rapoarte\\_mnp/2018/raport\\_mnp\\_40\\_2018.pdf](http://www.avp.ro/rapoarte_mnp/2018/raport_mnp_40_2018.pdf)

<sup>66</sup> Jesuit Refugee Service (JRS), “Country Report: Romania. 2018 Update,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, 2019, <http://www.asylumineurope.org/reports/country/romania>



2005 using a PHARE grant.<sup>67</sup> In 2016, the centre could hold up to 164 persons,<sup>68</sup> however capacity has since decreased, and as of 2018 it can hold up to 114 persons.<sup>69</sup>

The centre is comprised of two buildings with 21 rooms, each of which contains four, six, eight, or 12 beds. Rooms are equipped with beds, mattresses, a metal closet, a table with chairs, and a TV. They have their own sanitary complex.<sup>70</sup> Women are accommodated separately from men.

In December 2018, the ombudsman conducted an unannounced visit to the centre and found the rooms to be sufficiently clean, naturally lit, and with an adequate temperature. He noted that each room included a bathroom with a sink, toilet, and shower, although these were not accessible for people with reduced mobility. The centre also included an area for sports activities equipped with a ping-pong table, basketball court, fitness room, recreational room with books and puzzles, and play area with toys and games. However, at the time of the ombudsman's visit detainees reported that despite the facilities, no recreational activities were organised due to a lack of specialised personnel. The ombudsman thus recommended ensuring such activities are provided.<sup>71</sup>

During that same visit, the ombudsman observed that women and vulnerable persons are allowed to move freely within common spaces between 8.30 and 13.00 while men are provided access between 13.00 and 19.00.<sup>72</sup> In 2016 however, the SPT had noted that detainees were generally locked up all day with minimum contact with other detained persons. The subcommittee had thus recommended that Romania stop locking detainees up and ensure that migrants are not treated as criminals.<sup>73</sup>

The ombudsman also reported that there have been situations in which the centre has not had a sufficient number of staff. For example, a lack of official translators has made communication between members of staff and detainees very difficult. The ombudsman

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<sup>67</sup> Jesuit Refugee Service (JRS), "Country Report: Romania. 2018 Update," *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, 2019, <http://www.asylumineurope.org/reports/country/romania>

<sup>68</sup> UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), "Visit to Romania Undertaken from 3 to 12 May 2016: Observations and Recommendations Addressed to the State Party," 8 March 2018, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fOP%2fROU%2f1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fOP%2fROU%2f1&Lang=en)

<sup>69</sup> Avocatului Poporului, "*Raport privind vizita deslaurata la Centrul de Cazare a Strainilor luati in Custodie Publica Otopeni*," 2018, [http://www.avpoporului.ro/index.php?option=com\\_content&view=article&id=359&lang=ro-ro&Itemid=160](http://www.avpoporului.ro/index.php?option=com_content&view=article&id=359&lang=ro-ro&Itemid=160)

<sup>70</sup> Avocatului Poporului, "*Raport privind vizita deslaurata la Centrul de Cazare a Strainilor luati in Custodie Publica Otopeni*," 2018, [http://www.avpoporului.ro/index.php?option=com\\_content&view=article&id=359&lang=ro-ro&Itemid=160](http://www.avpoporului.ro/index.php?option=com_content&view=article&id=359&lang=ro-ro&Itemid=160)

<sup>71</sup> Avocatului Poporului, "*Raport privind vizita deslaurata la Centrul de Cazare a Strainilor luati in Custodie Publica Otopeni*," 2018, [http://www.avpoporului.ro/index.php?option=com\\_content&view=article&id=359&lang=ro-ro&Itemid=160](http://www.avpoporului.ro/index.php?option=com_content&view=article&id=359&lang=ro-ro&Itemid=160)

<sup>72</sup> Avocatului Poporului, "*Raport privind vizita deslaurata la Centrul de Cazare a Strainilor luati in Custodie Publica Otopeni*," 2018, [http://www.avpoporului.ro/index.php?option=com\\_content&view=article&id=359&lang=ro-ro&Itemid=160](http://www.avpoporului.ro/index.php?option=com_content&view=article&id=359&lang=ro-ro&Itemid=160)

<sup>73</sup> UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), "Visit to Romania Undertaken from 3 to 12 May 2016: Observations and Recommendations Addressed to the State Party," 8 March 2018, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fOP%2fROU%2f1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fOP%2fROU%2f1&Lang=en)

urged the country to ensure that detainees are informed about their rights in a language they understand.<sup>74</sup> According to the SPT, the lack of translators has resulted in translation having to be delivered by residents themselves—both for providing general information for newcomers and during medical examinations.<sup>75</sup> As the subcommittee highlighted, such practice is a breach of privacy and medical confidentiality, and professional interpretation services should instead be provided.<sup>76</sup>

One doctor, four nurses, and a psychologist work at the centre. The doctor is present for seven hours a day Monday to Friday, and a nurse is present every day of the week. However, on the day of the ombudsman’s visit no medical staff were present in the facility.<sup>77</sup> The SPT also reported that during their visit they had found two detained migrants suffering from psychological problems yet had not been provided with specialised services, despite the presence of a psychologist at the centre. Both the SPT and the ombudsman recommended increasing access to psychological assistance.<sup>78</sup>

