# CHAPTER 3

**EXILED AND HOMELESS: RECEPTION AND ACCOMMODATION CONDITIONS FOR ASYLUM SEEKERS AND REFUGEES IN EUROPE**

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The proportion of people in exile among the homeless population has increased significantly over the last ten years, in all countries where data was available, including Greece, Ireland, Sweden, Denmark, Finland, Italy, the Netherlands, Germany, Spain, Belgium, the United Kingdom, and France. Where official quantitative data does not exist, qualitative information and feedback from the voluntary sector bears this out. As is also evidenced in the Index of Housing Exclusion in Europe 2020 (see page 87), when people from third countries access the housing market, they are proportionally more vulnerable to housing exclusion, prohibitive costs, and unfit housing.

Europe experienced several mass movements of refugees over the 20th century, including the 500,000 Spanish Republicans who arrived in France in 1939, the one million Jews, Muslims and ‘pieds-noirs’ who arrived from Algeria in 1962, and the 700,000 Yugoslavs who arrived in Western Europe in 1992. Of its 512 million inhabitants on 1 January 2018, the European Union is home to 22 million non-European citizens, or about 4.4% of its population. Having reached a peak of more than 1.3 million in 2015, the annual number of asylum seekers in Europe (those coming from third countries), dropped considerably to 647,165 people in 2018. The upward trajectory returned between 2018 and 2019 when 721,070 people (+13%) applied for asylum across the EU-28 countries. In 2019, 39% of first instance decisions on asylum applications in the EU-28 were positive and led to the granting of refugee status, subsidiary protection status, or a residence permit on humanitarian grounds and 39% of final judgements after appeal or review led to a positive outcome. In 2019, 121,570 people were granted refugee status in the EU-28 on first instance, 53,230 were granted subsidiary protection status and 46,220 were granted residency on humanitarian grounds. The main destination countries of first-time asylum applicants were Germany (22% of all first-time applicants to Member States in 2019), France (18%), Spain (17%), Greece (11%), the United Kingdom (7%), and Italy (5%).

Syria was the main country of origin of asylum seekers in the European Union Member States in 2019, a position it has held since 2013 (11% of the total number of asylum seekers). Syria was followed by Afghanistan (8%), Venezuela (6%), Iraq (5%), Pakistan and Colombia (4%). In 2019, in the EU-28, almost four-fifths of asylum seekers (77%) were under 35 years old. People aged 18-34 years represented just under half (48%) of the total number of applicants, while almost one third (29%) were minors under 18 years of age.
RIGHT TO ASYLUM: EUROPE-WIDE HARMONISATION PROVES CHALLENGING

Asylum, derived from the Greek ‘asylon’ meaning ‘safe from violence’ and ‘sanctuary’, is the right of an individual to seek refuge. In 1950, following the Second World War, which led to 40 million people being displaced, the protection of refugees’ rights was entrusted to the newly created United Nations High Commissioner for Refugees (UNHCR). The founding text for the international protection of refugees – the Geneva Convention adopted 28 July 1951 by the UN and ratified by 145 party states – defined refugee status for the first time in international law, stated the rights pertaining to this status and the legal obligations on signatory states in this regard. The Convention’s fundamental principle is ‘non-refoulment’, meaning that a refugee must not be returned to a country where their life or freedom are under serious threat. In 1967, the New York Protocol enabled all refugees to be included regardless of their country of origin and the date of events they are fleeing, therefore complementing the Geneva Convention which only concerned European refugees fleeing events prior to 1 January 1951.

A refugee is any person who, ‘owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.’

The European Union has been working on the development of a common European asylum regime for the last 30 years, as it shares competence with Member States on migration policy. At the beginning of the 1990s, the prospect of a single market without internal borders and the problems managing displaced people (due to conflicts in the Balkans and the crumbling communist regimes) led to asylum and immigration issues being integrated into EU treaties – the removal of internal EU borders had to go hand-in-hand with compensatory measures such as strengthening external borders and cooperation in the fields of asylum and immigration. With the entry into force of the Maastricht Treaty in 1993, asylum became a Union competency, although limited by the framework of intergovernmental cooperation. The Treaty of Amsterdam, which entered into force in 1997, introduced the legal framework and supranational competence of the European Union in immigration and asylum matters. The Common European Asylum System (CEAS) was officially referred to for the first time in the conclusions of the 1999 Tampere Summit, along with other international protection legislation. The minimal standards prescribed in the 2003 Reception Conditions Directive derive their substance from the fact that ‘Member States shall make provisions on material reception conditions to ensure a standard of living adequate for the health of applicants and capable of ensuring their subsistence’.

Access to adequate housing for those applying for and benefiting from international protection is an integral part of any functioning asylum system. Within the framework of the CEAS, the recast Reception Conditions Directive and the recast Qualification Directive set the standards that EU Member States must meet in this respect. The most recent efforts to harmonise asylum rights in EU Member States have involved adopting the recast Asylum Procedures Directive in 2013 as well as the respective recasts of the Dublin Regulation, the EUROPADAC Regulation and the Reception Conditions Directive.

The Reception Conditions Directive aims to guarantee asylum seekers access to housing, food,
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10 For more information on the European legislative and historical perspectives on asylum rights see ‘Going Further – Annexes and Tables’ in this Overview.


12 European Asylum Support Office (EASO), made up of Frontex and Europol.

13 Migreurop (2018), ‘Le détournement progressif de l’approche hotspot en Italie’ [The gradual hijacking of the hotspot approach in Italy], available [in French at http://www.migreurop.org/article2912.html]


has the right to apply for asylum on European territory.

In reality however, the EU asylum application process is like an obstacle course, which starts even before arrival on European soil. Reaching ‘sanctuary’ offered by Europe is often the culmination of a long, difficult and even traumatizing journey, particularly when normal routes are not an option, leaving only dangerous and unsafe routes. In the last 25 years, almost 40,000 immigrants have been reported missing or dead from drowning or exhaustion at the borders of ‘Fortress Europe’. In 2016, more than 6,000 immigrants died crossing the Mediterranean, the most deadly year so far.

European policy, which is based on strengthening the external borders, chose to externalise border control by creating, for example, Reception and Identification Centres, commonly known as ‘hotspots’ in Greece and Italy. Initiated by the Commission in 2015, these facilities for treating asylum applications are led by the European border management authorities and include representatives from national authorities. They are intended to enable rapid identification and registration of migrants, as well as take fingerprints. In Italy, reports have criticised how the primary functions of the ‘hotspots’ have been misappropriated to create detention camps and gateways to deportation, where many violations of fundamental rights and asylum rights have been reported. In Greece, on 10 December 2019, across all the Reception and Identification Centres, 37,101 people (men, women and children) were living in the inhuman conditions of camps intended to hold a maximum of 6,178 people. The living conditions in these camps is utterly deplorable, with several organisations and observers referring to them as ‘hell on earth’. In October 2019, the Council of Europe’s Commissioner for Human Rights urged the Greek government to urgently transfer asylum seekers stuck on the

clothing, healthcare, education for minors and employment under certain conditions. However, the current Directive gives significant discretionary powers in the definition of what constitutes an adequate standard of living and how it should be achieved. As such, reception conditions continue to vary considerably between Member States, both in terms of organisation of the reception systems and in terms of guaranteed minimum standards for asylum seekers.

Another key element of this legal framework is the Dublin Regulation, which establishes the Member State responsible for examining the asylum application. The Dublin III Regulation, which entered into force in July 2013, contains procedures for the protection of asylum seekers that are supposed to ‘improve the system’s efficacy’. In May 2016, in the framework of its proposed reform of the CEAS, the Commission presented a draft proposal aiming to make the Dublin system more transparent and to strengthen its efficacy, while providing a mechanism to deal with the wide discrepancies in pressure on Member States’ systems.

ARRIVING IN EUROPE: AN OBSTACLE COURSE

The right to asylum is intrinsically linked to the principle of non-refoulement enshrined in Article 33 of the Geneva Convention and underpinned by Article 3 of the European Convention on Human Rights, it forbids Member States who receive asylum seekers on their territory to send them back to their country if they could be exposed to danger or persecution. Article 18 of the European Union’s Charter of Fundamental Rights states that the right to asylum must be guaranteed with respect to the rules decreed by the Geneva Convention of 28 July 1951 and the Protocol Relating to the status of refugees of 31 January 1967, in accordance with the founding treaties of the European Union. Any individual

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Aegean Islands and to improve living conditions at the reception facilities. The situation has become particularly drastic since the beginning of the COVID-19 pandemic and the European healthcare crisis that has followed. While the right to seek asylum was suspended in Greece on 1 March 2020, restrictions on freedoms, arbitrary detention and the violation of asylum seekers’ fundamental rights have become commonplace. A report by Human Rights Watch has denounced the detention of more than 2,000 asylum seekers who have arrived since 1 March in unacceptably overcrowded conditions with a lack of food and basic hygiene facilities, which has enabled the virus to spread within this already very vulnerable population.

These ‘hotspots’ are also intended to enable the resettlement of people who are recognised as having a ‘clear’ need for international protection in European countries (according to quotas per country which are not always agreed upon), in order to relieve the pressure on the two main reception countries. In September 2015, the European Commission proposed a plan to resettle 120,000 people over two years. However, the rate of resettlement has been lower than desired and its implementation a failure: by September 2015, throughout the entire European Union, more than 65,000 refugees have benefited from resettlement programmes, which facilitate safe migratory routes and protect the fundamental rights of the people concerned.

DEFINITIONS AND OUTLINES OF THE REPORT

In this report, we will mainly look at the reception and accommodation conditions for asylum seekers and beneficiaries of international protection, which includes:

- Asylum seekers who have applied or wish to apply for asylum in an EU country and are awaiting the authority's decision.
- Beneficiaries of international protection who have obtained refugee status, subsidiary protection or humanitarian protection.

These people apply for protection on European Union territory, which is provided for by binding legislation. However in reality, the fundamental rights of a large number of these people are denied, as evidenced by unfit and degrading reception facilities and living conditions. The Common European Asylum Regime, as it currently stands, results in standards for the conditions of reception that, while weak in terms of protecting fundamental rights, at least exist. The question therefore arises as to what minimum conditions of reception and accommodation exist for people who fall outside the framework of European protection. To the above-mentioned categories, we can then add to our analysis ‘dublinised’ people, i.e. those who are subject to

20 European Commission (2017), op. cit.

decisions under the Dublin Regulation in order to be returned to the first country they arrived in to apply for asylum there. We will also look at the case of migrants in transit, who have not yet applied for asylum but wish to do so in a country other than the one they are currently residing in, and rejected asylum seekers who, as they are not considered asylum seekers or beneficiaries of international protection, see their fundamental rights systematically endangered by the absence of guarantees of access to minimum reception and accommodation conditions.

All of these people are vulnerable by virtue of their administrative status, and face housing exclusion and housing deprivation.

The concept of ‘material reception conditions’ refers to the definition given in the Reception Conditions Directive. As we have seen, these conditions must provide applicants with ‘an adequate standard of living guaranteeing their subsistence and protecting their physical and mental health’ (Art. 17(2)). This includes ‘housing, food and clothing, either provided in kind, or as financial allowances or in vouchers, or a combination of the three, and a daily expenses allowance’ (Art. 2). Article 18 (1) of the Directive states that when housing is provided in kind, it must be in the form of ‘premises used for the purpose of housing applicants during the examination of an application for international protection made at the border or in transit zones’, ‘accommodation centres which guarantee an adequate standard of living’ and/or ‘private houses, flats, hotels or other premises adapted for housing the applicants’. The CJEU had the opportunity to provide its interpretation of the extent of Member States’ obligations in the matter, which allowed for a more precise definition of what the concept of the right to material reception conditions entails. So, when they are allocated in the form of financial support, they must be adequate to cover housing in the private sector and preserve the family unit if there are minor children. Furthermore, the CJEU also made decisions in the event of reception infrastructure being overcrowded. Member States can, in this case, send asylum seekers to the relevant structures of the state welfare system as long as the minimum standards enshrined in the Directive are respected.

The range of solutions outlined by the European regulation is therefore wide-ranging. Insofar as adequate living conditions guarantee subsistence and ensure the protection of people’s physical and mental health, the reception conditions provided by Member States can amount to anything ranging from emergency accommodation to individual housing units, and even hotel accommodation.
WHAT DOES THE LAW SAY about the practical implications of asylum seekers’ right to material reception conditions (when rights begin, financial support and alternatives in the event of overcrowding)?

Saciri & Others v Belgium\(^{22}\) | 2014 | CJEU

A family applying for asylum in Belgium was informed by the agency responsible for reception that they could not be provided with accommodation. Unable to find accommodation on the private market, the family applied for financial support from another agency which refused them on the basis that they were not housed within the public reception system, despite the fact that no accommodation was available for them. The initial reception agency was obliged by judicial authority to provide the family with financial support. Appealing this decision, the Brussels Higher Labour Court (Arbeidshofte) demanded clarification from the CJEU regarding the State’s obligation to provide financial support to asylum seekers, under the Reception Conditions Directive. The Court stated that:

 ➤ Asylum seekers have the right to material reception conditions (MRC) from the moment the application is made.

 ➤ If support is provided in the form of financial assistance, the amount must be sufficient to ‘guarantee a dignified standard of living and [be] adequate for the health of applicants and capable of ensuring their subsistence by enabling them to obtain housing, if necessary, on the private rental market’.

 ➤ If the specialised reception centres are overcrowded, Member States can ‘make payment of the financial allowances using the bodies which form part of the general welfare system as intermediary’ but these bodies must respect the minimum standards laid down in the Directive. Overcrowded facilities cannot be used to justify failure to meet these standards.

