

Approved by
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Special Report on the evaluation of the procedures for taking asylum applications at the State Border Crossing Point “Chisinau International Airport” and ensuring the rights of asylum seekers in the Accommodation Centre of the General Inspectorate for Migration



Chisinau, Republic of Moldova
July 2024

This Report has been prepared based on the methodology for assessing the procedures for taking asylum applications and asylum seekers at the State Border Crossing Point “Chisinau International Airport” and ensuring the conditions for their reception in the Accommodation Centre under the General Inspectorate for Migration of the Ministry of Internal Affairs.

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Acronyms:

PA – People’s Advocate (Ombudsman)

OPA – Office of the People’s Advocate

UNHCR – United Nations High Commissioner for Refugees

UN – United Nations

EU – European Union

ECtHR – European Court of Human Rights

NLAC – National Legal Aid Council

GIBP – General Inspectorate of Border Police (former BGS - Border Guard Service)

GIM - General Inspectorate for Migration and Asylum (former BMA - Bureau for Migration and Asylum)

CIA – Chisinau International Airport

MIA – Ministry of Internal Affairs of the Republic of Moldova

BCP – Border Crossing Point

BP – Border Police

NCPDP – National Center for Personal Data Protection

Centre – Accommodation Centre of the General Inspectorate for Migration of the Ministry of Internal Affairs

Memorandum - Memorandum of Understanding of September 16, 2009, between UNHCR, Border Guard Service (currently GIBP), Bureau for Migration and Asylum Ministry of Internal Affairs (currently GIM) and the NGO Law Centre of Advocates

Law 270/2008 - Law No. 270 of 18.12.2008 on Asylum in the Republic of Moldova

Instruction 1260 – GIBP Instruction on the procedure of reception of asylum applications submitted by foreigners at the state border of the Republic of Moldova, No. 1260 of 28.12.2023

GD No. 1023/2012 – Government Decision No. 1023 of 28.12.2012 on the approval of the Accommodation Centre Regulation

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Meaning of certain general terms and concepts

Asylum - a legal institution through which the State provides protection to a foreigner, recognizing his/her refugee status and granting humanitarian protection, temporary protection or political asylum;

Political asylum - exceptional protection granted to foreigners by the President of the Republic of Moldova;

Beneficiary of international protection - a foreign national or stateless person who has been recognized as a refugee or granted humanitarian protection as defined in Articles 17 and 19;¹

Benefit of doubt - procedural principle applied to a person who meets the conditions of Article 44;²

Accommodation Centre – a centre intended for the temporary accommodation of asylum seekers and beneficiaries of international protection under the conditions provided for by the legislation in force; or any place used for collective housing of applicants;

Asylum application - a written or verbal expression of will to the competent authorities indicating that a form of protection is sought only on the territory of the Republic of Moldova;

Family members - husband or, where appropriate, wife, children up to the age of 18, unmarried, dependent on their parents, whether born in or out of marriage or adopted according to the national law of the country of origin, and parents of the spouses living with them;

Minor – a foreign citizen or a stateless person who has not reached the age of 18 and has no full exercise capacity;

Unaccompanied minor - a foreign citizen or a stateless person under the age of 18 who enters/entered or was left on the territory of the Republic of Moldova unaccompanied by an adult person responsible for him/her by law and as long as he/she is not effectively taken into the care of such a person;

Displaced persons - foreign nationals who have had to leave their country or region of origin, who are unable to return in safe conditions because of the situation prevailing in that country or region and who may fall within the scope of Article 1(A) of the Geneva Convention Relating to the Status of Refugees of July 28, 1951 or other national or international instruments granting international protection, in particular:

a) persons who have fled areas of armed conflict or endemic violence;

¹ https://www.legis.md/cautare/getResults?doc_id=136582&lang=ro

² https://www.legis.md/cautare/getResults?doc_id=136582&lang=ro

b) persons who are exposed to serious harm within the meaning of Article 45³ or who have been victims of systematic or generalized violations of their rights;

Asylum procedure - the totality of acts and actions conducted, as well as activities carried out by the competent authorities, aimed at granting a form of protection on the territory of the Republic of Moldova;

International protection - refugee status and status granted under humanitarian protection, as defined in Articles 17 and 19⁴;

Temporary protection - protection of an exceptional nature intended to provide, in the event of a mass and spontaneous influx of displaced persons who are unable to return to their country of origin, immediate and temporary protection to such persons, if there is a risk that the asylum system may not be able to process this influx without adverse effects for its efficient functioning, in the interest of the persons concerned and other persons in need of protection;

Humanitarian protection - a form of protection granted under Article 19⁵ to foreign nationals or stateless persons for reasons other than those laid down in the Geneva Convention of July 28, 1951;

Legal representative of a minor - the parent or person designated by law to protect the rights and interests of a minor;

Applicant or asylum seeker - a foreign national who has lodged an asylum application, which has not yet been decided by an irrevocable decision;

Refugee status - a form of protection, recognized by the Republic of Moldova, of a foreign national or a stateless person who meets the conditions laid down in the Convention Relating to the Status of Refugees, concluded in Geneva on 28 July 1951, as well as in the Protocol relating to the Status of Refugees of 31 January 1967;

Country of origin - the country of which the foreign national holds citizenship or, if the foreign national holds multiple citizenships, each country of which he/she is a citizen, and for stateless persons, the country in which he/she had his/her lawful and habitual residence;

Applicant with special needs - means a vulnerable person, as defined in Article 21 of Directive 2013/33/EU⁶, who needs special safeguards to benefit from the rights and complies with the obligations set out in this Directive. Vulnerable person - such as minors, unaccompanied minors, persons with disabilities, elderly persons, pregnant women, single parents with minor children, victims of trafficking in human beings, persons with serious illnesses, persons with

³ https://www.legis.md/cautare/getResults?doc_id=136582&lang=ro

⁴ https://www.legis.md/cautare/getResults?doc_id=136582&lang=ro#

⁵ https://www.legis.md/cautare/getResults?doc_id=136582&lang=ro

⁶ <https://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=CELEX:32013L0033>

mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence such as victims of female genital mutilation, etc.

The principle of non-refoulement - the obligation of the States not to return a refugee to “the frontiers of territories where his/her life or freedom would be threatened on account of race, religion, nationality, membership of a particular social group or political opinion”.⁷ The “territories” referred to in the definition include both the State of origin of the refugee or asylum seeker and third States;

Human Rights - Rights inherent to all human beings. These rights are universal, inalienable, equal, interrelated, interdependent and indivisible. Universal human rights are often affirmed and protected through international treaties, customary international law and general principles of international law;

The right to an adequate standard of living - The right including the right to adequate food, clothing and housing and to the continuous improvement of living conditions;

Council of Europe: the European Council, composed of the heads of State or Government of the Member States, provides the necessary impetus for the development of the European Union and lays down general political guidelines. The President of the Commission is also a non-voting member. The President of the European Parliament addresses the European Council at the beginning of its meetings. The Treaty of Lisbon established the European Council as an institution of the Union and endowed it with a long-term presidency.⁸ It is in fact an international organization operating in Europe, mainly through its most important legal instrument, the European Convention on Human Rights, and committed to protecting and promoting human rights, democracy and the rule of law. Its structure includes bodies such as the Secretary General, the Committee of Ministers, the Parliamentary Assembly (PACE) and the European Court of Human Rights. The Council of Europe should not be confused with the European Council (an institution of the European Union);

European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)⁹: Adopted in 1950 at the Council of Europe, it grants a range of civil and political rights and freedoms, it also establishes a system to ensure that the obligations undertaken by member states are respected. It protects the rights to: life; liberty and security; respect for private and family life; freedom of expression; freedom of thought, conscience and religion; the right to vote and to be elected; fair trial in civil and criminal matters; property and respect for property. It bans: the death penalty (through an additional protocol); torture or inhuman or degrading treatment or punishment; slavery and forced labour; arbitrary and unlawful detention; discrimination in the exercise of the rights and freedoms guaranteed by the

⁷ Article 33 of the 1951 Convention Relating to the Status of Refugees, Article 3 of the ECHR, Article 3 of the Convention against Torture, etc.