To use the centre’s card-enabled telephone, detainees receive a five EUR phone card every month, and two mobile phones are also available for detainees to use to make and receive domestic calls. However, at the time of the ombudsman’s visit, the telephone was reportedly frequently broken. The ombudsman thus recommended ensuring that the facility’s phones function.<sup>79</sup>

The CNRR carries out weekly visits to the centre to monitor the situation of vulnerable persons and to provide social and legal advice. Funded by the AMIF, the CNRR also distributes hygiene products, clothes, and shoes and helps with the provision of extra fruits, vegetables, and diary. The International Organisation for Migration (IOM) provides legal counselling for assisted voluntary repatriation and the JRS has a lawyer available on request

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<sup>74</sup> Avocatului Poporului, “Raport privind vizita deslaurata la Centrul de Cazare a Strainilor luati in Custodie Publica Otopeni,” 2018,

[http://www.avpoporului.ro/index.php?option=com\\_content&view=article&id=359&lang=ro-ro&Itemid=160](http://www.avpoporului.ro/index.php?option=com_content&view=article&id=359&lang=ro-ro&Itemid=160)

<sup>75</sup> UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), “Visit to Romania Undertaken from 3 to 12 May 2016: Observations and Recommendations Addressed to the State Party,” 8 March 2018,

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fOP%2fROU%2f1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fOP%2fROU%2f1&Lang=en)

<sup>76</sup> UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), “Visit to Romania Undertaken from 3 to 12 May 2016: Observations and Recommendations Addressed to the State Party,” 8 March 2018,

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fOP%2fROU%2f1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fOP%2fROU%2f1&Lang=en)

<sup>77</sup> Avocatului Poporului, “Raport privind vizita deslaurata la Centrul de Cazare a Strainilor luati in Custodie Publica Otopeni,” 2018,

[http://www.avpoporului.ro/index.php?option=com\\_content&view=article&id=359&lang=ro-ro&Itemid=160](http://www.avpoporului.ro/index.php?option=com_content&view=article&id=359&lang=ro-ro&Itemid=160)

<sup>78</sup> UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), “Visit to Romania Undertaken from 3 to 12 May 2016: Observations and Recommendations Addressed to the State Party,” 8 March 2018,

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fOP%2fROU%2f1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fOP%2fROU%2f1&Lang=en)

<sup>79</sup> Avocatului Poporului, “Raport privind vizita deslaurata la Centrul de Cazare a Strainilor luati in Custodie Publica Otopeni,” 2018,

[http://www.avpoporului.ro/index.php?option=com\\_content&view=article&id=359&lang=ro-ro&Itemid=160](http://www.avpoporului.ro/index.php?option=com_content&view=article&id=359&lang=ro-ro&Itemid=160)

for detained non-citizens who contest judgements handed down during the asylum procedure.<sup>80</sup>

**3.3d Specially Designated Closed Spaces.** Specially designated closed spaces are closed areas within reception centres (called Regional Centres for Accommodation for Asylum Seekers), notably Tudor Gociu centre in Bucharest (96 places), Galati centre (30 places), Timișoara centre (15 places), Somcuta Mare centre (15 places), and Radauti centre (10 places). In practice however, this form of detention is rarely applied. From April 2016 until December 2018, detention in a specially designated closed space was only applied once. According to the JRS, these detention facilities are not used due both to a lack of staff, and fact that these facilities are deemed unsuitable for ensuring minimum detention requirements.<sup>81</sup>

**3.3e Transit Areas.** There are three transit areas in which non-citizens may be detained, namely Moravita border crossing, Timișoara Airport, and Bucharest Henri Coandă Airport. In Moravita there are two rooms in which non-citizens may be detained and there is no accessible outdoor space. Reportedly, no asylum seekers were detained here in 2018. In Timișoara Airport there is a separate building dedicated to immigration detention. It is comprised of three rooms containing four or five beds each, two toilets, four showers, and a kitchen. There is a courtyard that detainees can access, albeit under supervision. In the basement of Otopeni Airport there are three rooms in which non-citizens may be detained. Two of the rooms are connected and one is separate (which is used for confining women), and the facility can hold 22 persons. There is no accessible outdoor space. Approximately 10-12 asylum seekers were detained here in 2018.<sup>82</sup>

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<sup>80</sup> Avocatului Poporului, “Raport privind vizita deslaurata la Centrul de Cazare a Strainilor luati in Custodie Publica Otopeni,” 2018,

[http://www.avpoporul.ro/index.php?option=com\\_content&view=article&id=359&lang=ro-ro&Itemid=160](http://www.avpoporul.ro/index.php?option=com_content&view=article&id=359&lang=ro-ro&Itemid=160)

<sup>81</sup> Jesuit Refugee Service (JRS), “Country Report: Romania. 2018 Update,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), 2019,

<http://www.asylumineurope.org/reports/country/romania>

<sup>82</sup> Jesuit Refugee Service (JRS), “Country Report: Romania. 2018 Update,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), 2019,

<http://www.asylumineurope.org/reports/country/romania>



[www.globaldetentionproject.org](http://www.globaldetentionproject.org)