WHAT DOES THE LAW SAY about conditions for limiting or withdrawing the right to material reception conditions?

Zubair Haqbin v Federal Agency for the reception of asylum seekers, Belgium\(^{23}\) | 2019 | CJEU

An asylum seeker – who was also an unaccompanied minor – was housed in a centre where he was involved in an altercation. The centre director decided to exclude him from the material assistance provided by the reception centre for 15 days, during which the applicant had to sleep rough or stay with third parties. It is important to clarify that Article 20 of the Reception Conditions Directive allows for the possibility for Member States to limit or withdraw the benefit of material reception conditions, on the basis of certain provisions listed in the article and ‘in duly justified exceptional circumstances’. Point four of this same article also states that sanctions can be applied in cases where the is a serious violation of the centre’s rules or particularly violent behaviour has occurred. The CJUE stated that:

 ➤ It is not possible to provide for ‘a sanction consisting in the withdrawal, even temporary, of material reception conditions […] relating to housing, food or clothing in so far as it would have the effect of depriving the applicant of the possibility of meeting his or her most basic needs’.

 ➤ The sanctions provided for in Article 20.4 of the Directive, in cases where the is a serious violation of the centre’s rules or particularly violent behaviour has occurred, must be proportionate (with regard to the person’s situation) and respect the principle of respect for human dignity.

This judgement is hugely important given that several Member States (for example Belgium, the Netherlands, Romania, Italy, Spain, Greece) currently authorise the withdrawal of material reception conditions as a sanction to punish a serious violation of the accommodation centre’s rules or violent behaviour.
‘Access to adequate accommodation for people seeking and granted international protection is part and parcel of any functioning asylum system.’ The current chapter focuses on analysis of the material conditions for reception, accommodation and access to housing for asylum seekers – including those in the Dublin procedure – and people benefiting from international protection, and their consequences on living conditions, on health (physical and mental), on education, on employment, and on the path to inclusion. Do the conditions for reception, accommodation and access to housing contribute to making the right to asylum effective? Do these conditions enable the main objective of the right to asylum to be met, i.e. protection of those who benefit from it? If this is not the case, can we argue that there is a ‘reception and right to asylum crisis’ in Europe?

This report will try to respond to these questions while focusing on the living conditions of people concerned at different stages of their journey. Nine countries – eight of which are European Union Member States – where asylum applications were highest in 2019 have been selected for the comparative analysis: Germany, France, Greece, Italy, Spain, the Netherlands, Sweden, Belgium and the United Kingdom.

By choosing these nine countries for the comparative analysis, we do not wish to hide the fact that in the other European Union countries, there was a tendency for people in exile to be over-represented among the homeless – in Ireland, Finland, Denmark, Lithuania, Slovenia and Portugal, the available data shows how very exposed migrants are to homelessness and housing exclusion. This report was finalised on 17 April 2020, during the COVID-19 pandemic. The information, data and analysis herein were therefore written before this date.
The European framework of procedures for managing asylum applications are defined in the Asylum Procedures Directive. It establishes clear rules regarding the submission of applications, in order to ensure that any individual wishing to gain international protection has the chance to do so quickly and efficiently. Once submitted, the application must be registered within three days maximum (Article 6) and examined in principle within six months (Article 31). Adequate information along with legal assistance must be guaranteed to asylum seekers, who also have the right to stay in the Member State during the entire time their application is being considered (Article 9). In practice, in certain EU Member States, there have been several cases where people are required to wait, often without shelter and in appalling conditions, before being able to submit their asylum application. This was reported in Brussels, where a daily limit was set on access to the Immigration Office on 22 November 2018 by the Belgian government, limiting the number of asylum applications to 60 per day, and leaving hundreds of people deprived of their rights and of getting their application considered, without support or accommodation provided. According to Médecins du Monde, a baby that was just a few months old was found suffering from hypothermia in the queue outside the Immigration Office before being taken into the emergency department. The Belgian Council of State suspended the daily quotas in the end, on the grounds that the quotas had made it exceptionally difficult to exercise individuals’ fundamental rights. In England, the Home Affairs Committee has pointed to the consequences of increasing delays in asylum procedures, leaving people stuck for several weeks in the Initial Accommodation, intended for very temporary stays (19 days maximum), which has particularly detrimental effects on the living conditions of women, including pregnant women and young mothers. Since the beginning of the European health crisis caused by the COVID-19 pandemic, several Member States have adapted the right to asylum and the related procedures, highlighting the radically different policy approaches taken by each country.

The material reception conditions that Member States must provide to asylum seekers are determined by the Reception Conditions Directive. Through this Directive, asylum seekers are granted rights to these conditions from the moment their application is submitted. They must then have access to housing, food, clothing, healthcare, education for minors, and employment, under certain conditions. The legislation makes it clear that the measures regarding material reception conditions must ensure applicants have ‘an adequate standard of living guaranteeing their subsistence and protecting their physical and mental health’ (Article 17). The Directive also highlights the situation of vulnerable people, particularly unaccompanied minors and torture victims: Member States must, among other things, conduct an individual evaluation in order to identify the specific reception needs of vulnerable asylum seekers and to ensure they have access to medical and psychological support. However, by not defining what constitutes...
an adequate standard of living and how to guarantee it, the current Directive leaves Member States with a significant amount of discretion. As a consequence, the material reception conditions vary significantly, in terms of how the system, the practices in place and the reception conditions are structured.  

How is this European legal framework implemented, particularly with regard to accommodation, by EU Member States? We will mainly deal with the issue of accommodation here; the issue of financial assistance has been addressed in the annex  

The problem now, with the acceleration of the application review due to the 2018 law, is that we are getting people who have just arrived. These people are in dire poverty, without accommodation, support or medical care. They are utterly distressed. Often, when they arrive to interview, their concern is not the asylum application but that we find them somewhere to live for that very night. They are in survival mode. [...] Someone who is sleeping rough and has not eaten for days, is in no condition to concentrate, understand our questions, let alone respond to them.  

The Distribution of Public Responsibilities with Regard to Accommodation  

Producing this report has served to highlight how extremely diverse standards and practices are among Member States concerning the distribution of public responsibilities with regard to accommodation for asylum seekers, refugees and homeless people.

| Country       | Responsibilities with regard to accommodation of asylum seekers and reception capacity | Responsibilities with regard to accommodation for beneficiaries of international protection | Responsibilities with regard to accommodation for homeless people  

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| Germany     | - Mandatory distribution by the Ministry of the Interior (federal)  
- Specialised accommodation financed at federal level and managed/implemented by the Federal States (Länder) | - No statutory period after which asylum seekers must exit accommodation  
- No specialised reception housing stock/use of the private and social housing stock (rental assistance schemes)  
- Obligation to reside in the Länder where the asylum application was submitted/mandatory distribution by the authorities | Municipal services, NGOs and charities |

Table legend

- - - - - - Significant overlapping of general emergency accommodation (for homeless people) and specialised accommodation for asylum seekers  
In **purple** Reception capacity  
In **orange** Reception durations
### Belgium
- Mandatory distribution by Fedasil/Ministry for Migration & Integration
- Specialised accommodation managed by Fedasil, which can delegate to a third party by agreement
- In January 2019, the reception system as a whole had 21,014 places (90% of which were occupied)
- Average period asylum seekers spend in a reception centre: 13.5 months

### Spain
- Mandatory distribution (on a needs/case-by-case basis) by the Social Work Department (Ministry of Labour, Migrations and Social Security) and/or NGOs
- Network of collective reception centres (CAR & CETI) managed by the Ministry of Labour, Migrations and Social Security and network of reception facilities managed by NGOs (mandated by the Ministry).
- In 2019, there were 3,801 places in 'phase 0', first reception

### France
- Mandatory distribution to the regions by the OFII (French Office of Immigration and Integration = public body under the Ministry for the Interior)
- Management of the first reception provisions by the OFII as well as public and private partners
- Management of the accommodation provisions for asylum seekers by the State's decentralised services (prefecture level) and departmental services, not-for-profit organisations, public-private partnerships (ADOMA)
- 86,592 places as of 31/12/2018 (emergency accommodation, CADA, CAES)

### Municipal services and NGOs
- No specialised reception housing stock/use of the private housing stock
- Average period asylum seekers spend in a reception centre: 13.5 months
- No differentiation between accommodation for asylum seekers and for beneficiaries of international protection
- System divided into three steps: 'phase 0' first reception 'phase 1' reception and beginning of path to integration with accommodation in a collective centre or in an apartment (managed by the government or by associations); 9,129 places in 2019 'Phase 2' (in general after six to nine months) in independent accommodation with financial and social support of the programme (managed by associations); 18,258 places in 2019
- Statutory period after which asylum seekers must exit accommodation: Six months
- Total duration = 18 months (may be extended to 24 months for vulnerable people)
- Methodology for intervention that adapts the steps to people’s level of independence
- Use of specialised housing and existing public housing
- CPH (provisional accommodation centres) for beneficiaries of international protection = nine months (possible extension of three months), 5,207 places at the end of 2018
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### Greece
- No systematic mandatory distribution (in practice assured via regulatory decisions by the Director of Asylum Services)
- Geographic restrictions for people affected by the EU-Turkey deal and the fast-track border procedure (Aegean Islands)
- Responsibility for reception provisions is undertaken by RIS (Reception and Identification Service) & the Department for the protection of asylum seekers, under the Ministry of Migration + UNHCR’s ESTIA programme for vulnerable asylum seekers
- Temporary reception centres (estimate for the mainland): 16,110 places as of 07/09/2018
- UNHCR: 23,156 places as of 02/01/2019
- See below for the situation in ‘hotspots’

### Italy
- Mandatory distribution on the basis of available places (and mandatory transfers)
- Coordination by the national government (Prefectures and Ministry of the Interior), management delegated on demand/tendered to private social cooperatives and local authorities

### The Netherlands
- Mandatory distribution system
  - First reception centres (COL, maximum three days then POL during the asylum application procedure until temporary stay is granted, about eight days)
  - ‘pre-asylum’ centres, where people must wait more than one year due to a lack of decision-making personnel working on the asylum procedure
  - Asylum centres (AZC)
  - Management by the central governmental agency for asylum seekers (COA)
  - 22,576 places occupied in reception centres managed by COA at the end of 2018
- Mandatory distribution by the COA which finds housing solutions in cooperation with the local authorities; no statutory period after which people must leave (they leave when a housing solution is found)
  - The law obliges each local authority to house a predefined number of people who have a residence permit. Every six months, the government decides on the number of residence permit holders that the local authorities must take (based on the size of the area)
  - Specialised housing stock and use of existing public housing
Since 2016, beneficiaries of international protection who do not find housing in the private sector are allocated to the municipalities by the Migration Agency who are then responsible for housing these people; according to current legislation, the municipality cannot use a housing shortage as a reason to refuse to find accommodation for them.

European Observatory on Homelessness (2016), Asylum seekers, refugees and homelessness, EOH Comparative Studies No. 6.

These Reception and Identification Centres exist on five Aegean Islands (Kos, Lesvos, Samos, Chios, Leros) and at Filakio/Evros, on the Turkish border.

See the introduction ‘Arriving in Europe’ for figures on ‘hotspots’.

The road to asylum is a process. It is critical to ascertain whether accommodation and dignified living conditions are available at each step of the process. Access to dignified reception and accommodation of course correlates strongly with social policy and housing dynamics: a general lack of affordable housing, in urban areas in particular, leads to increased competition among sectors of the public with specific requirements for access to dignified housing (migrants, homeless people, older people, young people, etc.).

### United Kingdom
- Initial accommodation: 2,129 places occupied at the end of 2018; use of hotels and B&Bs for first reception (9 days maximum according to regulation but in practice, asylum seekers can stay more than three weeks there)
- Then accommodation in individual housing within the private sector/hostels
- Responsibility of the Home Office, who delegates management to private companies

### Sweden
- Mandatory distribution based on administrative decision by the Migration Agency (governmental) during the accommodation process
- 50-60% of asylum seekers live in housing provided by the Migration Agency; 20,410 places in reception centres; 27,129 places in private-sector housing
- Temporary accommodation centres opened for a short period by municipalities in 2015 to cope with growing numbers of arrivals

### Local services
- (councils and districts), NGOs and charities

### Municipal services
- NGOs, charities and private organisations
Outdated and unsuitable specialised accommodation systems: the institutionalisation of emergency accommodation for asylum seekers

Specialised accommodation systems should in principle enable people to be received with dignity and to benefit from suitable supports, for the entire period that their application is being examined. Nonetheless, we will see how the period can turn out to be longer and how the number of available places in various state facilities is not enough to meet the real demand. States therefore end up using accommodation solutions that were intended for temporary use, but which become long term, resulting in the institutionalisation of emergency accommodation for asylum seekers. All European countries, and all territories within these countries, are not however faced with the same circumstances. Different issues can be identified but they are generally the result of a short-term perspective in terms of asylum reception.

It is important to remember that the distribution of asylum seekers among European countries is de facto unequal. While 664,480 asylum applicants registered in EU countries and Schengen States in 2018,43 75% of these applications, i.e. 444,445 people, were made in five of the 32 countries, i.e. Germany, France, Greece, Italy and Spain. Greece, Italy and Spain were not prepared for large (and fluctuating) numbers of arrivals. Their reception systems were unsuitable and inadequate even before the increased number of asylum seekers; the chronic lack of investment in increasing and improving reception capacity has led to repeated crises and a constant shortage of reception places, regardless of the dynamics of the number of arrivals (high or low), and regardless of the degree of pressure on the sector.