⁸ <https://www.europarl.europa.eu/factsheets/ro/sheet/23/consiliul-european>

⁹ Council of Europe, Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, November 4, 1950;

Convention; deportation of own nationals by a state or refusal of entry into its territory; and collective deportation of aliens;¹⁰

International Convention on the Rights of Persons with Disabilities: Adopted in December 2006, it adopts a broad categorization of persons with disabilities and reaffirms that all persons with all types of disabilities must enjoy all human rights and fundamental freedoms. It clarifies and qualifies how all categories of rights apply to persons with disabilities and identifies areas where adaptations have to be made for persons with disabilities to effectively exercise their rights and areas where their rights have been violated, and where protection of rights must be reinforced;

The right to education: the right to free compulsory primary education; secondary education accessible to all, in particular through the progressive introduction of free secondary education; and equal access to higher education, in particular through the progressive introduction of free higher education.

*The right to health and health care:*¹¹ The right of migrants to freely control their own health and to have access to a health protection system based on the principle of equal opportunities;

The right to social security: the right to “insurance against unemployment, sickness, invalidity, widowhood, old age or other lack of livelihood in circumstances beyond the person’s control”.

¹⁰ <https://www.coe.int/en/web/human-rights-convention>;

¹¹ https://www.inj.md/sites/default/files/Migrantsrights_RO_finalAjunsLaNOI.pdf;

Introduction

The People's Advocate (Ombudsman) (hereinafter – People's Advocate) ensures respect for human rights and freedoms by public authorities, by organizations and enterprises, regardless of the type of ownership and legal form of organization, and by persons in positions of responsibility at all levels.

The Office of the People's Advocate is established in full compliance with the Paris Principles, which set out the role, structure and modus operandi of the National Human Rights Institution.

The People's Advocate acts under Article 59 of the Constitution of the Republic of Moldova, in compliance with the provisions of Law No. 52 of April 3, 2014 on the People's Advocate (Ombudsman).

The OPA militates for the respect, protection and realization of human rights by the State, through advocacy, monitoring, protection, education and empowerment and accountability.

The Ombudsman contributes to the protection of human rights and freedoms by preventing violations thereof, by monitoring and reporting on the observance of fundamental human rights and freedoms at the national level, by improving legislation related to human rights and freedoms, by international cooperation in this field, by promoting human rights and freedoms and the mechanisms for their defence.

To respect fundamental human rights, to prevent torture and ill-treatment and to contribute to the formation of a uniform, legal and clear practice for all parties involved, OPA organizes ad hoc or planned monitoring visits to various institutions, such as: places of deprivation of liberty, temporary placement centres for foreigners, Accommodation Centre for asylum seekers, institutions providing social, medical or psychiatric care, special educational institutions, etc.

The OPA contributes to the improvement of legislation and practices in the field of human rights and freedoms, monitors the observance of human rights by the authorities and other entities, restores the rights of persons whose rights have been violated, and ensures the promotion of human rights and cooperation with national and international organizations.¹²

The OPA drafts proposals to amend legislation, monitors the implementation of legislation and analyses human rights violations, contributes to conflict resolution, raises awareness in society and develops human rights education programmes.¹³

This Report aims to provide an independent assessment of the level of assurance of the minimum standards of access to the territory and to the asylum procedure through the BP CIA Chisinau. Ensuring the right to adequate accommodation for asylum seekers in the Accommodation Centres under the GIM and the realization of other rights related to

¹² <https://ombudsman.md/despre-noi/oficiul-avocatului-poporului/>

¹³ <https://ombudsman.md/despre-noi/oficiul-avocatului-poporului/>

accommodation (social, medical, legal services, etc.), with the issuance of relevant recommendations for improvement.

This Report will incorporate a gender-based approach, the best interests of the child and the principle of non-discrimination. The report is based on the analysis of official applications and information, reviewed by the OPA, on potential violations of human rights at the BP CIA Chisinau and the asylum procedure from 2023 to 2024, analysed by the OPA in line with international standards.

Methodology

Work methodology included: *desk work (analysis of official data and processing of monitoring questionnaires; analysis of materials obtained in the monitoring process and visits; analysis of national legal framework and international standards, research on systemic issues, analysis of responses to official demarches to the GIM Centre, and BP; analysis of the reports of the People's Advocate,¹⁴ Council for the Prevention of Torture; analysis of reports of specialized non-commercial organizations; analysis of UNHCR's competence data;¹⁵ analysis of other States' good practices¹⁶ in granting access to the territory, but also in accommodation of asylum seekers¹⁷; European practice;¹⁸ interviews with public actors within the GIBP - 2 interviews, GIM - 2 interviews, Accommodation Centre for asylum seekers - 4 interviews, analysis of the results of individual discussions/interviews with public actors, beneficiaries and other stakeholders; analysis of information obtained, direct observation of the work of public authorities, judicial practice.*

2 monitoring visits to the Accommodation Centre were conducted; conduct of confidential interviews with beneficiaries of international protection and asylum seekers accommodated and former accommodated;

The previous findings of the PA in this field have been taken as basic references.¹⁹

The main techniques used according to the Monitoring Methodology were (a) analysis of the internal and regulatory framework (b) reference to international standards for the protection of asylum seekers (c) monitoring visits (d) discussion panels (e) consultations with public actors (f) finalization of the data obtained and the findings in the final report.

The OPA appreciates the openness of the GIBP, GIM and the Administration of the Accommodation Centre for Asylum Seekers in providing support in the preparation of this Report, providing responses and presenting data.

¹⁴ <https://ombudsman.md/rapoarte/>

¹⁵ <https://www.unhcr.org/>

¹⁶ [Asylum procedure | Handbook Germany](#)

¹⁷ <https://asylumineurope.org/reports/country/germany/reception-conditions/access-and-forms-reception-conditions/freedom-movement/>

¹⁸ https://www.europarl.europa.eu/doceo/document/TA-6-2009-0376_RO.html

¹⁹ <https://ombudsman.md/post-document/raport-privind-monitorizarea-respectarii-drepturilor-persoanelor-refugiate-ianuarie-iunie-2023/> <https://ombudsman.md/post-document/raport-tematic-accesul-persoanelor-straine-in-republica-moldova-prin-intermediul-ptf-aeroportul-international-chisinau-din-07-decembrie-2022-2/>

Chapter I. Access to the territory of the Republic of Moldova and asylum procedure for potential asylum seekers

International standards in the field

Article 14 of the 1948 UDHR²⁰, paragraph (1) states: *Everyone has the right to seek and to enjoy in other countries asylum from persecution.*

The **1951 Convention** Relating to the Status of Refugees is a key international treaty, defining for the first time the notion of refugee in Article 1, and Article 33 on the principle of “*non-refoulement*”.