THE CONSEQUENCES OF UNEQUAL DISTRIBUTION AMONG DIFFERENT EUROPEAN COUNTRIES

In Greece, the saturation of Reception and Identification Centres (or ‘hotspots’), a system lauded by the European institutions, is the most outrageous example of the fundamental rights of asylum seekers being violated with regard to material reception conditions. People locked in these closed centres are facing many difficulties on a daily basis – overcrowding, lack of private space, vulnerability to bad weather, lack of safety in tents and makeshift huts, lack of medical services and information, violence, etc. In the Moria camp on Lesbos, in December 2019, two people even died in a container fire. MSF have reported weekly cases of children attempting suicide. The majority of children receive no education in the camps. At Samos, reports highlight how rotten food is being distributed, the appalling hygiene conditions, as well as rat and snake infestations. Prolonged stays – some people have been there for three years – in such conditions have a dramatic impact on people’s lives as well as on their mental and physical health. It amounts to inhuman and degrading treatment. When ad hoc procedures for sending people to the mainland are permitted, those individuals have no right to assistance, which leads to the creation of informal camps around official reception centres and increased vulnerability for these people, left to their own devices on the street.

There is one toilet for 65 people, one shower for 95 people. To be very clear, nobody should have to live in these conditions.

Caroline Willemen, coordinatrice pour MSF à Lesbos pendant un an, à propos des conditions d’hygiène à Moria

51 On Lesbos for example, since September 2016, all new arrivals, including children, are detained as a matter of course at the Moria camp for 25 days. After this period, new arrivals receive an asylum-seeker card with a geographical restriction limiting their freedom of movement, forcing them to remain on the island. Since June 2017, only Dublin family reunification cases and vulnerable Syrians have received geographically unrestricted cards, allowing them to access the mainland. Other vulnerable asylum seekers have received asylum seeker cards that are indecipherable. This system has caused much suffering for those who were detained for months or years, until the decision was made to transfer them to the mainland.
52 Caroline Willemen, coordinatrice pour MSF à Lesbos pendant un an, à propos des conditions d’hygiène à Moria
EXILED AND HOMELESS: RECEPTION AND ACCOMMODATION CONDITIONS FOR ASYLUM SEEKERS AND REFUGEES IN EUROPE

When identification has taken place and the asylum application registered, there are often long months or even years of waiting; for this, a second reception stage has been provided for in Greece – the ‘Programme for resettlement and emergency intervention’. Financed by the European Union and supervised by UNHCR, it was created in November 2015 to offer accommodation solutions to asylum seekers in apartments, buildings, with host families and in hotel rooms. In July 2017, this first programme was integrated into the European Commission’s new ESTIA programme (Emergency Support to Integration and Accommodation), which aims to provide housing and financial support to asylum seekers and beneficiaries of international protection. In total, between November 2015 and March 2019, 57,583 people benefited from these programmes.53

The geographic position of Greece makes it the first point of arrival from the Mediterranean, and thus the guardian of the registration and identification missions that stem from the European institutions’ outsourcing of border management. That said, Greece is not the only country with an overwhelmed first reception system. Spain, for example, has been an asylum country since the beginning of the 2010s, and is today among the Member States that receives the most applications, but public policies have not adapted to this and are slow to adopt regulatory frameworks and to organise long-term planning to address the issues.54

The annual number of asylum applications has multiplied by a factor of 45 over six years, going from 2,565 in 2012 to 14,780 in 2015, 36,605 in 2017, 54,050 in 2018 and 117,795 in 2019. Despite the increase in the number of specialised places – from 930 reception places managed in the first phase of reception by the government in September 2015 to 9,129 places in December 2019, the country has been completely overwhelmed. Civil society organisations have condemned this reactive management that lacks any medium-term planning. The Spanish asylum system is organised into three phases: a ‘pre-phase’ of first reception, intended to last a maximum of 30 days, until the asylum application is made. Then the ‘first phase’, intended to last the six months required for the asylum application to be evaluated and during which accommodation is provided (either in one of the four state-run Refugee Reception Centres or in an NGO-run centre). Finally, the ‘second phase’, intended to last 12 months (can be extended to 24 months in cases of extreme vulnerability) with the goal being the individual’s self-sufficiency and during which financial support for housing is provided (about EUR 375 per month for a single person). A growing number of Latin Americans, particularly Venezuelans, have applied for asylum in Spain in the last few years, evidence of the changes in asylum seekers’ country of origin. In parallel, the available data shows a widespread increase in the proportion of homeless people who are from third countries: in Barcelona, between 2015 and 2019, this proportion increased from 48% to 52% (definition including four ETHOS categories).55 In the Basque Country, between 2014 and 2018, this proportion increased from 65% to 76%.56 A recent exploratory study carried out by the CIDOB in Catalonia revealed that 27% of the asylum seekers asked had already had to sleep rough and 24% had lost their housing at least once for economic reasons.57
EXILED AND HOMELESS: RECEPTION AND ACCOMMODATION CONDITIONS FOR ASYLUM SEEKERS AND REFUGEES IN EUROPE

CHAPTER 3

# USE OF EMERGENCY ACCOMMODATION DUE TO A LACK OF ADEQUATE SPECIALISED PROVISIONS

In some countries, the use of emergency accommodation for the medium or long term, due to lack of specialised places for asylum seekers, is typical of the institutionalisation of the use of emergency accommodation: this is the case in Greece, Italy, Spain and France. Where there is significant overlapping of specialised accommodation and general emergency accommodation, asylum seekers are forced, at different stages in their process, to use services for homeless people.

This is particularly true of France, where material reception for asylum seekers usually takes the form of accommodation and a welfare payment. The welfare payment is EUR 6.80 per day, raised to EUR 7.40 if no specialised accommodation is available and if the asylum seeker is not otherwise accommodated. Asylum seekers are meant to be accommodated in specialised facilities that are part of the country’s National Reception Provision. The traditional form of this provision is CADA (reception centres for asylum seekers) which deliver, in addition to accommodation, specific social and administrative support. In parallel, in order to mitigate the lack of places within CADA, HUDA (emergency housing for asylum seekers) was developed as well as several specialised tools, aimed at various categories of asylum seekers. CADA lies in the supports (lack of legal assistance, administrative and CAO) into HUDA. While this decision had the benefit of simplifying the system, it is a less demanding provision in which people do not benefit from the same reception conditions as in CADA. The main difference between HUDA and CADA lies in the supports (lack of legal assistance in HUDA), the level of support, but also the cost, the daily cost in CADA is EUR 19.50 per person, compared to EUR 17 in HUDA.

Asylum seekers are forced, at different stages in their process, to use services for homeless people.

For years, the number of available places within the national reception system has been largely insufficient to meet demand, despite doubling the number of dedicated places in a six-year period. On 31 December 2018, there were 86,425 places for 156,200 people who had applied for asylum. Less than half of asylum seekers could be accommodated within the national asylum system in 2018 (48%). When people obtain international protection or, conversely, are definitively rejected from the right to asylum, they should be directed towards the relevant suitable facility. However, some places in the national
reception system are occupied by people whose asylum application has been rejected, or by people who have been granted international protection. **Chronic under-budgeting of the national reception system for asylum seekers** and its consequences on emergency accommodation have been pinpointed many times by the Court of Auditors64 and the French Senate.65 Despite continuing need, the freeze on CADA places in the draft finance law for 2020 once again demonstrates the deliberate budgetary shortfalls. The proliferation of emergency accommodation tools contribute to complicating and creating confusion around the reception of asylum seekers, ‘that risks chipping away at the common right that CADA accommodation should provide i.e. the best support’ and promotes ‘administrative practices that hollow out the right to accommodation’.66 The overlap between the general accommodation system and the specialised accommodation system is all the more significant in France as access to general emergency accommodation is – in principle – unconditional and permanent.67

In Italy, the CAS (Centri d’Accoglienza Straordinaria/Emergency Reception Centres) were created in 2015 to provide first reception, intended to be temporary to cover the period of identification and registering for asylum. Asylum seekers then had to quickly enter the SPRAR system (later SIPROIMI68) for protection of asylum seekers and refugees. **The lack of places in SPRAR and many municipalities’ refusal to provide these services** (the SPRAR requires the support of local authorities and their willingness to manage reception on their territory) **have over time made CAS the main means of accommodating asylum seekers.** As of now, first reception takes place in collective centres and in ‘hotspots’69 for a maximum duration of 48 hours, in theory. Then accommodation is provided through the CAS in the second reception phase, which can be in specialised centres or in apartments. To gain access, the person must have been granted a temporary residency (of six months, for the duration of the asylum procedure), called a ‘C3’. However, depending on the region, getting a C3 can take from a few days to four months, during which no housing solution is offered – apart from general emergency accommodation for homeless people, managed by the associations and municipalities. Furthermore, the delays in examining asylum applications in no way correspond to the six-month processing envisaged by the C3 – an interview with the territorial commission can be scheduled up to three years after the application is registered. While the residence permit allowed as part of the C3 for six months is renewable, this adds extra pressure to the asylum seeker accommodation system70 – people must stay in the CAS and cannot access SPRAR/SIPROIMI.

Mandatory transfers from one accommodation centre to another can have harmful effects on asylum seekers’ experience and efforts to integrate: in Italy, asylum seekers are often moved from one CAS to another, in order to balance the distribution across regions and provinces. These transfers are decided by the prefectures and are not subject to appeal. The first reception centre of Castelnuovo di Porto in Rome was, for example, closed in January 2019 – more than 300 asylum seekers housed there were transferred within a week, without prior notice or information and without any account taken of the individual’s process, many having already created social bonds within the local population and labour market.71

The huge shortage of places has led to these situations being referred to as ‘reception crises’, rather than the commonly used expression ‘migration crisis’. It is, in fact, the consequences of political decisions, and not the number of asylum seekers arriving, which is to blame for...
the failure of asylum policies and for the over-
whelmed general accommodation system – be-
it through under-budgeting, the absence of
medium-/long-term planning, the lack of avail-
able places and even the closure of facilities for
political reasons. In Belgium for example, the
 overcrowding of some asylum reception cen-
tres is the direct result of political decisions
made by the government to close facilities. In
November 2018, a Belgian asylum centre had to
temporarily install tents and containers to meet
demand – providing reception without sanita-
tion or heating. This is a direct consequence of
the government and the former secretary of state
for asylum and migration, Théo Francken, reduc-
ing the capacity of reception centres, coupled
with the axing of reserve places which existed to
absorb ‘peaks’ in asylum applications.

In countries where the reception systems are
better structured and organised, the lack of
places is not such a pressing issue: in Germany,
first reception centres, managed by the Länder,
aim to accommodate the asylum seeker for
between one and three days in order to proceed
to registering and evaluating vulnerability and
specific needs. Then, people are transferred to
temporary accommodation centres managed
by the voluntary sector. There is no shortage
of places for asylum seekers. The public authorities
still had recourse to vacant public buildings in
emergencies (hospitals, police stations, gyms,
etc.) when the number of arrivals was particu-
larly high in 2015, but the majority of these emer-
gency reception centres were closed in 2017.4
However, grouping several administrative bodies
in the same first reception centres, with the aim
of prioritising examination of people’s admin-
istrative situation and limiting access to their
rights and to adapted social support, while grad-
ually transforming the centres into places where
freedom of movement is limited, have recently
raised concerns in the voluntary sector.75

In the United Kingdom, reception of asylum
seekers, i.e. accommodation and a – low – basic
allowance are the responsibility of the Home
Office if the people concerned are destitute. The
management of accommodation is entirely del-
egated to private companies – while these com-
panies are theoretically obliged to house families
in independent housing, the use of hotel rooms
is common and the poor quality of accommoda-
tion is regularly criticised, with regard to safety,
respect of private and family life and sanitary
conditions.76

In the Netherlands, the first reception system
is designed to address demand even when it is
increasing, with accommodation in Asylum
Centres standard practice. If there is a lack of
places in these centres, emergency reception
centres are used – exhibition centres, hol-
day centres, etc. – and in exceptional crises,
enemy shelter can be requisitioned for a
maximum of 72 hours – gymnasiums, public
buildings, etc.

In all the countries that we are comparing here,
mandatory geographic distribution of asylum
seekers across the national territory is organ-
ised by the central/national service for asylum/
migration. People are forced to remain there
via a geographic restriction obliging them to
stay where they were assigned for the duration
of their procedure, without any choice in their
living environments. These redistribution poli-
cies were largely directed by the basis of avail-
able places rather than on matching needs with
the supply of available places.77 As the availabil-
ity of places is greater in areas of economic and
With the exception of the accommodation facilities at Tempelhof airport where, according to the Berlin Council of Refugees, 1,000 asylum seekers were still living in appalling conditions in December 2018 while an equivalent number of places remained empty in new facilities due to organisational problems. The closure of Tempelhof was finally announced on 20 December 2018. [https://www.asylumineurope.org/reports/country/germany/reception-conditions/housing/types-accommodation](https://www.asylumineurope.org/reports/country/germany/reception-conditions/housing/types-accommodation)


Denmark put in place a hybrid system, where people who have been granted protection and successfully completed a three-year integration programme in the designated municipality can then choose where they want to live. See Part 2 for more details.

The quality of accommodation provisions must respect the conditions of dignity, decency, safety and respect for private and family life. The accommodation solution offered must also take into account the stability necessary for asylum seekers to safeguard themselves with regard to the obligations they must fulfil regarding their asylum procedure. When the material reception conditions are offered in the form of financial allowances, the amount must ensure an adequate standard of living and guarantee subsistence, which is very hard to achieve with the allowances currently offered by Member States. Access to basic services must be guaranteed, including housing, food, healthcare, sanitation, laundry facilities, storage space, legal assistance, integration support (language lessons, access to education for children, etc.).

Urgency, short-termism and weather-response management are incoherent and inadequate foundations for public policies on housing, particularly with regard to the case of asylum seekers, which is characterised by sometimes very long procedures (from six months to four years) and a difficulty in predicting numbers of arrivals. A high-quality and efficient reception system is determined by the respect it shows for the principle of non-refoulement and for European asylum rights, guaranteeing asylum seekers material reception conditions that prevent them from having to sleep rough and providing dignified and suitable housing as well as adapted support. The accommodation solution offered must also take into account the stability necessary for asylum seekers to safeguard themselves with regard to the obligations they must fulfil regarding their asylum procedure. When the material reception conditions are offered in the form of financial allowances, the amount must ensure an adequate standard of living and guarantee subsistence, which is very hard to achieve with the allowances currently offered by Member States. Access to basic services must be guaranteed, including housing, food, healthcare, sanitation, laundry facilities, storage space, legal assistance, integration support (language lessons, access to education for children, etc.). The reception crisis has been exacerbated by the increased overlap between general emergency accommodation and specialist accommodation for migrants. In recent years, national legislative reforms on asylum rights and application of the Dublin Regulation were used by European governments to limit and/or complicate access to accommodation for asylum seekers.

Access to dignified housing conditions hindered by abuses of the Dublin Regulation and by a tightening up of national legislation

Access to accommodation is closely linked to national legislation on the right to asylum. Nonetheless, several Member States have tightened up their asylum legislation over the last number of years, which has led to asylum seekers having increased difficulties in accessing accommodation. While changes to procedures for granting residence permits and to the permits themselves has led to loss of rights and loss of resources for specialised facilities in some places, it is mainly through the application of the so-called Dublin procedure that States have tried to circumvent their responsibilities regarding caring for people in conditions that respect human dignity.

In Italy, two decrees, including the October 2018 Salvini Security Decree, have transformed their procedures with the aim of restricting the right to asylum.
This reform led to an increase in the number of vulnerable people who were without protection and facing homelessness. It also meant a drastic reduction in resources for the CAS. The closure of a large number of places was justified by the government who cited a 'reduced flow', as occurred in Belgium. These budget cuts led to reduced quality of housing, cases of overcrowding and the stoppage of support services (legal aid, school support and language courses were all cut).

In Greece, following the election of the new government in July 2019, new measures on migration and the protection of asylum seekers and refugees were announced. Against a backdrop of repressive closures of historic squats and evictions from transit camps, the law on international protection (31 October 2019) reduced the length of a residence permit under subsidiary protection from three years to one year, extended the measures enabling detention of asylum seekers, announced the creation of new enclosed reception centres, imposed a six-month delay...

In Europe, the Dublin Regulation\footnote{Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person: https://eur-lex.europa.eu/eli/reg/2013/604/oj} determines which Member State is responsible for examining asylum applications – which is not necessarily the same State in which the application was made. The Dublin III Regulation, which entered into force in July 2013, contains measures regarding the protection of asylum seekers and aims to improve the system's efficiency.\footnote{In May 2016, as part of its proposed reform of the Common European Asylum Regime, the Commission presented the first version of a Dublin IV Regulation, a proposal to make the Dublin system more transparent, more efficient, and to better manage situations where there is disproportionately high pressure on Member States' asylum systems.}

\section*{WHAT DOES THE LAW SAY about the right to reception conditions for ‘dublinised’ people?}

\textbf{Cimade & GISTI\textsuperscript{[2012]CJEU}}

The Cimade and GISTI judgement challenges a French circular’s compliance with European regulation and the Reception Conditions Directive, in that it excludes asylum seekers from the right to welfare payments if they have been placed under the Dublin procedure. The CJEU accepted that the Reception Conditions Directive is applicable in such scenarios and, consequently, asylum seekers placed under the Dublin procedure must have access to the minimum reception conditions set by this Directive.

Regarding the \textit{personal and temporal reach} of the Directive, the CJEU judgement accepts that the Member States must guarantee reception conditions to any person from a third country or any stateless person who meets the following two conditions:

\begin{itemize}
  \item \textbf{a. That an asylum application has been made at the border or on the territory of the Member State concerned:} for this first condition, the CJEU reiterates the definition of an asylum application and outlines that any request for international protection is presumed to be a demand for asylum, unless the person explicitly requires another form of protection that can be applied for separately.
  \item \textbf{b. The person concerned is permitted to stay on the territory of the Member State as an asylum seeker.} For this second condition, the CJEU accepts that a person can remain as an asylum seeker:
    \begin{itemize}
      \item On the territory of the Member State where the application was made, during the Dublin procedure in which it is determined which Member State is responsible for examining the application;
      \item On the territory of the Member State responsible for examining the application, until this examination is completed.
    \end{itemize}
\end{itemize}

Staying ‘on the territory’ can include staying at the border or in a transit zone.
In 2018 in the EU-28, 94,397 applications were accepted under the Dublin procedure (up 91% since 2015), but only 25,960 effective outgoing transfers were carried out. Among these effective transfers, 67% were carried out within a period of 1-6 months, 20% within a period of 7-12 months and 13% within a period of 13-18 months. The national legislative reforms on asylum therefore particularly target ‘dublinised’ people, because these people do not ultimately depend on the competencies of the State in which they find themselves. In several countries, organisations describe people placed under the Dublin procedure being particularly exposed to housing deprivation. The number of asylum seekers rejected from Italy under the Dublin procedure almost tripled between 2013 (2,500 people rejected) and 2018 (6,500 people rejected).

According to a report from the Danish and Swiss Refugee Councils, rejected asylum seekers in Italy under the Dublin procedure are faced with discrimination when accessing accommodation, poor reception conditions and housing deprivation, not forgetting the risk of falling into extreme poverty.

In France, asylum seekers placed under the Dublin procedure have to be provided for only to the extent of the material reception conditions they are entitled to. They cannot be housed in CADA, but they do have access to other accommodation provisions for asylum seekers, often emergency accommodation, such as HUDA or PRADHA. However, asylum seekers can be subject to mandatory measures such as house arrest until they are transferred. To keep a ‘flow’ going through the asylum seeker accommodation facilities, they can also be put into a detention centre. This goes against the ethics and principles of social work, as the housing facilities are thus responsible for controlling and verifying the obligations of dublinised asylum seekers. On several occasions, the French government has proposed removing access to material reception conditions for dublinised people, with the aim of ‘limiting secondary movement’, these proposals are not in compliance with the European legislation in force (see text box above). In France, according to the principle of unconditional reception, dublinised people are entitled to access emergency accommodation. France has an extra deadline before proceeding to transfer and these people can see their material reception conditions withdrawn in the event of an unfavourable procedure. If the transfer has not been carried out by the deadline accorded to the French state, France becomes responsible for the asylum application of that person, who is thus ‘requalified’, i.e. they pass from a Dublin procedure to a normal or accelerated procedure. The reinstatement of material reception conditions for ‘requalified’ people is not automatic and they must apply for it at the OFII (French Office of Immigration and Integration); this reinstatement can only be refused if the OFII can prove the individual concerned is not in a vulnerable position.

In Belgium, a government measure – that has been widely criticised by associations – was announced in January 2020. Its aim is to ban access to general emergency accommodation to formerly dublinised asylum seekers, i.e. people who, having already been through the Dublin procedure, are seeking asylum in Belgium at the end of their six-month latency period, and to people who have already been granted refugee status in another country but would rather reside in Belgium. In Germany, a change of legislation on asylum in 2019 removed all social supports (accommodation included) to people granted asylum in another European Union Member State, after a two-week transition period. This may include people who have an ongoing appeal against being returned. This therefore affects a group that is particularly exposed to housing deprivation.
My name is H. I am from Afghanistan and I am thirty years old. [...] Up to June 2018, I was housed as part of the ESTIA programme in Thessaloniki. I am married, but I don’t have any children. I was diagnosed with mental health problems sixteen years ago. Since then, I have been taking antipsychotic medication. In 2016, I left my country due to the large-scale Taliban attacks in my region, in which my two brothers were killed. In July 2018, my wife and I left for the Netherlands paying traffickers a large sum of money; we applied for asylum in the Netherlands. After waiting two months, my asylum application was rejected and my wife and I returned to Greece. The organisation which had previously helped us [in Greece] informed us that our home had been given to another family. And because we had left ‘informally’ the first time, we had lost our right to other housing within the ESTIA programme. Being homeless badly affected my mental health. The first time I went to the DOTW clinic after our return, I was worn out. My wife was also in a bad state. [...] Today I feel much better. My health is stable. [...] After applying once again to the ESTIA programme, we were placed in a safe apartment in the centre of Thessaloniki.

DETENTION OF ASYLUM SEEKERS IN EUROPE

Administrative detention is regulated by the Reception Conditions Directive. The length of detention must be as short as possible. International and European legislation clearly stipulate that detention can only be used as a last resort.

In the United Kingdom, any person under the authority of immigration officials can be detained for an unlimited period. There are nine detention centres in Great Britain (some being managed by private security companies, others by the prison services). 24,748 people were in detention in 2018. In June 2018, 60 people had been in detention for more than a year. In 2019, the Supreme Court criticised the British Home Office for illegally detaining asylum seekers who had been placed under the Dublin procedure. Despite an ‘Adults at Risk’ policy started in 2016, the British government continues to detain vulnerable people. This is the case, for example, of many women who come from China, often victims of exploitation and human trafficking. According to Home Office statistics, Chinese women are the largest national group among women in detention: there were 420 of them in 2018. 275 of the 414 Chinese women who left detention that year had applied for asylum. 252 of them, i.e. 92%, were not deported on leaving the detention centre, but continued with their asylum application.

‘Their interest in removing you will always outweigh your vulnerability, there is no contest there. I saw loads of vulnerable people inside Morton Hall. Lots of psychotic episodes, people self-harming because they were so depressed. I saw someone cut their throat in front of me.’

John P, Freed Voices/DetentionAction
The Dublin Regulation and the tightening up of some national legislation on the right to asylum are therefore used by Member States to shrink from their obligations regarding reception, for example by restricting access to accommodation or ensuring rights for dublinised people. Here again, governments categorise migrants in terms of their administrative status and prioritise control and management of migration flows over solidarity and the obligation to protect.

Belgium was criticised three times by the European Court of Human Rights for locking up 2,000 children with their parents in closed centres, between 2004 and 2008.

In the Netherlands, there are two detention centres: one for single men (3,500 men on average in 2018, where they can stay for up to 18 months, but the majority are released within three months of entering) and one for unaccompanied minors, families with children (in this case, the stay cannot be longer than two weeks) and women (26 people from May to August 2019). In Spain, detention centres are not used to detain asylum seekers, detained people can however apply for asylum. In this case, the person is released and directed to an association, as they cannot be deported while their application is being processed.

The detention of migrants is harmful, ineffective and costly. Harmful because it has detrimental effects on mental health, on people’s trust in the asylum system (and thus their capacity and willingness to cooperate with the authorities) and on the ability to meet their basic needs. In Belgium, in September 2018, the federal government established a closed national administrative centre for migrants in transit and increased the number of places in enclosed centres: 160 migrants in transit were detained there in July 2019, with a cost to public finances of EUR 215,000 per week, or EUR 192 per person per day. The majority of these people were released after a few days, either because they could not be deported if they are at risk of torture or persecution in their home country, or because their country of origin was unknown. The ineffectiveness of prolonged detention periods has also been proven in the United Kingdom, where fewer than 40% of migrants detained for more than six months were deported. Eurostat data shows the lack of correlation between the maximum detention time of Member States and the rate of forced repatriation.

The alternatives to detention involve a legal obligation: an individual evaluation must be carried out on a case-by-case basis, and when detention is resorted to, in the absence of any other possible measure, it must be imposed for the shortest duration possible.

I gave up thinking about life outside of Colnbrook. I told myself ‘Colnbrook is your home now – that is the only way to survive’. My cell became my bedroom. The canteen became my kitchen. When I look back now, it’s crazy to think how normal it became to be locked up at night, night after night after night.

Souleymane, Freed Voices/DetentionAction
Varied measures when it comes to provision for people in vulnerable situations

Asylum seekers are, by definition, vulnerable people: a lack of or inadequate provision can, in respect of these people, amount to degrading treatment due to this vulnerability. The reception crisis, the institutionalisation of emergency accommodation and the weaknesses in the reception systems as described here have harmful effects on the mental and physical health of asylum seekers, on their private and family lives, and can amount to inhuman and degrading treatment, as recognised by the ECHR in the case of M.S.S. v Belgium and Greece.

WHAT DOES THE LAW SAY about the right to protection from inhuman and degrading treatment for asylum seekers?

M.S.S. v Belgium and Greece99 |2011|ECHR

The European Convention for the Protection of Human Rights does not expressly provide for the right to housing. The Strasbourg courts have always stated that the Convention cannot, as a matter of principle, guarantee the right to housing to every person under its jurisdiction. However, the European Court of Human Rights protects the right to housing on the basis of Article 8 (respect for one's home and private and family life), in situations where sufficient and continuous connection can be established to a specific place. More recently, the Court stated that the absence of shelter, for particularly vulnerable people, may violate Articles 3 (inhuman and degrading treatment) and 8 of the Convention. The main cases that are relevant in this respect are M.S.S. v Belgium and Greece, and V.M. and others v Belgium.