The Convention prohibits the expulsion or forced return of persons with refugee status. Article 33 of the Convention states: “*No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion*”.

Directive 2013/33/EU of the European Parliament and of the Council of June 26, 2013 laying down the conditions for the reception of asylum seekers by Member States.

Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted.

Regulation No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC.

The **1951 Convention** states that the UNHCR is responsible for ensuring the protection of refugees, and Article 35(1) of the 1951 Convention stipulates that: The Contracting States undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention.²¹

The Member States of the Council of Europe (CoE) and of the European Union (EU) have an undeniable sovereign right to control the entry of non-nationals into their territory. While exercising border control, the States have a duty to protect the fundamental rights of all people under their jurisdiction, regardless of their nationality and/or legal status. Under EU law, this includes providing access to asylum procedures.²²

²⁰ https://www.legis.md/cautare/getResults?doc_id=115540&lang=ro

²¹ https://www.unhcr.org/ro/wp-content/uploads/sites/23/2016/12/1951_Convention_ROM.pdf

²² pag .4-6 https://fra.europa.eu/sites/default/files/fra_uploads/fra-coe-2020-european-law-land-borders_en.pdf

National standards in the field

The Republic of Moldova is a member of the Council of Europe since July 13, 1995.²³

The Republic of Moldova acceded by Law 677-XV of 23.11.2001 to the 1951 Convention and to the Protocol relating to the Status of Refugees adopted in New York on January 31, 1967.

In the light of the provisions of Article 19 of the Constitution of the Republic of Moldova, the right to asylum was recognized: paragraph (3) The right to asylum shall be granted and withdrawn under the law and in compliance with the international treaties to which the Republic of Moldova is a party.

To ensure the right to asylum, and to ensure the minimum standards required for the treatment of refugees, including the basic rights and obligations of refugees in countries of asylum (e.g. the right to life, liberty and security of person, freedom from torture, cruel, inhuman or degrading treatment or punishment, recognition as a person before the law, freedom of thought, conscience and religion, the right to participate in the cultural life of the community, etc.), a number of national laws *have been drafted* and approved which provide guarantees for the right to asylum and forms of protection to respect fundamental human rights.

Law on Asylum No. 270 of 2008, is the law establishing “...the legal status of asylum seekers, beneficiaries of international protection, beneficiaries of temporary protection and political asylum, as well as the procedure for granting, termination and annulment of protection.”²⁴, on the territory of the Republic of Moldova.

Article 9 of Law No. 270/2008 expressly provides for access to the territory of potential asylum seekers, i.e.: paragraph (1) The competent authorities shall ensure access to the territory of the Republic of Moldova of any foreigner situated at the border, upon written or verbal expression of his/her will, from which it follows with certainty that the latter seeks protection of the Republic of Moldova. The authorisation shall be carried out in accordance with Article 54 of this Law.

The concrete ways of achieving protection start with safe admission to the territory of a State²⁵ and respect for human rights, including ensuring the application of the principle of non-refoulement²⁶, without which the safety and even survival of asylum seekers would not be possible.

Article 11 of Law 270/2008, paragraph (2), expressly states that “No beneficiary of a form of protection shall be returned or expelled to the country or territory where his/her life or freedom might be threatened or where he may be subjected to torture, inhuman or degrading treatment.”

²³<https://www.coe.int/ro/web/chisinau/republiv-of-moldova-and-the-council-of-europe#:~:text=Moldova%20a%20devenit%20membru%20al,data%20de%2013%20iulie%201995>.

²⁴ Article 1 paragraph (1) Law 270/2008 on Asylum;

²⁵ Article 9 Law 270/2008 on Asylum;

²⁶ Article 11 Law 270/2008 on Asylum;

In 2009, Moldova drafted a Memorandum for the implementation of UNHCR asylum standards, facilitating the elaboration of the Asylum Instruction by the GIBP. Decision No. 1023 of 2012 approved the Accommodation Centre Regulations, setting standards for the conditions of accommodation and social assistance of migrants and asylum seekers in Moldova. These documents reflect Moldova's commitment to respect human rights and apply international standards in the field of migration and asylum.

Who can apply for asylum in the Republic of Moldova:²⁷ Any foreign citizen or stateless person who expresses his/her will to seek a form of protection. An expression of will, expressed in writing or verbally to the competent authorities, indicating that a form of protection is sought on the territory of the Republic of Moldova.²⁸

The asylum application can be submitted by the asylum seeker *only* if he/she is on the territory of the Republic of Moldova²⁹ and *only* in person.

The competent authorities shall ensure access to the asylum procedure to any foreign national or stateless person on the territory of the Republic of Moldova or at the state border, as soon as he/she expresses his/her will in writing or verbally, indicating that he/she seeks the protection of the Republic of Moldova.

The competent authorities entitled to accept asylum applications so far under Law 270/2008 are:³⁰

a) Asylum and Integration Directorate and the structural and territorial subdivisions of the GIM;³¹

b) Border Police under the Ministry of Internal Affairs;

c) police bodies;

d) Institutions subordinated to the National Administration of Penitentiaries or provisional detention subdivisions within the law enforcement bodies.

The asylum application can be submitted by the potential asylum seeker: “immediately”³² or “as soon as he/she appeared”³³ at the state border crossing point or after entering the territory of the Republic of Moldova. The Border Police under the Ministry of Internal Affairs will ensure access to the territory of the Republic of Moldova of asylum seekers only after informing the Bureau for Migration and Asylum and with its permission, which, in turn, will take them within 24 hours from the state border to examine their submitted applications.³⁴

²⁷ <https://mai.gov.md/ro/news/procedura-de-solicitare-azilului-republica-moldova-pe-intelesul-tuturor>

²⁸ Article 3 of Law 270/2008 on Asylum.

²⁹ Article 51 paragraph 1 letter b https://www.legis.md/cautare/getResults?doc_id=136582&lang=ro

³⁰ Article 52 of Law 270/2008 on Asylum

³¹ https://www.legis.md/cautare/getResults?doc_id=135089&lang=ro

³² Article 51 paragraph 1 https://www.legis.md/cautare/getResults?doc_id=136582&lang=ro

³³ <https://mai.gov.md/ro/news/procedura-de-solicitare-azilului-republica-moldova-pe-intelesul-tuturor>

³⁴ Article 54 paragraph (3) of Law on Asylum in the Republic of Moldova

In the opinion of the PA, the requirement to obtain the permission of the General Inspectorate for Migration before granting access to asylum seekers in the Republic of Moldova may negatively affect the right to immediate access to the asylum procedure. This may lead to administrative delays and barriers, risk of arbitrary decisions by GIBP representatives, violation of the principle of non-refoulement and limitation of access to essential services for asylum seekers.