M.S.S. v Belgium and Greece is a landmark case. The case involved an Afghan asylum seeker who had fled Kabul in 2008, entered the European Union through Greece to eventually arrive in Belgium where he applied for asylum. In accordance with the Dublin Regulation, Greece was the Member State responsible for examining his asylum application. Consequently, the Belgian authorities transferred him to Greek territory, where he was placed in a detention centre in unsanitary conditions before having to sleep rough with no material assistance.

The Court attached particular importance to the claimant's status as an asylum seeker and, as such, a member of a particularly disadvantaged and vulnerable population in need of special protection (251). The Court stated that it is a violation of Article 3 because the claimant 'Spent months in a state of extreme poverty, incapable of meeting his most basic needs: food, hygiene and housing. This was compounded by the ever-present fear of being attacked and robbed and the total lack of any hope of improving their situation.'
Furthermore, some people are particularly vulnerable among asylum seekers: the circumstances of people with specific needs are particularly alarming, in particular when we see their increased exposure to extreme poverty and housing deprivation. According to the Reception Conditions Directive, asylum seekers are housed in facilities and accommodation centres (outside of private housing). Member States must take into account 'factors linked to their gender and age, and the circumstances of vulnerable persons'. Taking into consideration the particular circumstances of vulnerable people is asserted by Article 21 with regard to minors, unaccompanied minors, disabled people, older people, pregnant women, single parents with minors, victims of human trafficking, people with serious illnesses, people with mental health issues, and people who have been tortured, raped or been subjected to other serious forms of psychological, physical or sexual violence.

Member States must evaluate 'within a reasonable time frame' if the asylum seeker has particular reception needs and must ensure that the support provided as a consequence takes into account 'their special reception needs throughout the duration of the asylum procedure and shall provide for appropriate monitoring of their situation'. Specific provisions exist on the measures that need to be taken to ensure the
A particular vulnerability is taken into account with regard to minors (Article 23), unaccompanied minors (Article 24) and victims of torture or violence (Article 25). Where minors are concerned, for example, the Directive states that the best interests of the child must be a priority for Member States, who are bound to ensure that minors are housed with their parents and brothers and sisters, and even that they have access to leisure activities. However, there is no detail on other categories of vulnerable people and how to address their particular needs, which leaves a degree of discretion that varies from Member State to Member State.

Evaluating how vulnerable asylum seekers are and, if needs be, providing them with appropriate assistance is therefore a Member State obligation in accordance with the Reception Conditions Directive. For all that, not all member states have established a systematic identification/evaluation mechanism for assessing the vulnerability of asylum seekers.

This can be observed in Ireland and Germany in particular. In Ireland, the number of asylum seekers in emergency accommodation increased from 196 to 936 people between November 2018 and July 2019. Emergency accommodation is the main form of reception currently available to newcomer asylum seekers in Ireland. According to studies by the Irish Refugee Council, people living in these centres face difficulties accessing the care and social welfare (‘Daily Expenses Allowance’) that are normally available to asylum seekers. The lack of any mechanism to identify vulnerability has been criticised by civil society organisations as a significant reason for the difficulties in implementing the Directive. In response to a parliamentary question, the Irish Minister for Justice and Equality said that ‘it is not possible to provide data on the number of people with specific needs’.

In Germany, a 2016 amendment to the German Asylum Act integrated provisions related to identifying vulnerable asylum seekers. However, this is not a correct transposition of the recast Directive on Asylum Procedures, as it only specifies that an interview should take place and not that adequate assistance should be provided to asylum seekers needing specific procedural guarantees. In practice, the identification procedures in Germany have been described as ‘questions of luck and coincidence’ given that the authorities ‘are not empowered to take the necessary measures to determine psychological problems or trauma’.


There have also been failures in identifying and taking account of vulnerability in the Greek and Spanish ‘hotspots’. Besides the issues related to lack of hygiene, sanitary facilities and overcrowding, the lack of appropriate mechanisms for victims of violence must be pointed out. Suitable provision should include evaluation with trained staff, respecting confidentiality rules and how people concerned can access treatment or adequate medical and psychological care. Member States are failing to meet their obligations at all levels. For example, on the island of Lesbos, there are only five doctors for a camp of several thousand people. Women have to live alongside unknown men, without any private space. The medical and psychological supports are insufficient and it has been reported that there is a lack of confidentiality in procedures, leading to many women choosing not to report when they have been victims of violence. Furthermore, in the villages of Ceuta and Melilla in Spain, while a ‘protocol for detecting trafficking victims’ exists, there are no specific measures to ensure the protection of women identified as potential victims of violence.103 In both towns, undocumented people who arrive on Spanish territory are accommodated in the two Migrant Temporary Stay Centres (Centros de estancia temporal para inmigrantes, CETI). At the end of August 2018, the Ceuta centre housed 1,057 people (for 512 places) and the Melilla centre housed 1,192 (for 782 places, including places in tents). The voluntary sector has repeatedly sounded the alarm on the appalling living conditions, excessive overcrowding, lack of interpreters and psychologists, exposure to violence and to exploitation even within the centres, particularly for women and children. The lack of specialised places also causes family separation – in these cases, minors stay with one parent.104


104 The Special Representative of the Secretary General of the Council of Europe on Migration and Refugees expressed the need for Spanish authorities to ensure that the CETIs at Ceuta and Melilla have the same standards in terms of living conditions, education, healthcare, language and training courses that asylum seekers have a right to on mainland Spain. Council of Europe (2018), ‘Report of the fact-finding mission by Ambassador Tomáš Böček, Special Representative of the Secretary General on migration and refugees, to Spain’, 18-24 March 2018, para 9.1. See also the 2016 and 2017 reports from Human Rights Watch, Amnesty International, UNICEF and Spain’s Defensor del Pueblo. ECRE/AIDA (2018), Country Report Spain.

Preserving the family unit must, in accordance with European regulations, be a priority in order to respect the best interests of the child. In the majority of Member States, accommodating families in emergency accommodation and hotel rooms, where there is overcrowding, lack of private space and squalor, has harmful effects on social and family relationships, health and the education of children. In France, in winter 2019-2020, an unprecedented number of families with children were sleeping rough without a housing solution (many of them migrant families), a situation that was criticised by the voluntary sector. On 16 January 2020, CASP (the Protestant Social Action Centre) which manages a Parisian platform for accommodating families of asylum seekers counted 329 people homeless, including 149 children. A study by the French Défenseur des Droits published in 2019 highlighted how temporary accommodation in hotels has negative effects on family and friend relationships, education and the health of adolescents. In Ireland, according to a 2017 Focus Ireland report, between 35% and 59% of homeless families in Dublin come from a migration background. In England, the accommodation conditions for asylum seekers have been criticised many times for their lack of security, non-respect for private life, and absence of minimum hygiene and safety standards. These conditions are particularly unsuitable for mothers and their young children, pregnant women, victims of torture and people suffering from post-traumatic stress. In Scotland, a national consultation on the use of bed & breakfasts and hotels for homeless people showed that this amounted to ‘psychologically destructive and traumatising’ living conditions, which led the Scottish government to propose legislation limiting the length of stays in such temporary accommodation to one week and to prioritise sustainable housing solutions.

### Unaccompanied minors

Unaccompanied minors, i.e. adolescents under 18 years from third countries arriving in Europe without family, are particularly vulnerable when it comes to housing deprivation. According to Eurostat, the number of unaccompanied minors seeking asylum in Europe has increased seven-fold between 2013 when the number was 12,725 and 2015 when the number reached 95,205. In 2018, 19,845 unaccompanied minor asylum seekers registered in the EU-28. This amounts to 10% of all asylum seekers under 18 years. These children arrive completely alone and without any frame of reference. They should be taken into the care of child social services in the majority of Member States. The systems for child protection are certainly effective on paper but in practice there are failures in the majority of Member States, particularly regarding unaccompanied minors: their care is provided on a limited basis for cost-saving purposes. These children are thus, for the most part, accommodated in hotels where they live alone with little or no support, which makes them particularly vulnerable to isolation, solitude and exclusion. Their administrative status, once again, trumps their child status. The absence of protection and the lack of commitment from public authorities exposes them to all kinds of risks including very serious ones such as human trafficking, prostitution and coercive control. Studies show a...
correlation between low standards of protection and an increase in the number of minors being exploited, coercive control is tied up with a mix of factors (need for shelter, physical and psychological violence, debts due to their passage to Europe, etc.). Of 11,700 unaccompanied minors who applied for asylum in the Netherlands over the last ten years, 2,556 disappeared from reception centres before the end of their asylum procedure (and without local authorities knowing where they went). Some young people go to other parts of the Netherlands or Europe to find family members, but according to associations, some of them become victims of human trafficking. Being forced to commit crimes is one form of exploitation widely used on children. These crimes are viewed through the prism of delinquency by the public authorities who continue to convict minor victims on a large scale rather than convicting the masterminds behind this type of criminality. The regular use of incarceration for these children further increases their isolation and the unlikelihood of them accessing protection, and ultimately this works in favour of criminal organisations which flourish as a result of this vicious circle.

The policy of migratory control thus infiltrates all areas, including the protection of children: some public authorities in France, for example, contest the under-age status of some children on the basis of arbitrary criteria, in order to avoid responsibility, and they prioritise fighting illegal immigration over the rights of the child. A decree on the minority assessment support (AEM) entered into force on 30 January 2019. In effect, this decree enables the French authorities to deport a child seeking protection due to their minor age and isolation as soon as the Department (in which they are residing) considers them to have reached adulthood. The Department's decision is mostly based on a cursory evaluation procedure containing subjective criteria. According to the associations, the application of this order results in children seeking protection being turned out on the streets following the entire prefecture procedure. These young people, sometimes just 15 or 16 years old, can then (in the best-case scenario) have recourse to homeless support services, which in turn are forced to develop new competencies as they go, to try and best support these people with their specific needs — while acknowledging that in order to be housed through the 115 hotline, for example, they are obliged to say they are adults. Of 3,774 unaccompanied minors living in Greece in March 2019, half could be considered homeless: 1,932 were living outside of temporary or long-term accommodation and 605 were rough sleepers, i.e. 16% (these figures do not take into account the number of unaccompanied minors who are undocumented).

Effective protection of unaccompanied minors is therefore conditional upon implementation of an evaluation and a procedure that takes account of the rights of the child at every stage, through a comprehensive care plan adapted to their protection needs for the entire time they are recognised as minors, and through identifying sustainable solutions in accordance with the child's best interests, enabling a smooth transition to independence.

Asylum seekers with specific mental health care needs (victims of violence, torture, trauma, post-traumatic stress, etc.) are frequently helpless when there is no individualised support taking their distress into account. In France, 12% of unaccompanied minors at CASOs (healthcare and advice centres) run by Médecins du Monde in 2018 were diagnosed with psychological or psychiatric disorders. 56% of asylum seekers were diagnosed with chronic illnesses and 54% with acute illnesses. Almost one asylum seeker in two (48%) had delayed seeking medical attention, and 44% needed urgent or quite urgent care according to the doctor in consultation. In Italy, organisations have criticised the lack of, and poor
quality of accommodation for the most vulnerable people with mental health problems and/or addiction problems. These people are frequently evicted from accommodation facilities and find themselves on the street and/or in low-threshold services intended for homeless people.

Healthcare professionals working with this population are often overwhelmed by the patients they see who present high levels of distress related to homelessness, extreme poverty, social marginalisation and the lack of any support network. In these circumstances, the effectiveness of available treatment is weakened, hindering their return to good health.

Dr Stefanos Kontokostas, psychiatrist, Open Minds II – Promoting Mental Health and Well-Being in the Community (2019), Doctors of the World Greek Delegation.

WHAT DOES THE LAW SAY about the level of seriousness required for the lack of care to constitute inhuman or degrading treatment?

N.T.P and others v France124|2018|ECHR

This case was about the means of housing a family – a mother and her three young children – while they were waiting to apply for asylum. The Court concluded that the claimants were accommodated for the night in a hostel financed by public funds and that two of the children were attending primary school. Furthermore, the claimants were also receiving medical care financed by the State and were being helped by NGOs. The Court therefore handed down a judgement that the claimants had been able to ‘meet their most basic needs’ (food, hygiene, and a roof) and that the French authorities had not acted indifferently to their needs. Consequently, their situation was not serious enough to fall within the scope of article 3.

M.K. v France125 |2018|ECHR

This decision by the ECHR ordered the French government to house an asylum seeker (a mother and her three children) using the interim measures stated in Article 39. In accordance with the Court’s established case law, these interim measures are applied when there is a risk of imminent and irreparable damage. In practice, the Court did not indicate if the damage was coming from the claimant’s lack of housing or from the non-respect by the French government of the three decisions from the Toulouse administrative court ordering the State to provide the family with housing. Either way, this demand for the interim measures enabled the claimant to be housed immediately and highlights the risk of violating the rights guaranteed by the Convention in cases where access to emergency accommodation is refused.
### The absence of accommodation options for migrants in transit

People falling under the term ‘migrants in transit’ enter one European country wishing to go to another European country to apply for asylum or to stay there (e.g. for family reasons or reasons related to work or study). This country is not, in principle, responsible for processing their application due to the Dublin Regulation. They do not apply for asylum in the country (or countries) through which they are ‘transiting’. They have very different profiles (women, men, unaccompanied minors) and are in disparate situations (old or new arrivals in Europe, international protection granted in another country, etc.).