On July 2, 2024, the draft law on amending certain normative acts related to the asylum procedure was released for public consultation. According to the proposed amendments, the access of asylum seekers to the territory of the Republic of Moldova will also be subject to informing the General Inspectorate for Migration of the Ministry of Internal Affairs and obtaining its permission.³⁵

Even if the State considers that information and permission from the GIM is necessary for access to asylum seekers, it is essential to expressly clarify how this is to be achieved to ensure transparency and prevent abuse or arbitrary decisions.

Procedure for taking asylum seekers at the Border Crossing Point “Chisinau International Airport”

To ensure respect for the fundamental right of all persons to seek asylum in other countries against persecution, as laid down in the above-mentioned normative acts, the GIBP operates in practice with 2 basic acts:

- GIBP Instruction no. 1260 of 28.12.2023,
- Memorandum of Understanding of September 16, 2009.

As per point 4 of the GIBP Instruction no. 1260/2023: Border Police shall ensure access to the territory of the Republic of Moldova to any foreign national at the state border, from the moment of expressing his/her will, expressed in writing or verbally, indicating that he/she seeks protection of the Republic of Moldova. Authorization shall be carried out in compliance with the procedure established by this Instruction, in accordance with the provisions of the national and international normative framework.

Point 15 of the Instructions states that “making of an asylum application means the act of expression, in any manner whatsoever before the border guard, of the wish to obtain international protection.”

Point 16 A foreign national who appears at the state border of the Republic of Moldova, expressing his/her will, expressed in writing or verbally, indicating that he/she is seeking asylum on the territory of the Republic of Moldova, shall fill in the asylum application form.

³⁵ Paragraph (3) of Article 54. Asylum applications lodged with other competent authorities;

Point 17 Following an asylum application, it must be registered by border guards in the prescribed manner. These applications under point 36 are recorded in the Register - type (manual or electronic) for each Border Police subdivision.

After the border guards have filled in the asylum application and the minutes, in line with point 27: “Border Police Sector must inform the responsible subdivision of the GIM and report in real time to the Dispatcher of the Regional Coordination Center about the submission of the asylum application at the state border. The Dispatcher within the Operational Coordination Center of the Regional Directorate is obliged to forward the information to the Dispatcher within the Operational Coordination Center of the GIBP.”

Point 28 “Also, the responsible subdivision within the GIM shall be informed if the asylum seeker suffers from illnesses and the presence of a doctor or special means of transport intended for his/her transportation is necessary.”

Point 29: “Border Police employees will ensure access of asylum seekers to the territory of the Republic of Moldova only after informing and obtaining permission from the GIM, which will take them over within 24 hours from the state border.”

The clause also provided for in the Memorandum in Article 5: “After informing and obtaining permission from the BMA, the BGS will ensure the access of persons to the territory of the Republic of Moldova and will ensure their transfer to the asylum authority, in accordance with the legislation in force in the Republic of Moldova.”

In the Law on Asylum, Article 54 paragraph (3): “Border Police under the Ministry of Internal Affairs will ensure the access of asylum seekers to the territory of the Republic of Moldova only after informing the Bureau for Migration and Asylum and obtaining its permission, which, in turn, will take them within 24 hours from the state border to examine their submitted applications.”

Case A

On 21.06.23 at 03:50³⁶ a foreign national fell out of an airplane hatch in BCP CIA, after being denied entry into the Republic of Moldova. BP informed the PA that “upon landing of the airplane it was decided to carry out document checks directly from the aircraft, noting that this would be a practice especially in the summer period, given the fact that there are a lot of tourists, especially the routes coming from Turkey (Antalya)”.

According to the representative of BP, the foreign national “when he found out that he was denied entry into the Republic of Moldova, he reacted suddenly, and a BP colleague managed to hold him a bit by his coat, but the jerk was too strong and he fell and hit his chest and head. After the incident happened, the dispatcher was immediately notified and called the airport doctors. They determined that the situation required a 112 call and the foreign national was

³⁶ <https://www.echipa.md/2023/06/21/un-cetatean-strain-a-sarit-de-pe-trapa-avionului-dupa-ce-i-s-a-interzis-intrarea-in-r-moldova-barbatul-se-afla-in-spital/>

taken over by the emergency service. At 16:30 the foreign national was brought back to the airport from the Emergency Hospital, and the document issued by the medical facility indicates that he is in satisfactory condition. BP employees mentioned that they tried to talk to him,..., but he only speaks Arabic. The only fact established at the moment is that he does not want to go to his country of origin and that he is seeking asylum, for which they helped him to fill in the asylum application.”

Likewise, the BP representative, declared to the PA that “at 17. they were convinced that he was an asylum seeker and informed GIM”. From discussions with BP representatives, at the time of requesting GIM presence in BCP CIA, it was mentioned: “for the one who fell out of the airplane yesterday”.

At the time of the PA’s monitoring visit, the foreign national was in the Asylum Seekers’ Lounge, located on the first floor, in the landing area. The PA observed that both the BP employees and the foreign national found it difficult to communicate, as there was no translator provided who was fluent in Arabic and communication took place via telephone - Google translate app.

At 19.45, when the GIM representative came to take over the asylum seeker, he was alone, without being accompanied by a mobile team of specialists, to ensure the positive reception process of the foreign national, given his state of health. The GIM representative was surprised by the fact that the person was in satisfactory medical condition. He contacted the Accommodation Centre with a view to taking the foreign national for accommodation. The communication between the GIM representative and the officials of the Accommodation Centre lasted between 19.50-21.00, as the Centre did not want to take responsibility for the accommodation of a person in poor health condition, indicating that it did not have conditions in this regard.

During the monitoring visit, there was no presence of the CIA medical team for medical supervision of the foreign national. Nor was it observed that the foreign national was offered food.

Conclusions on Case A

The situation of the foreign national highlights certain procedural shortcomings observed by the PA which could lead to potential human rights violations. Although Border Police representatives mentioned that in some cases checks are carried out on the documents of foreign persons on board the aircraft, no documents were submitted clarifying how and for what purpose these checks are carried out. According to the PA, such situations could lead to violations of the right of access to the national territory and the principle of non-refoulement.

The PA recognizes that the duties of the Border Police and the General Inspectorate for Migration are wide-ranging, including in the area of state border surveillance and control, combating illegal migration and cross-border crime, prioritizing these aspects in certain situations. However, the decision whether or not to take up an asylum application should not

be influenced by the personal beliefs of Border Police officers, but should be based solely on the inherent right to asylum. In this regard, the PA considers it crucial to strike a balance between the specific duties of the GIBP and compliance with asylum procedures, as set out in paragraph 17 of Instruction No. 1260 of 2023.

The PA notes that the Border Police has no right to refuse a foreign national access to the asylum procedure. This right is guaranteed by international standards and national legislation which protect the right to seek asylum and oblige the authorities to respect this right without discrimination and without applying subjective criteria. Unjustified denial of access to the asylum procedure may constitute a violation of human rights, including the principle of non-refoulement and the obligation to ensure protection for asylum seekers.³⁷

Competence of the Border Police does not include assessing whether a foreign national is in need of protection and whether they are entitled to international protection. This is the exclusive responsibility of the General Inspectorate for Migration, which is the competent authority for managing asylum procedures and assessing applications for international protection in accordance with national and international standards. The role of the Border Police is to facilitate the access of foreign nationals to the asylum procedure and to ensure border security, while decisions on the granting of refugee status or other forms of protection are taken by the GIBP in accordance with established procedures³⁸

Subsequently, the PA notes that the person was not respected the right to an interpreter, the right to food, but was provided with placement in the lounge for asylum seekers at the Border Crossing Point CIA. In the Ombudsman's view, the provision of a translator is important for the applicant to clearly express his reasons for seeking asylum and to understand the asylum granting process. It is also essential that they are provided with food and other basic necessities during the asylum procedure, ensuring them humane conditions.

Transfer of asylum seekers to accommodation

According to Article 54 paragraph (3)³⁹ Border Police under the Ministry of Internal Affairs will ensure access of asylum seekers to the territory of the Republic of Moldova only after informing the GIM and with its permission, which, in turn will take them within 24 hours from the state border to examine their submitted applications. The legal rule in question directly stipulates that the asylum seeker must be taken within 24 hours for examination of the application, but it does not specify how this procedure is ensured on weekends.

Case B

³⁷ <https://ombudsman.md/post-document/raport-privind-monitorizarea-respectarii-drepturilor-persoanelor-refugiate-ianuarie-iunie-2023/>

³⁸ Addressing pushbacks at the EU's external borders (europa.eu)

³⁹ https://www.legis.md/cautare/getResults?doc_id=136582&lang=ro

A person sought asylum at Border Crossing Point CIA during the weekend, outside General Inspectorate for Migration working hours (Monday to Friday, between 9:00 and 16:00).⁴⁰ With the consent and permission of the General Inspectorate for Migration the person was allowed to enter the territory of the Republic of Moldova by the General Inspectorate of Border Police (GIBP). However, as it was Sunday morning and the GIM was not working according to its usual working hours, the person could not be documented and identified as an immediate asylum seeker, which is a prerequisite for being provided accommodation in the Centre. As a result, the person had to sleep in the railway station.

Conclusions on Case B

This situation highlights the difficulties and negative consequences of the limited application of working hours and procedures in asylum case management, especially in unplanned situations such as weekends. In the PA's opinion the legal rule stipulating that the asylum seeker must be taken over within 24 hours does not clearly specify the procedure for weekend days. In practice, there are cases in which asylum seekers who apply for asylum at weekends cannot be taken over and documented immediately due to the fact that the GIM is not active on those days.

This lack of clarity can lead to situations where asylum applications are not managed promptly or efficiently on those days, affecting the rights and living conditions of applicants. It is essential that the amendments proposed in the draft law address this deficiency by establishing clear and effective procedures for managing asylum cases on all days of the week, including weekends..⁴¹

Thus, in the context of the above-mentioned provisions, it becomes necessary to establish mechanisms, including the provision of salary guarantees during weekend hours for GIM employees, to ensure that asylum seekers are taken in within 24 hours, especially during the weekend period, with the issuance of the accommodation decision. These mechanisms should ensure that all asylum seekers have access to the necessary procedures in a timely manner, irrespective of the day of the week or the time of the day, to respect their fundamental rights and to ensure efficient and humane management of asylum situations.

According to paragraph 19 of Government Decision No. 1023/2012, the asylum seeker is considered to be accommodated in the Centre from the date of the decision. For beneficiaries of international protection, the relevant date is the date on which they are notified of the decision. The person is obliged to report to the Accommodation Centre on the day the decision is issued or on the date specified in the application for accommodation, but no later than 24 hours after the application is lodged. Otherwise, the provisions of Chapter VII of that act shall apply.

⁴⁰ <https://igm.gov.md/en/permanent-stay/>

⁴¹ paragraph (2) of Article 54 The procedure for processing applications in the draft amendment of the Law on Asylum;

The PA notes that the same problem persists in the situation where the person does not report to the Centre within 24 hours of the accommodation decision. This situation may lead to administrative or legal consequences for the asylum seeker, underlining the need for clarification and proper application of procedures to ensure that the rights of asylum seekers and beneficiaries of international protection are respected.

Chapter II. Ensuring asylum seekers' rights to accommodation and rights related to accommodation

The establishment of minimum standards for the reception of asylum seekers is an important step towards a European asylum policy.⁴²

Since 2012, in the Republic of Moldova operates a Centre for temporary accommodation of asylum seekers and beneficiaries of international protection, which is a specialized structure, subordinated to the General Inspectorate for Migration of the Ministry of Internal Affairs, being administered under Article 7 of the Law on Asylum No. 270 of 2008.

Annually, the Centre provides accommodation for more than 70-100 asylum seekers (adults, minors, families).

According to GD 1023/2012, beneficiaries accommodated in the institution, may leave the centre daily, provided they return by 23:00 or maximum for 48 hours provided they obtain permission from the administration. Failure by the applicant to appear after 23:00 may constitute grounds for a wanted notice or refusal of access to the centre.

The State is responsible for guaranteeing the minimum necessary standards by issuing a clear legal document, translated into a language that the asylum seeker understands, signing that he/she has taken cognizance of, explaining and providing a copy of the rights and obligations, rules, that he/she has within the Centre. The asylum seeker shall also be informed of the consequences which may follow in the event of failure to comply with the rights and obligations, as well as the procedure for appealing against the Centre's Decisions.

Given the fact that Moldova has expressed its desire to become a member state of the European Union (EU), and on June 23, 2022, the European Council granted Moldova the status of candidate for accession to the European Union, and to achieve the goal of becoming a member state, Moldova needs to fulfil the Copenhagen criteria, which are essential requirements for EU accession⁴³, where in the field of asylum it is necessary to adjust minimum standards set by the acts issued by the EU.

Directive 2013/33/EU⁴⁴, adopted on June 26, 2013, sets minimum standards for the reception of applicants for international protection within the European Union.

1. Appropriate accommodation standards: The Directive lays down requirements for the quality of accommodation offered to asylum seekers, ensuring that it is sufficient to guarantee them a dignified standard of living and dignified living conditions adequate to their needs. Asylum seekers must have access to decent living conditions, including safe, clean housing that provides sufficient privacy for them and their families.

⁴² https://www.europarl.europa.eu/doceo/document/TA-6-2009-0376_RO.html

⁴³ <https://eur-lex.europa.eu/EN/legal-content/glossary/accession-criteria-copenhagen-criteria.html>

⁴⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0033&from=EN>

2. Any measure taken in places of accommodation should be proportionate to the objectives pursued, non-discriminatory and fully respect core fundamental rights, as every asylum seeker must be treated with human dignity, i.e. as a human being who has an innate right to be valued, respected and to receive ethical treatment.

3. **Special needs:** Directive 2013/33/EU emphasizes the need for primary concern to take into account the specific situation of vulnerable persons, such as minors, unaccompanied minors, persons with disabilities, elderly people, pregnant women, single parents with minor children, victims of trafficking in human beings, persons with serious illnesses and persons with mental disorders.