Their situation is considered irregular and they find themselves in a European administrative vacuum. As a result, their fundamental rights and primary needs are often denied: they do not have access to the asylum reception system and they are often refused access to general emergency accommodation. When this is not the case – in France where access is supposed to be unconditional, in Spain and the United Kingdom where the services are non-statutory – the lack of places and prioritisation of more vulnerable people forces them into extreme deprivation. The widely publicised cases of camps in Calais, in Milan (in 2016), in Ventimiglia and in Park Maximilian in Brussels were gross manifestations of this. Following the increase in the number of asylum seekers in Europe in 2015 and the evictions from the Calais ‘jungle’ at the end of 2016, many migrants in transit made their way to Belgium, the majority of whom wanted to go to the United Kingdom. In September 2017, to offer them a minimum of dignity, seven associations created a humanitarian Hub. In 2018, almost 200 people used the Hub every day, i.e. more than 47,000 people over the year. Its aim is to provide first-line assistance and to direct people towards the most appropriate support services according to their specific situation. People can receive advice on their legal and social situation, see a doctor, speak to a psychologist, charge their mobile phone and call their family or even receive clothing. According to an MSF report, migrants in transit experience extreme psychological stress related to their exile and their migration journey but also to their living conditions and to the repressive police force that they are subjected to. Among the people received at the Brussels humanitarian Hub, one in four attributes their psychological problems to their experiences in Europe: mediocre living conditions, uncertainty about which procedure to follow, police behaviour, etc.

Official data on housing deprivation very rarely covers undocumented people, which contributes to making them and their needs invisible. According to Médecins du Monde, in France, among the undocumented migrants coming to the CASO, one in five is homeless and 85% of people who in theory are under the AME (Aide Médicale d’Etat/State Medical Aid, provision enabling foreigners in an irregular situation to access healthcare) do not have acquired rights, which leads to serious difficulties in accessing healthcare services. Whether the extent of ECHR protection of asylum seekers, a large number of migrants do not intend to get the protection provided for through the Geneva Convention in the country they are transiting through and thus risk becoming homeless. Nonetheless, the right to emergency accommodation is a minimum living condition and should oblige States to provide everyone with it, regardless of their legal status. This impression is reinforced by the position of the European Court of Human Rights, which requires that minimum reception condition are ensured before any family seeking asylum is
returned. In this regard, the European Committee of Social Rights adopted an interpretive declaration on the rights of refugees in accordance with the European Social Charter in which the Committee restates the content of the collective complaint, *FEANTSA v the Netherlands*. The right to emergency shelter and to all other emergency social assistance is not limited to those who belong to certain vulnerable groups, but extends to all people in unsafe circumstances, in accordance with the principle of respect of their human dignity and protection of their fundamental rights. The Committee considers that certain social rights directly linked to the right to life and to human dignity form an intangible core of rights that protect the dignity of all.

**128** See [http://www.bxfrefugees.be/#services](http://www.bxfrefugees.be/#services)


**131** FEANTSA v. the Netherlands Complaint No. 86/2012, Decision on the Merits of 2 July 2014.
When an asylum seeker has their application accepted, they become beneficiaries of international protection. They thus have permission to stay on the territory of the reception country for a fixed period based on the status granted to them, in the medium or long term. For the person concerned, this step is the beginning of their integration process in the reception country. According to Article 32 of the recast Qualification Directive, beneficiaries of international protection have a right to housing under the same conditions as other people from third countries in regular situations. They cannot be subject to discrimination regarding access to housing. However, the principle of non-discrimination is adapted to allow for national practice of dispersal of beneficiaries of international protection (Article 32 of the recast Qualification Directive). Refugees can thus be forced to live in a particular place. Furthermore, the legislation does not impose any legal obligation on the authorities of Member States regarding the provision of housing for beneficiaries of international protection. However, gaining international protection status or refugee status does not guarantee the best accommodation conditions far from it. There are countless legal, practical and administrative obstacles to transitioning upwards, i.e. towards affordable, dignified and sustainable housing within a reasonable time frame. This leads to serious consequences for the people concerned and for the reception capacity for new arrivals, as it limits the number of places freed up for their arrival. The number of homeless refugees has especially increased in areas where homelessness is closely linked to a critical lack of affordable housing.

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132 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. Available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32011L0095

The problem of housing transitioning despite the change in administrative status

When an asylum seeker receives international protection while they are housed in the asylum seeker reception system, the issue of transitioning to sustainable housing solutions and supports arises. However, many beneficiaries of international protection are forced to remain in facilities intended for asylum reception or to use general services due to a lack of other solutions. In France in 2018, the proportion of places occupied by refugees in the national reception provisions was on average 16%: they occupied 16% of CADA places, 22% of ATSA places, 9% of PRAHDA places and 8% of HUDA places. At the end of 2018 in the Netherlands, 20% of places in asylum seekers accommodation were occupied by beneficiaries of international protection (4,600 of 22,500 places). In terms of reception conditions, the transition from one status to another involves changes to the process and orientation, ideally enabling people to leave facilities intended specifically for asylum seekers in a dignified manner. Asylum seekers do not know in advance if they will be granted the status or not so it is difficult to plan solutions ahead of time. A minimum amount of time is necessary to prepare for this ‘upwards’ move.

In the Netherlands, transition from asylum seeker reception centres to accommodation for beneficiaries of international protection is only made when adequate housing, outside of the reception centres, is found by the COA in cooperation with the municipalities. Four placement criteria are taken into account: place of education/training, place of work (minimum of six-month contract and 20 hours per week), medical or psychosocial issues or the presence of (first-degree) family connections in the Netherlands. If one of the criteria applies, the COA tries to place the beneficiary within 50 km of the municipality concerned. Refusal of placement – justified – is allowed; but if the refusal is considered unjustified by the COA, no further offer is made and the reception services end their accommodation provision. It is only in these (rare) situations that refugees risk becoming homeless.

In Germany, the assistance an asylum seeker receives is regulated by asylum legislation. When international protection is granted, the person moves under the general social welfare regime and must transfer to independent accommodation. The situation varies depending on the local housing market and the local policies in place. According to a study financed by the German Ministry for Labour and Social Affairs published in 2019, 86% of German urban communities questioned said that they had received asylum seekers into collective accommodation and 49% also used dispersed independent housing. In both cases, having obtained protection status, people can stay in shared accommodation or independent housing until they find their own solution. But in a lot of cases, in places where the housing market is not subject to specific planning, beneficiaries of international protection have to resort to accommodation for homeless people. According to estimations from BAGW, on one night in June 2018, 542,000 people were homeless in Germany, 140,000 of whom were living in emergency accommodation or general temporary accommodation, and 402,000 (74%) were living in accommodation for asylum seekers and refugees.

In some countries however, there is no public system for accommodating beneficiaries of international protection and the very short deadlines for leaving the asylum seeker facilities expose these new beneficiaries to homelessness. This is the case in England, where 32% of people housed by the No Accommodation Network...
support services for homeless people in Manchester, London and Leicester) were refugees. The majority became homeless after having trouble finding work and before their paltry financial assistance was stopped: the 'transition' period, i.e. the statutory deadline for leaving asylum seeker accommodation when a person obtains international protection, is 28 days. Direct links have been shown by the associations between these very short deadlines for leaving accommodation and the high prevalence of homelessness among beneficiaries of international protection. Any person who has experience of trying to find a job, housing (social or in the private sector) and apply for social welfare will understand that getting these three issues resolved in 28 days is an impossible task, made all the more difficult by the delay for receiving welfare payments is five weeks minimum. People do not know if they will receive international protection nor when; it is therefore impossible for them to make plans in advance. Access to emergency accommodation is the only solution that beneficiaries are entitled to while waiting for access to social welfare, which beneficiaries of international protection are entitled to. Except that access to accommodation for homeless people in England is subject to being granted homeless status, and to an evaluation of vulnerability and priority needs. More than a hundred English councils have resorted to using private companies to evaluate the vulnerability of people applying for homeless services, often carried out without any meeting taking place. If vulnerability is not established, all aid including emergency accommodation, is refused. A doctor can decide that a person is capable of sleeping rough without having met them beforehand. Among those considered 'not vulnerable enough' and thus ineligible for emergency accommodation, are migrants with mental health problems and refugees who are victims of torture. Refugees who manage to access emergency accommodation report feeling unsafe in these places where violence, and alcohol and drug abuse are common.

Many of our clients are street homeless and/or without any income at all at some point after receiving notification of their status as a refugee. Even those who manage to stay with friends have to move around as they are unable to tell a friend how long they will be there. The ‘lucky’ ones access night shelters in the winter months and it is not unusual for them to rely solely on day centres for a hot meal every day. Many get into debt or rely on ‘hardship’ payments from charities such as the Refugee Council. This is not a sustainable situation and of course is extremely damaging to the mental health and resilience of a person who has already suffered so much.

Written account, Refugee Council, United Kingdom

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142 NACCOM (2018), ibid.
Similarly, in Belgium, there is no specialised housing stock for this purpose. Once the status of beneficiary of international protection has been granted, the person has two months to leave the asylum reception centre — a period that can be extended by one month, twice. A survey by the VVSG (Association of Flemish Cities and Municipalities) shows that this two-month period is too short: in 2019, 51% of OCMWs/PCSWs (Public Welfare Centres) state that it would take three to four months to leave with a solution in place, 45% state that it takes five months on average (while only 20% held this opinion according to the same survey in 2017). Pressure on the housing market has increased over the last two years. In order to avoid having to turn refugees onto the street, the Public Welfare Centres sometimes have to suspend their local reception initiative with Fedasil: beneficiaries can therefore stay a little longer in the reception centre but, as a result, there are no new reception places for incoming asylum seekers. While refugees can sometimes be sent into the Public Welfare Centre’s emergency housing, this is also just a temporary solution.

In France, the deadline for leaving asylum accommodation after a favourable decision is three months, renewable once in exceptional circumstances. In 2017, 12,098 beneficiaries of international protection left the asylum reception system without a secure housing solution. When protection is granted, beneficiaries usually fall under the common law provisions for access to housing: access to private housing through a direct lease (traditional private market or subsidised, often inaccessible to people on low incomes), entitlement to common law financial aid to access housing or support for accessing housing, access to adapted housing. Despite the existence of an enforceable right to housing, the French State has no legal obligation to specifically house beneficiaries of international protection, who can find themselves in conditions of deprivation that are even worse than those of asylum seekers, due to the many obstacles they face accessing dignified and affordable housing and the inadequate number of specialised long-term housing units. 15% to 20% of homeless people living on the streets of Paris are reported to have refugee status, according to estimations by France Terre d’Asile. It was only in 2015 that DIHAL’s (Interministerial delegation for temporary accommodation and access to housing) Migrant Section piloted a public action to promote housing for beneficiaries of international protection. The temporary accommodation centres (CPHs) have been housing and supporting the integration of statutory refugees since 1973. For more than 20 years, the provision was limited to 1,083 places for the entire territory; 1,000 extra places were created in 2017, 3,000 in 2018 and 2,000 in 2019, bringing the current total to 7,810 places.

While establishing short statutory periods and transition periods is very problematic in countries where there are very few housing solutions for refugees, the lack of a time limit can also have harmful effects: beneficiaries of international protection can end up stuck in low-quality temporary accommodation that is unsuitable in the long term and a factor in exclusion. Furthermore, fewer places become free which exacerbates the shortage of places for new arrival asylum seekers.

In Greece, the ESTIA programme for asylum seekers and refugees was time limited as a result of a ministerial decision in March 2019: accommodation and financial assistance through the ESTIA programme are now offered for a maximum six-month period after international protection has been granted. This led to the first ‘evictions’ from the ESTIA programme which affected 204 people who had been granted international protection before the end of July 2018.
Associations criticise the lack of integration programmes enabling people to learn the language and search for a job as well as the many barriers to accessing social welfare and affordable housing.

In Italy, the asylum system itself is in transition. SIPROIMI (formerly SPRAR) is the system for protecting beneficiaries of international protection, in collective accommodation or apartments. It is a system only for people whose asylum application has been accepted. Since the ‘Salvini Decree’, only people with a five-year residence permit, i.e. those with subsidiary protection or political asylum and unaccompanied minors, can access this system. The conditions for residency under SIPROIMI/SPRAR include learning Italian and having a long-term plan, to be set with the programme operators. The majority of people in this system are vulnerable (single-parent families, with physical/mental health problems, etc.). The length of stay there is six months, renewable after evaluation if the process and level of vulnerability requires it. The functioning of the system depends largely on the municipality: SIPROIMI/SPRAR needs compliance from cities and a willingness to manage reception on their territory. As a result, many municipalities do not want to provide this reception service. Support in these structures is intended to be comprehensive: Italian classes are obligatory, basic needs are taken care of (meals and health) and integration activities are offered. However the ‘Salvini Decree’ also led to budget cuts to the SIPROIMI/SPRAR funding: financing allocated to accommodation in private apartments fell by 39% between 2018 and 2019 (from EUR 35 to EUR 21.35 per person per day) and funding allocated to collective accommodation centres fell by 28% (from EUR 35 to EUR 26.35 per person per day). Before the ‘Salvini Decree’, holders of a humanitarian residence permit\(^\text{151}\) could access SIPROIMI/SPRAR, but this is no longer the case.