4. **Access to health care:** Access to health care is a crucial issue covered by the Directive, ensuring that asylum seekers receive the necessary medical and psychological care or at least basic medical services and treatment in case of emergency.

4. **Access to adequate food:** Asylum seekers must be provided with sufficient and nutritionally balanced food to ensure their health and well-being.

5. **Access to adequate sanitary and hygienic facilities and provision of the necessary individual and/or collective items of cleanliness and hygiene:** This includes access to toilets, showers and other essential sanitary facilities, under conditions of adequate hygiene. But also access to appropriate clothing and personal hygiene products.

6. **Procedural guarantees:** The Directive also guarantees certain procedural rights in relation to accommodation, such as the right to information and the right to appeal against decisions on reception conditions or refusal of reception. It guarantees access to UNHCR representatives or other NGOs. The Directive ensures that free legal assistance and representation will be made available to persons, upon request, to the extent that such assistance is necessary to ensure effective access to justice.

7. **Monitoring and evaluation:** Member States are required to establish effective monitoring and evaluation mechanisms to ensure the standards set by the Directive.

During the period between April and May 2024, as part of OPA's monitoring for this Report, unrestricted access was granted to all premises within the Accommodation Centre. The monitoring team was permitted to take photographs throughout the Centre. The photographs are presented in the annex to this Report.

During the visits, discussions were held with the beneficiaries, the Centre's manager and employees, and the conditions and services provided to asylum seekers were assessed. On the other hand, the visits allowed to identify the problems and impediments faced by the administration of the Centre in the process of ensuring the rights of the beneficiaries.

According to the statistical data indicated in the Statistical Compendium of the Extended Migration Profile of the Republic of Moldova for 2020-2022 Asylum seekers for 2020 - 86

persons were registered, for 2021 - 75, and in 2022 - 11 218, of which 412 persons (including 22 minors) were accommodated in the Centre subordinated to GIM, registered in the asylum system of the Republic of Moldova.”⁴⁵

According to the manager of the institution, since the outbreak of the military conflict on the territory of Ukraine in 2022, more than 200 adults including 22 children were accommodated in the Centre at the same time, and at the time of the visit there were only 54 adults and 7 minor children, of whom children - 4 girls and 3 boys, and out of adults 18 women and 29 men, citizens of Ukraine, the Russian Federation and Bangladesh.

According to Article 30 of Law 270/2008, asylum seekers are provided, in accordance with the legislation in force, with urgent medical assistance at the pre-hospital stage in case of acute life-threatening conditions. Paragraph (4) of the same Article stipulates that minor asylum seekers shall have access to health care under the same conditions as minors who are citizens of the Republic of Moldova. However, asylum seekers are not included in the group of persons eligible for health insurance under Law No. 1585/1998 on Compulsory Health Insurance.

To better understand how medical services are provided at the Centre, discussions were held with the family doctor, who mentioned that he is present at the Centre three times a week, four hours a day. This is an exception given the armed conflict in Ukraine. Asylum seekers are usually referred to their local family doctor for primary care or to 112 for emergency care. The family doctor indicated that services are currently funded by the DRC.⁴⁶ ((Non-Commercial Organization) for which it draws up a monthly activity report. If the people are seriously ill, he sees to their referral to specialist doctors. Since he became a family doctor at the centre, he has had one beneficiary with cancer who required surgery during the time he was housed there. Another person also suffered from gangrene and the expenses for the necessary treatment were covered by another non-commercial organization, CCR.⁴⁷

The family doctor mentioned that he issues wet-stamped prescriptions for his beneficiaries. They subsequently use these prescriptions to request services from Intersos⁴⁸, another non-commercial organization, to have the necessary medicines dispensed. According to Article 31 letter k) of Law No. 270/2008 on Asylum in the Republic of Moldova, the asylum seeker is obliged to undergo a medical examination for reasons of public health. Paragraph 43 of GD No. 1023/2012 persons who apply for accommodation in the Centre must submit an X-ray of the organs of the thoracic cavity and its description; Persons suffering from active tuberculosis; persons suffering from contagious infectious diseases; persons suffering from mental illnesses accompanied by acute exacerbation at the time of accommodation, which presents danger to the person accommodated and to the surrounding persons, cannot be accommodated in the

⁴⁵ https://igm.gov.md/wp-content/uploads/2024/04/compendiul_statistic_al_pme_editia_2023.pdf

⁴⁶ <https://pro.drc.ngo/where-we-work/europe/moldova/>

⁴⁷ <https://ccr.md/ro/acasa/>

⁴⁸

https://www.intersos.org/en/?fbclid=IwZXh0bgNhZW0CMTAAAR3PxJn0V6cgTtxzX8mTqj8kKw70WVC2UILIJoQ4XtY_xBDsaYcCBBpAw_aem_glpkposqwFYF0JU2Q6cTrA

Centre (paragraph 11 of GD No. 1023/2012);

When there are doubts that the newcomer is a carrier of a socially conditioned disease with a major impact on public health, he/she will be accommodated, after consultation with a specialist, for a period of 10 days in a separate space to ensure the safety of the persons accommodated in the Centre and the Centre's staff.

We were informed from discussions with the staff working in the Support Centre intended for the protection services of refugee children and families - Blue Dot⁴⁹, which is located within the Centre, that it would be very well furnished and equipped, and is intended for both children and adults. The costs of the services provided at the Blue Dot are also covered by the CCR, and it is the responsibility of the staff to look after children and adults with problems of any kind and, if necessary, to refer them to specialized services.

During the monitoring visits, 40% of the beneficiaries of the Accommodation Centre mentioned that they were satisfied with the accommodation conditions and the attitude of the staff towards them, 30% abstained and 30% said that they were looking forward to leaving the Centre.

According to the response of the Accommodation Centre's administration to the Ombudsman's demarche, the Centre's Regulation has been revised and new amendments have been made regarding the Centre's management and some of its manager's duties, but changes regarding the accommodation of beneficiaries still remain to be made under GD 1023/2012. According to the information provided by the same response, asylum seekers, who request accommodation in the Centre, submit an application to the General Inspectorate for Migration, stating the reason for requesting accommodation, and according to paragraph 17, after examining the application, the General Inspectorate for Migration issues the decision on accommodation or refusal of accommodation for asylum seekers.

According to the response no. 5/10-4304 of June 19, 2024 issued by GIM, the procedure of accommodation of asylum seekers or beneficiaries of international protection, the internal order, the rights and obligations of persons accommodated in the Centre, the application of measures for violation of the rules of stay and the procedure for leaving the Centre are regulated by GD No. 1023/2012.

The Centre is financed from the state budget allocations approved for the Ministry of Internal Affairs, as well as from other sources of funding that do not contravene the legislation in force.

The Accommodation Centre has 46 rooms, with a total area of 763.29 m², and according to paragraph 3, subparagraph 2) of GD No. 1023/2012, the Centre provides minimum accommodation conditions within the limits of available funds, consisting of: sleeping place,

⁴⁹ <https://www.unicef.org/moldova/comunicate-de-pres%C4%83/unicef-activeaz%C4%83-%E2%80%9Epunctul-albastru-%C3%AEn-moldova>

bed linen, tableware of prime necessity.

The Accommodation Centre of the GIM has five residential blocks for the temporary accommodation of asylum seekers and beneficiaries of international protection. Currently, all spaces are functional and used as intended. The common use spaces are used by the tenants as intended and according to the schedules approved by the Centre's administration (paragraph 39 of GD No. 1023/2012). The Accommodation Centre has 11 sanitary blocks, used by the beneficiaries, all of which are functional and used according to their intended purpose, including by gender;

Persons are accommodated in rooms according to gender, except members of a family, who are accommodated in the same room (paragraph 24 of GD No. 1023/2012); and in case of administrative needs, persons accommodated may be assigned a different accommodation place than the one initially allocated (paragraph 25 of GD No.1023/2012).

The unaccompanied minor asylum seeker or beneficiary of international protection will be applied the measure of protection of a child separated from his/her parents, which ensures conditions for his/her upbringing and care in social placement services, in accordance with Law No. 140 of June 14, 2013 on special protection of children at risk and children separated from their parents. The placement of an unaccompanied minor shall be carried out by the guardianship authority of the place where the unaccompanied minor is staying (paragraph 9 of GD No. 1023/2012);

According to the staffing, approved by GD No. 16/2023 on the organization and functioning of the General Inspectorate for Migration, the Accommodation Centre has eight positions, of which three with special status and five civilian employees. Paragraph 41 subparagraph 13) of the aforementioned act denotes that during the entire period of accommodation in the Centre persons are obliged to carry out and maintain cleanliness in the common areas (corridors of the accommodation blocks, kitchen, sanitary blocks, etc.) and in the living rooms. Cleaning in the common areas and in the Centre's territory shall be carried out according to an established schedule;

During 2023, with the support of external partners, four sanitary blocks and the living space were subject to capital repair, the destination of which is regulated by paragraph 27 of GD No. 1023/2012. In 2024, four other sanitary blocks are to be renovated, and as a result of the technical expertise of the entire complex of buildings, which is currently being carried out by SE "State Service for Verification and Expertise of Projects", case decisions will be taken on improving and adapting conditions within the Centre.

In addition, the PA requested information on ensuring the rights within the Centre of persons belonging to vulnerable social groups, in particular on the existence or non-existence of specific accommodation procedures for victims of domestic violence, unaccompanied children, persons with mental disabilities, and, and if they have specialized and trained personnel in the context

of ensuring communication with them and providing the necessary services. Information in this regard has not been presented, which makes the PA to presume lack thereof.

In conclusion, although the relevant authorities mentioned that repairs have been carried out, during the monitoring it was observed that there was a pressing need for repairs in common areas such as the kitchen, sanitary blocks, corridors of the accommodation blocks, and the rooms of the accommodation beneficiaries. The shower which was recently renovated had mould on the walls.

Contextually, there is a lack of reasonable accommodation for persons with disabilities both inside the Centre, including sanitary blocks, and outside. There is also a lack of spaces for mothers to care for children aged 0-3 years, the Blue Dot being a temporary alternative. It should be noted that during discussions with the Centre's management, it was confirmed that the Centre lacks reasonable accommodation, but they are open to providing it, but lack sufficient financial resources and the necessary standards in this regard.

Another finding refers to the fact that Government Decision 1023/2012, the Centre's Regulation establishes general rules, which do not respond to specific situations that may arise during the accommodation of asylum seekers, such as the mechanism of distribution of rooms and furniture for which they are responsible, and would bear responsibility for any damage. There are no clear mechanisms in place to protect beneficiaries against possible abuses and discriminatory behaviour admitted by the staff of the centre. Lack of internal policies on gender mainstreaming and correct approach to accommodation beneficiaries, potential victims of domestic violence or trafficking in human beings, including no interaction with NCOs to provide specialized services to these persons. The lack of equally qualified human resources is a challenge for the Centre's administration.

[Access to accommodation and the right of defence in the context of the accommodation procedure](#)

Procedures for the application of warnings and deregistration from the Accommodation Centre are regulated by Chapter VII (Application of measures for violations of the Regulation) and Chapter VIII (Procedure for leaving the Centre) of GD No. 1023/2012. As the legal provisions, the Accommodation Regulation and GD 1023/2012 are not exhaustive, abusive practices are found in the procedures for deregistration of asylum seekers from the Centre. Decisions issued in this regard are often taken subjectively.

Moreover, the PA considers that, in practice, there are situations in which administrative decisions on exclusion from accommodation are not considered as part of the asylum procedure, free legal assistance being provided only on the part related to the legal status of the asylum seeker. According to Article 28 paragraph (1) letter f) of the Law on Asylum in the Republic of Moldova, an asylum seeker has the right to legal assistance at any stage of the asylum procedure, in accordance with the law. According to Article 20 paragraph (1) letter h)

of the Law No. 198 of 26.07.2007 on State-Guaranteed Legal Aid, qualified legal aid is granted to asylum seekers, regardless of their income level, within the asylum procedure.

Case C

A female person, asylum seeker on the territory of the Republic of Moldova and accommodated in the GIM Centre, was removed from the Centre's records with the issuance of an eviction decision, starting with X date. According to the GIM communication, translated into the language known by the asylum seeker, she was informed that she can appeal against the decision to remove her from the register at the Chisinau Court, Riscani Office, within 30 days. Also, for qualified state-guaranteed legal assistance, she was advised to apply to NLAC or to receive free legal advice at the Public Association Law Centre of Advocates.

The person was removed from the Centre without being offered alternative accommodation. She complained about the actions taken by the Centre's administration and its officials, which indirectly led to her forced eviction from the Centre, violating her fundamental rights and freedoms. It also appears from the petitioner's statements that the Centre's employees insulted and intimidated her, demonstrating discriminatory behaviour on grounds of sex and nationality.

Conclusions on Case C:

When the complaint was filed with the OPA, the Centre was acting in accordance with the provisions of the Internal Regulations approved by BMA Order No. 37 of October 10, 2019. The PA requested NLAC's legal support to challenge this administrative act. After 8 days, NLAC sent a response refusing to provide legal assistance, arguing that the asylum seeker could cover the costs for legal services from her own resources. Subsequently, the PA requested the support of the Law Centre of Advocates to provide the necessary services to challenge the eviction act, but the request was rejected on the grounds of exceeding the legal time limit for the appeal.

Following the analysis of the circumstances set out in the application, the PA established that the eviction procedure was abusive, largely due to legal uncertainties set out in the Centre's Accommodation Regulation, which create systemic problems that may affect other accommodation beneficiaries. Following the investigation of the case, the PA initiated a strategic litigation, challenging the eviction decision in the substantive court. Subsequently, the PA finds that the asylum seeker did not have access to due process and justice in this case by unjustifiably refusing to provide her with the necessary legal assistance.

Preliminary conclusion: In the light of the above, the PA observes that the procedures of accommodation of asylum seekers in the Centre are negatively affected for several reasons. On the one hand, there are problems related to limited financial resources and the lack of qualified staff, largely due to insufficient salary levels. On the other hand, the communication of the Centre's staff is deficient in terms of a multicultural approach. Social stereotypes and prejudices manifested by the staff are other factors which negatively and systemically affect

the rights of asylum seekers in accommodation procedures. These issues underline the need for a comprehensive reform and adequate staff training to ensure respect for the fundamental rights of asylum seekers and to improve accommodation and treatment conditions in the Centres for asylum seekers.