People with humanitarian protection had to leave SIPROIMI/SPRAR before 31 December 2019 and, while some services and municipalities planned to take responsibility for these people (for example, Milan, where the majority are very vulnerable or families or people with mental health problems\(^\text{152}\)), many are now particularly exposed to housing deprivation. At each stage, people are required to be integrated, to have solid long-term plans for all aspects of their lives (social, work, education, culture and housing), to adapt to structures which are, in contrast, very fragmented and interventions that are based on emergency and short termism. There are so many obstacles to overcome, complicating further their access to common law housing.
THE LIVING CONDITIONS OF PEOPLE REJECTED FROM ASYLUM

The tightening up of the conditions for gaining international protection and of asylum policies has serious consequences on the number of people rejected from asylum. In the European Union in 2018, of 581,895 first instance decisions on asylum applications, 63% were rejections. Decisions acknowledging rejection of the asylum application represented 76% of first instance decisions in Spain, 72% in France, 68% in Sweden, 65% in United Kingdom and the Netherlands, 58% in Germany, 53% in Greece and 49% in Belgium.¹⁵³

Access to shelter for people rejected from the right to asylum differs from country to country. In the United Kingdom, rejected asylum seekers do not have access to support services for homeless people because they do not have the right to public funding. Specific services exist, offered by charitable associations. In 2018, NACCOM provided 1,111 rejected asylum seekers and 180 migrants who did not have rights to public financing, to accommodation with third parties and housing in buildings donated to the associations. The situation of rejected asylum seekers unable to return to their country of origin is described in a Red Cross report.¹⁵⁴ In Sweden, financial assistance and housing supports for asylum seekers who are governed by a specific legal framework (LMA-lagen) are under the competency of the Swedish Migration Agency; these supports cease as soon as a deportation decision is made – except for families, who must not however try to escape the deportation or they risk losing their right to support. In Spain, rejected asylum seekers must leave the reception programme 15 days maximum after notification, regardless of what ‘phase’ of the programme they are in. These people then turn to municipal social services and services for homeless people. In France, recent case law from the Council of State has led to restrictions accessing emergency accommodation for rejected asylum seekers with OQTF (Obligation to leave French territory): for these people, unconditionality of emergency accommodation must be applied only to rejected asylum seekers who can justify their particular circumstances and only as long as it takes for them to organise voluntary return. In practice, these case law interpretations really pose a challenge to housing this population – in a general and systematic way – with consideration on a case-by-case basis not always being given. This has led to general instructions for refusing reception to irregular migrants on French territory with no consideration given to their individual situation; sometimes the age of children (less than one year or more than one year) is used to make the distinction between families who can benefit from reception in an emergency facility and those who cannot, as they are considered non-priority. In this context, single undocumented men, and increasingly, women and families, are forced to live on the streets without a housing solution, yet they have a right which protects them and which should guarantee that their administrative situation cannot be used to justify refusal of a fundamental right. A new type of accommodation centre has recently been created without any legal basis: DPAR (Measures to prepare for assisted return), which was set up regionally via the 2018 finance law. They are inspired by the Belgian model of centres solely for the return of rejected asylum seekers. Accommodation is conditional upon people accepting help to return. However, people are under house arrest and are subject to measures restricting their freedom.

¹⁵³ Eurostat 2020, [migr_asydcfsta], see ‘Going Further – Annexes and Tables’ Table 3.1 – First instance decisions on asylum applications, 2018 (number of people, only those from outside EU-28).

WHAT DOES THE LAW SAY about lack of basic assistance for asylum seekers subject to an order to leave the territory?

V.M. v Belgium155  |  2015 |  ECHR

Members of a Serbian family seeking asylum, who were subject to an order to leave Belgium, were deprived of their basic subsistence needs and forced to return to their country of origin where one of the children (seriously disabled) died a short time after their return. The family claimed that the exclusion from Belgian accommodation services exposed them to inhuman and degrading treatment and that the reception conditions in Belgium had led to the death of their eldest daughter.

The Court examined whether there had been a violation of Article 3 of the ECHR with regard to inhuman or degrading treatment. To determine if the threshold of gravity that characterises infringement of Article 3 was reached, the Court based its decision on the status of an asylum seeker as a person belonging to a particularly disadvantaged and vulnerable group requiring special protection. The Court agreed that this vulnerability was worsened by the presence of young children, including one baby and one disabled child. In this case, it was considered that the claimants were evicted from the reception centre ‘without means of subsistence, without housing, and without access to sanitary facilities [...] they found themselves on the streets and stayed there – without any assistance to provide their most basic needs (food, hygiene and shelter)’. These living conditions, combined with the lack of any hope of improving their situation, were so serious that they fall under Article 3 of the Convention and constitute degrading treatment.156

It is worth mentioning the Return Directive, which entered into force in 2010 and provides common rules for the return and removal of persons residing without authorisation, regulating recourse to forced measures and detention. These measures must fully respect human rights and the fundamental freedoms of the people concerned. The Directive was transposed into national law by all States party to it (all EU Member States except the United Kingdom and Ireland, as well as the four Schengen states: Switzerland, Norway, Iceland and Liechtenstein). It entitles exiles to rights that can be invoked in cases taken in national jurisdictions.
Access to adequate housing is a right that is being severely tested for a growing number of people residing in the European Union. The right of an individual to respect of his or her home is enshrined in Article 7 of the European Union Charter of Fundamental Rights as well as by Article 8 of the ECHR. Article 11 of the International Covenant on Economic, Social and Cultural Rights (which all EU Member States are a party to) forms the basis of the right to ‘adequate housing’. According to the United Nations Committee on Economic, Social and Cultural Rights, ‘adequate housing’ must meet the following requirements: be of sufficient quality to guarantee protection from the weather; reflect the cultural needs of its occupants (including, consequently, vehicles, caravans, camps and other provisional structures); be connected to water and electricity mains as well as the sanitation network; and have adequate infrastructure enabling them to benefit from public services and work opportunities. The housing must, in addition, be affordable and its occupants must be able to enjoy adequate protection against all forced or rapid evictions.

In practice, gaining international protection does not mean the fight is over, far from it. An accumulation of obstacles – financial, legal and administrative – to the increasingly inaccessible housing market complicate access to adequate housing for refugees. This in turn increases exclusion – spatial, social and legal – as well as the isolation, segregation and discrimination that they are particularly exposed to.

The growing gap, over the last decade, between housing costs across all European Union countries and household income, particularly for poor households, is a key factor in the exclusion of beneficiaries of international protection from the housing market. In Greece, financial assistance for housing is only accessible to people legally residing on the territory for at least five years and in possession of a rental contract. The solidarity allowance is only allocated on condition that the person is able to provide a valid rental contract of minimum six months or a homeless certificate (provided by the municipal social services). An illustration of the difficulties encountered as a result of these conditions is given by Refugee Support Aegean; they gave an account of a family recognised as beneficiaries of international protection who become homeless. In Athens, the homeless certificate is issued to people on the streets or in inadequate accommodation, but this does not cover people living temporarily with other people or in squats. This was the case of this family, who were refused the certificate and, as a result, the solidarity allowance, leading to extreme deprivation for a family with two dependent children and whose parents have health problems.

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CHAPTER 3

We have just received our official documents here. But we cannot transform them into a roof over our heads, we cannot feed our children with them.

Aza*, the mother of a family which has received international protection in Greece, and is homeless. Source RSA/ProAsyl.

Beneficiaries of international protection are largely excluded from social housing in the initial years after their arrival because, having obtained their residence permit, they are subjected to very long waiting lists for social housing. This is not, however, the case in Denmark, where refugees are prioritised on the social housing lists. The asylum housing system functions in Denmark as a combination of distribution & supply/demand matching systems: asylum seekers are initially distributed across the territory and are allocated housing in one of the municipalities, but in this phase, they do not have freedom to choose their place of residence. However, if the three-year integration programme is successfully completed in the designated municipality, they are free to move where they want. While refugees express their preferences and needs in terms of housing, the municipalities state what housing is available until a match is found. This considered allocation results in better integration, as it facilitates access to the labour market, housing and, to a certain extent, integration into schools. Similar strategies have been developed in the Netherlands (where continuity of protection is ensured by a person’s exit from asylum accommodation only being permitted if a sustainable housing solution is available), in Sweden and in Germany.

In Sweden, beneficiaries of international protection who do not manage to find housing have, since 2016, been referred to Swedish municipalities by the Migration Agency via a quota system (based on the size of the municipality, the number of refugees already received and the suitability of the local employment market to people’s professional situations). The municipality is thus responsible for providing housing and cannot use lack of accommodation as a reason for refusing people housing. According to the Swedish National Board of Housing, Building and Planning, 221 of the 290 municipalities stated that they do not have enough housing at their disposal for beneficiaries of international protection, due to a lack of rental properties, family housing and affordable housing. This is against a backdrop where landlords require high incomes and stable employment from their tenants and do not accept the welfare payment given to beneficiaries of international protection to meet the income conditions of a rental contract. In September 2019, the housing authority of Gothenburg – the country’s second-biggest city – sounded the alarm stating that, ‘over the next three years, 2,700 people (including 850 children) are going to lose their housing if the elected representatives don’t find a solution’.

In Germany, according to the above-mentioned study, slightly more than a quarter of urban communities who responded stated that for people accommodated in independent housing, the community was planning for the possibility of transferring the rental contract into the person’s name when status is granted. If refugees or beneficiaries of subsidiary protection cannot pay the costs, it is covered by the local social welfare office or the local job centre, but only up to an ‘adequate’ level; what is considered ‘adequate’ depends on the local housing market, so refugees have to ask the local authorities to what extent rent will be reimbursed.

In Italy, after a stay under the SIPROIMI/SPRAR programmes, there is no public programme responsible for providing a structured exit solution in the transition to integration. Although support includes help in finding work or training, in putting money aside for future rent, or even direct

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160 Sideris S. (2020), ‘The rent is too damn high’, Medium


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there is no turnover because the waiting lists are very long and people have to prove residency in the municipality for the last five years. 167

Administrative deadlocks, particularly regarding addresses, have been reported in some countries. In Bulgaria, for example, a valid identification document is necessary to access all social welfare, including in relation to housing. Upon signature of the rental contract, beneficiaries of international protection must present a valid identification document but to obtain this document, the person must already have an address. Yet, since 2016, it is no longer permitted to use the address of the asylum reception centre in which the person was previously staying in order to obtain this identification document.

WHAT DOES THE LAW SAY about the principle of non-discrimination?

Article 2 of the TEU (Treaty on European Union) and Article 10 of the TFEU (Consolidated version of the Treaty on the Functioning of the European Union) enables European institutions to take the necessary measures to fight all discrimination based on sex, race or ethnic origin, religion or beliefs, disability, age or sexual orientation. The principle of banning discrimination was confirmed with the proclamation of the Charter of Fundamental Rights in 2000: Article 21 of this charter cites, in addition to the reasons mentioned in Article 10 of the TFEU, social origin, genetic characteristics, language, political opinions or any other opinion, belonging to a national minority, property and birth. Article 21, paragraph 2, explicitly bans any discrimination based on nationality. 168 There are currently four directives that bind European Union Member States to fight discrimination and to ensure application of the principle of equal treatment. 169 The European Convention on Human Rights guarantees protection against discrimination to any person under the jurisdiction of a Member State, whether or not they are a national of this State.

‘Access to housing would not only include ensuring that there is equality of treatment on the part of public or private landlords and estate agents in deciding whether to let or sell properties to particular individuals. It would also include the right to equal treatment in the way that housing is allocated (such as allocation of low quality or remote housing to particular ethnic groups), maintained (such as failing to upkeep properties inhabited by particular groups) and rented (such as a lack of security of tenure, or higher rental prices or deposits for those belonging to particular groups).’ 170

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166 AIDA, Country Report Germany, 2018 Update, April 2019, 120-121.
167 Bear in mind that residency does not start when residency is applied for but when one receives a valid residence permit. Interviews with Casa della Carita & Caritas Ambrosiana, Milan, Italy, November 2019.
Beneficiaries of international protection are thus particularly exposed to discrimination when accessing housing, whether this discrimination is based on their status, on their income, or on their understanding of the language or how the reception country functions. In England, the ‘right to rent’ legislation, established with the 2016 Immigration Act, compels landlords to verify the administrative status of their renters and to refuse to rent to people who cannot prove their right to rent a property. This is a major disincentive to landlords, already suspicious of residency documents, to rent their property to beneficiaries of international protection.171 In general, in all countries, the limited period of the residence permit can prevent access to a three-year rental contract. For example, in Spain, asylum seekers with a six-month residence permit are never accepted by private landlords.172 According to a study carried out over the year 2018 in France by SOS Racisme, 87% of private landlords and 68% of public landlords racially discriminate when renting out a property: an Asian profile has 15% less chance of renting a property than a person with a French-sounding name, a North African person has 28% less chance and someone from the French Overseas Departments or from Sub-Saharan Africa has 38% less chance.173 Likewise in Germany, several studies have shown discrimination against migrants on the housing market. A recent study from the German Federal Anti-discrimination Agency showed that more than one third of people from migrant backgrounds have been discriminated against on the basis of their origin when trying to rent or buy a property.174 This is of course against the law, but convictions are rare. In December 2019, in the town of Augsburg, a German landlord received a fine of EUR 1,000 for explicitly stating in his property ad that he would only rent his property to people of German origin.175


HOMELESS EXILES REMOVED FROM THE PUBLIC SPACE WITHOUT RECEIVING SHELTER

In several European countries, including France, Belgium, England, Greece, Italy and Spain, there has been an increase in slums inhabited by refugees, asylum seekers, rejected asylum seekers, etc. The living conditions are very difficult for all inhabitants in these slums regardless of the administrative status of the individuals residing there. In France, despite a national slum clearance plan started in 2018, the issue persists: access to essential services such as water, sanitation, dignified and safe housing, healthcare, is generally obstructed in these places. A national manifesto signed by associations and citizen groups was published on 21 July 2019, to ‘end the inhuman situation of vagrancy and camps in France’. Incessant evictions from informal living spaces by law enforcement agencies, generally without any accompanying solutions for the people concerned, are major barriers to accessing fundamental rights, particularly the right to shelter in safe and dignified conditions. According to the ‘Observatoire des expulsions de lieux de vie informels’ [Observatory of evictions from informal living spaces], between 1 November 2018 and 31 October 2019, 1,159 evictions from informal living spaces took place on mainland France, which translates to several thousand people being driven out, some of them several times in one year. It should be stressed that 85% of these evictions took place in the Hauts-de-France region where the Calais and Grande-Synthe camps, occupied by non-European migrants, are located. In 46% of cases, evictions led to confiscation and destruction of property belonging to the evicted people and in only 19% of cases could the evicted people retrieve all their belongings. In some cases, there has also been a level of violence on the part of the law enforcement agency towards the people being evicted. In 90% of the evictions considered in the survey, no accommodation or housing offer was made to the people evicted, which means that all the people living in these informal living spaces were turned onto the street. In 2019, some operators (accommodation facilities under the national reception provisions) received instructions from the State’s decentralised services (Department prefects) aiming to turn beneficiaries of international protection out onto the streets without any rehousing solution, thereby adding to the existing camps. Estimations, made mainly during evictions from these camps, take into account that beneficiaries of international protection represent about 20% to 25% of people there, particularly in the Ile-de-France Region.