In the case law of the European Court of Human Rights, there are cases where Member States have been condemned on the grounds that they have clear obligations to protect asylum seekers from inhuman and degrading conditions. Article 3 of the European Convention on Human Rights has a crucial role in this regard.

Cases condemned at the ECtHR:

- Case TARAKHEL v. SWITZERLAND (2014).⁵⁰ This case concerned a family consisting of 2 adults and 6 minor children of Afghan asylum seekers who were sent from Switzerland to Italy. The ECtHR found that Switzerland violated Article 3 when it sent the family to Italy without ensuring that they would be provided with adequate accommodation and.
- Case M.S.S. v. Belgium and Greece [GC], 2011, § 251 ⁵¹- where the Court found a violation of Article 3 because the asylum seeker was forced to live on the streets in precarious conditions.

Asylum seekers often face the risk of being left without adequate accommodation or being accommodated in conditions that may be considered inhuman and degrading. These risks are particularly relevant in the context of the legal and moral obligations States have towards asylum seekers.

⁵⁰ pag 23 https://ks.echr.coe.int/documents/d/echr-ks/guide_immigration_eng

⁵¹ pag 24 https://ks.echr.coe.int/documents/d/echr-ks/guide_immigration_eng

Recommendations:

Recommendations to the Ministry of Internal Affairs

1. Explicit clarification of the competences of the GIM and GIBP to state that the Border Police do not have the competence to assess a foreign national's need for international protection. This responsibility lies exclusively with the General Inspectorate for Migration (GIM), which has to manage all applications for international protection.
2. Review of the mechanism for receiving asylum applications, including the exclusion of the phrase requiring the permission of the General Inspectorate for Migration, in line with recent proposals in Law No. 270/2008.
3. Allocation of separate budgets to cover the costs of medical, legal, psychological and other interactive activities for persons accommodated in the Accommodation Centre of the GIM. The OPA found that these services are provided by NGOs but are not consistently available.
4. Initiation of the procedure to amend Law No. 1585/1998 on Compulsory Health Insurance to include asylum seekers in the group of persons eligible for compulsory health insurance. This would ensure their access to comprehensive medical services, not only to urgent medical care, thus respecting their fundamental right to health and contributing to their adequate protection and integration into society.
5. Identification and allocation of the necessary financial sources to ensure adequate salaries for the staff of the Accommodation Centres and to train them in a multicultural approach towards the beneficiaries.
6. Allocation of funds and resources to carry out urgent repairs in kitchens, sanitary blocks, corridors and accommodation rooms in the Accommodation Centre of the GIM.
7. Identification and allocation of the financial resources necessary for the reasonable accommodation for persons with disabilities of sanitary blocks and other internal and external facilities of the Accommodation Centre.
8. Review of Government Decision 1023/2012 to include clear mechanisms for the distribution of rooms and furnishings, as well as responsibility for damage.

Recommendations to the General Inspectorate for Migration

9. Establishing clear mechanisms to ensure that asylum seekers are taken over at State Border Crossing Points, in particular BCP CIA within 24 hours of the submission of the application.
10. Establishing clear mechanisms to ensure that accommodation decisions are issued within 24 hours of the lodging of an asylum application, especially at weekends. It is essential to establish clear procedures to allow asylum seekers to be picked up and accommodated in the Centre at any time, including weekends and outside General Inspectorate for Migration opening hours.
11. Clear and prompt notification of the 24-hour time limit for reporting to the Accommodation Centre and the consequences of non-reporting. The GIM should be flexible

in applying administrative sanctions for failure to report to the Accommodation Centre within 24 hours, taking into account individual circumstances and ensuring that any measure taken does not violate the fundamental rights of asylum seekers.

12. Reviewing and adjusting the legal framework to ensure fair and impartial procedures for de-registration of asylum seekers in Accommodation Centres, respecting the principles of impartiality, necessity, legality and proportionality.

13. Implementation of internal policies for the protection of persons accommodated in the Accommodation Centre of the GIM against abuse and discriminatory behaviour by centre staff. This includes training staff in the fair and non-discriminatory management of accommodation beneficiaries.

14. Establishment and furnishing within the Accommodation Centre of spaces intended for the care of children aged between 0-3 years.

15. Development of specific policies for gender mainstreaming and for the correct approach to beneficiaries who are victims of domestic violence or human trafficking.

Recommendations to the General Inspectorate of Border Police

16. Training / information of State Border Crossing Points employees on ensuring unhindered access to the asylum procedure for foreigners in accordance with international standards and national legislation. Any unjustified denial of access to the asylum procedure constitutes a violation of human rights and the principle of non-refoulement.

Recommendations to the National Legal Aid Council

17. Unconditional provision of state-guaranteed legal assistance to asylum seekers to challenge decisions to refuse accommodation or to remove them from the Centres' records. Ensuring accommodation is an essential component of the asylum procedure and a right of the applicants according to Law No. 270/2008.

Legal rules in support of the asylum matter

- Law 52/2014 the People's Advocate (Ombudsman);
- Law 164/2015 for the approval of the Regulation on the organization and functioning of the People's Advocate Office.
- Universal Declaration of Human Rights, 1948;
- Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), 1950.
- UN Geneva Convention relating to the Status of Refugees, 1951;
- Protocol relating to the Status of Refugees, 1967;
- UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984;
- 1989 UN Convention on the Rights of the Child;
- Standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT);
- Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons;
- Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers;
- Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast)
- Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC;
- EASO, FRONTEX. Practical Guide: Access to the Asylum Procedure, published by the Publications Office of the European Union, 2016⁵²
- Law No.215/2011 on the State Border of the Republic of Moldova;
- Law No.283/2011 on the Border Police;
- Law No.200/2010 on the Regime of Foreigners in the Republic of Moldova;
- Law No.270/2008 on Asylum in the Republic of Moldova;
- Draft Law on amending certain normative acts on the asylum procedure of July 2, 2024.
- Government Decision No.147 of 09.03.2022 on approval of the National Air Transport Facilitation Programme;
- GIBP Instruction on the procedure of reception of asylum applications submitted by foreigners at the state border of the Republic of Moldova, No. 1260 of 28.12.2023;
- Memorandum of Understanding of September 16, 2009, between UNHCR, Border Guard Service (currently GIBP), Bureau for Migration and Asylum Ministry of Internal Affairs (currently GIM) and the NGO Law Centre of Advocates

⁵² [https://euaa.europa.eu/sites/default/files/publications/Practical Tools- Access To Procedures-Practical-Guide-RO.pdf.pdf](https://euaa.europa.eu/sites/default/files/publications/Practical%20Tools-Access%20To%20Procedures-Practical-Guide-RO.pdf.pdf)

- Regulation on the organization and functioning of the Centre no. 1023 of 28.12.2012
- Regulation on the organization and functioning of the Centre no. 25 of 12.02.24

Photos from the Accommodation Centre

