‘Squatting’, ‘antisocial behaviour’, ‘incivility’, ‘neighbourhood disturbances’, ‘pollution’, etc.; occupation of public spaces by people suffering housing deprivation is seen primarily as a ‘nuisance’, which focuses on the public order problems and not on the violation of dignity and the relevant people’s lack of choice in the matter. The Homeless Bill of Rights confirms the fundamental rights stemming from international obligations and national rights in their concrete form, which effectively enables homeless people to exit homelessness and to enjoy the same rights as every human being.

https://www.fondation-abbe-pierre.fr/droitsdespersonnemiahabits
1,800 asylum seekers came through the Pada reception platform in Strasbourg in 2014, going to 3,000 in 2016 and 4,000 in 2018. Two-thirds of people housed in the Department of Bas-Rhin find shelter in the Strasbourg Eurométropole, through CADA and especially through HUDA. Those who do not find a bed after passing to Guda stay close to the Prefecture for obvious reasons, i.e. Strasbourg, and form part of the groups that are regularly found in tents. Our teams are constantly reporting and raising the alarm on the increased number of people and families on the streets living in squats or in camps in undignified sanitary and social conditions. ‘Categorising’ people who are looking for accommodation has become widespread across the territory, leaving families and single people on the street and without care. We find regrettable the lack of political will for respecting the principle of unconditional reception which underpins the tradition of solidarity to people in poverty in France.

Feedback from the field and best practice

How can we define a good practice, a solution that makes a positive difference? ‘Social innovation’ and ‘inclusive city’ are desirable concepts, but at the same time they have become vague ideas and labels behind which questionable practices are hidden under cover of ‘urban design’. Social innovations are judged truly innovative by their outcomes and their means, i.e. as much by the process as by the result. The process is of crucial importance, because it highlights the shift in how things are done, particularly the ‘open, collaborative, participative, and non-linear aspects’. Furthermore, innovation in housing is very context-specific. What is innovative in one country might not be in another. Practices considered socially innovative have certain shared features, in particular ‘user involvement, user perspective, cross-sector collaboration, multidimensional approach, streamlining, and user empowerment’.
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With this in mind, we will endeavour to present here the reception initiatives for asylum seekers and beneficiaries of international protection regarding affordable, dignified, adequate, and sustainable housing, that embody the vision of housing as a fundamental right and common good.181

USING SOCIAL HOUSING, IDENTIFYING SPECIFIC NEEDS AND INDIVIDUALISED SUPPORT:

In the Netherlands, the transition towards accommodation/housing when refugee status has been granted is systematic and sustainable.182 This is one of the rare Member States where the asylum system and the general reception system for homeless people remain interlinked to each other (aside from with regard to rejected asylum seekers). Beneficiaries of international protection are prioritised for social housing: the COA (Central Agency for the Reception of Asylum Seekers), which manages first reception, has a distribution methodology that reflects the needs of the person. For example, when a person already has a social network or the opportunity to find work in a particular area, the services will try to place them accordingly. However, in the event of an unjustified refusal, no second offer will be made. The person’s process is seen in the long term, in order to ensure there is no intermediate period without a housing solution throughout the inclusion process. Voluntary networks in the reception municipalities help new residents to navigate the school system, learn the language, navigate the healthcare system, etc. An increasing number of municipalities are organising training and facilitating access to work for new residents.

In Sweden, the municipality of Luleå and the municipal public housing landlord (Lulebo) set a goal of making 25% of vacant housing available to beneficiaries of international protection assigned to Luleå. Priority is given to families and to unaccompanied minors.183

The housing of refugees by social landlords is also practised in France, in an even more marginal way. The specific needs of this population sometimes present challenges for the providers, who are well advised to upskill.

(For the moment, the landlords surveyed had quite positive experiences, however difficulties have escalated for the associations regarding language barriers and, in some cases, very unstable social or medical situations which hinder access to employment. Refugees often arrive with serious health issues or psychological trauma as a result of their migratory route, which necessitates adequate care that is close at hand. With regard to psychiatric issues, particularly the overwhelmed CMPs (medical and psychological centres) and their extremely long wait-times, speedy treatment of post-traumatic issues can be hampered for certain refugees and thus their overall integration is negatively affected.184)

In France, State-funded measures to promote housing for beneficiaries of international protection was piloted by DIHAL (Interministerial delegation for temporary accommodation and access to housing), representing real progress in the coordination of the various stakeholders involved in integrating beneficiaries of international protection. In 2017, a first interministerial circular aiming to make 20,000 housing units available for beneficiaries of international protection was published and 8,700 units were mobilised in 2018. The strategy aims to develop partnerships with social landlords and to use private landlords more, particularly with the use of rental intermediation. Regarding rental intermediation, a specific measure for refugees on their own exists (‘Solibail’ is specifically for households in difficulty, prioritising families living in hotels, but its offspring ‘Solibail réfugiés’ is for beneficiaries of international protection who are on their own, living in hotels or accommodation centres).
Despite everything, the financial provisions are not enough to properly bring about an ambitious policy enabling beneficiaries of international protection to access their rights. Furthermore, we note that the innovative provisions are invented and tested on some territories, but the existing blockages regarding access to housing persist, despite stakeholders who support beneficiaries of international protection pointing these out for several years. Nonetheless, the measures tested regard fairly low volumes of people (in 2018 for example, almost 48,700 people were granted international protection). It is also noted that facilitating mobility of beneficiaries of international protection could go against their individual care plan and their territorial bond.

Find out more about using the private market for social purposes, see FEANTSA & Foundation Abbé Pierre (2018), ‘Louer sans abuser’. Mobiliser le parc locatif privé à des fins sociales en Europe [Ethical Renting: mobilise the private rental market to provide social solutions in Europe], L’access au logement décent et abordable en Europe : Boîte à idées et solutions innovantes [Access to Decent and Affordable Housing in Europe: Case Studies and Innovative Solutions], available at: https://www.feantsa.org/en/report/2018/12/19/ethical-renting/beParent-27.

Strategically locating housing is vital to people’s success and is necessary to avoiding segregation, isolation and stigmatisation: ‘While it is certainly advisable to distribute refugees across the national territory, consideration must be given on a case-by-case basis to the location of housing allocated to a refugee household so that they can access the necessary services but also, in less densely populated areas, so that they can be mobile. As the 4 March 2019 instruction asks: what is the public transport network like? Is there potential for eco-friendly modes of transport (walking, cycling, etc.)? Are supports available to help get a driving licence, to rent a moped, etc.? Could carpooling be an alternative?’

**SELF-RESTORATION OF DILAPIDATED HOUSING, BETWEEN RECEPTION POLICIES AND URBAN RENEWAL:**

Self-restoration of housing has proved successful across various local contexts in addressing both the experiential needs and the independence of homeless people, through co-building/renovating housing and communities, as...
demonstrated by the 2015/16 winner of the UN's World Habitat Award, Canopy Housing, in Leeds in England. In Milan, Italy, 'Houses Beyond-the-Threshold' was an architectural, artistic and social project, carried out between 2016 and 2017 in the working-class neighbourhood of Molise Calvairate, the objective being to offer inclusion programmes through housing, employment and culture to about twenty unaccompanied minors. They were trained in accordance with the Architettura delle Convivenze method to restore dilapidated public housing, that they could then live in until they reach adulthood.

The renovation process in which these young people participated led them to claim ownership of the space that they were learning to transform. This allowed them to identify with the living space, to develop the sense of belonging required to move towards citizenship – even if it is not permanent ownership, as these housing units are for transitional purposes. Self-restoration and construction influence actual integration; they are seen as work performed for oneself and for those who will come after, with the migrants themselves becoming advocates for the system. All of the migrants said that in addition to being in a place that they have taken care of, that they belong to a place that will be a home to those who come after. They are thus taking care of a communal space, which is what every project on community living is about.  

Nausicaa Pezzoni speaking about the 'Houses Beyond-the-Threshold' project

### MAKESHIFT SYSTEMS AND CIVIL SOCIETY SOLUTIONS:

Across Europe, makeshift systems and alternative solutions are organised by civil society and associations in places where the State and/or public authorities do not assume their responsibilities. Temporary accommodation solutions, like squats for example (approved or otherwise), are often experienced by migrants 'as a breathing space, a moment of respite in the rocky and ever-changing accommodation landscape, which has a detrimental effect on daily life'. In France, new guidance on the ELAN law encourages the renovation and use of empty buildings through occupancy by vulnerable populations, but this remains a temporary solution subject to political agendas. Temporary reception initiatives and/or sub-lets by host families have increased significantly in recent years, particularly in Italy, Spain, France, and the United Kingdom: the CALM network in France, Italy's Vesta, Nausicaa, and Rifugiato in Famiglia projects, Refugees at Home in the United Kingdom, the Refugees Welcome network (present in 13 European countries) are all solutions, vital for the bonds they form and the sharing of space they entail but they can never replace a holistic, long-term public response to the reception crisis that Europe is facing today.

In Europe, being granted international protection is not an end in itself or an effective guarantee of protection. It becomes meaningless when its protective aspect is jeopardised by unfit living conditions. Such solutions subject to political agendas. Temporary accommodation facilities in terms of their administrative status, extreme overlap between the already-overwhelmed accommodation systems (asylum reception system and general emergency accommodation system), inadequate resources, poor planning and coordination of each of these systems, fragmentation and abdication of political responsibilities (linked to short-term electoral agendas) are all factors that complicate and reduce the possibility of exiles receiving shelter in dignified living conditions.
In analysing the reception systems, a general observation – common to all countries considered – was noted: the predominant approach focuses on managing migration flows rather than a process based on fundamental rights and looking after the essential needs of people seeking protection. The health crisis is another flagrant example of this: one of the first reactions of several European countries was to close borders and suspend asylum procedures, instead of immediately providing people with shelter.

However, this analysis also allowed different situations to be identified; situations that vary depending on many factors specific to each country. Some countries, by virtue of their geographical location at Europe’s external border, such as Greece and Italy, have been subjected to constant pressure over the last number of years. As arrival countries – both first-line and transit – they bear the consequences of European divisions and a lack of coordinated solidarity, and have tightened up their national legislation to try and limit the heavy burden on their territory. The situation on the Greek islands, which has been constantly criticised as inhuman since 2015, shames Europe as a collective project. Strong
measures must be undertaken as a matter of urgency to shelter people who are living in unfit conditions there.

Over the last decade, Spain has become one of the Member States receiving the highest number of asylum seekers. However, the reception system has not evolved with these changes, in a similar vein to the French reception system, where the lack of specialised places and adequate funding has led a large number of people seeking protection to turn to inappropriate solutions, such as general emergency accommodation or makeshift informal shelter or even sleeping on the streets. Other countries, who are better prepared, seem to be able to guarantee structured and dignified first reception, e.g. Germany, while also maintaining a strategy for migration control. Across Europe, some categories of people are deliberately excluded from support services or benefit from them to a lesser extent. They are the ultimate example of access to essential rights being made conditional on the arbitrary right of being present in the country in the first place.

Once protection has been granted, the obstacle course has only just begun. In ensuring continuity of accommodation on leaving the asylum reception system, only the Netherlands has structured a pathway to leave the system and move up the ladder, i.e. to dignified and long-term housing for beneficiaries of international protection. Housing solutions for these people are available to some extent, but often insufficiently, in other European countries. Financial inaccessibility, competitiveness and discrimination – characteristics of housing markets across the European Union – are also barriers to housing for refugees, with some having no other choice than to turn to the black market, makeshift homes, or the streets, with all the risks and damage to fundamental rights that this entails.

Respecting procedure deadlines, ability to adapt reception measures to people’s profiles, capacity to identify and actually take account of the vulnerabilities presented, seeking to integrate people and make them independent are all factors that would guarantee effective right to asylum and therefore provide the protection needed. For this, the necessary human and financial resources must be provided, and this cannot be borne by already-overwhelmed countries alone. By arming itself with asylum and immigration legislation, the European Union has laid the basis for harmonising reception conditions across Member States. Unfortunately, the leeway within this legislation has led, not towards top-down harmonisation, but the opposite. At every stage of the asylum process, people are seeing their fundamental social rights violated. Because this is also reflective of the Europe-wide housing crisis, reception conditions and accommodation for exiles must be an integral part of social policies to combat poverty in the European Union.
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Photo: David Boureau | Emergency accommodation centre for Migrants, Paris-Îvry d’Emmaüs Solidarité – Paris, France
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