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7.7.2 Access to material reception conditions

7.7.2.1 Entitlement to material reception conditions

Changes implemented by Member States in 2019 affected the duration, scope and conditions of the entitlement to material reception conditions. For example, changes in Poland based on national jurisprudence (whereby administrative courts have started to suspend the enforcement of negative decisions during onward appeals) extended the duration of entitlements by making them available also during the appeal procedure since appeals became suspensive.[468]

A new proposal was put forward by the Icelandic Minister of Social Affairs that would ensure that persons who were granted asylum in Iceland receive the same reception conditions as refugees who have been resettled in the country as part of international agreements. Municipal authorities and the Icelandic Red Cross have criticised the discrepancy in treatment of the two groups. Under the terms of the new proposal, drafted by a committee that was appointed to review the refugee reception process, local municipalities would shoulder more of the responsibilities related to refugee services and the role of the Multicultural Information Centre would also be enhanced. Additionally, the Directorate of Labor would ensure the provision of Icelandic lessons and social education to newly-arrived asylum seekers.[469]

Courts in the Netherlands and Spain clarified the scope of entitlements. Changes in policy to register subsequent applications in the Netherlands *(following the ruling of the Council of State, see Section 7.1)* ensured that applicants are entitled to reception while waiting for the IND's admissibility decision. However, in case an application is not submitted in person in the application centre of Ter Apel or the application is incomplete, the applicant has one week to present at the application centre of Ter Apel and complete his application. After this period, the application is considered to be withdrawn and the entitlement to reception ends. In addition, the COA specified that applicants whose application was declared to be inadmissible because they were already beneficiaries of international protection in another Member State were not entitled to reception after submitting a request for provisional measure to a court for suspensive effect. However, several domestic courts rebutted this position and established the right to reception in these cases as well.[470]

Following judgements from the Spanish Superior Court of Madrid,[471] the Ministry of Labour, Migration and Social Security issued new instructions to ensure that applicants who are returned to Spain through a Dublin procedure are entitled to material reception conditions.[472]

An ordinance was amended in Croatia to clarify that applicants may request an absence of longer than
24 hours and up to 15 days from a reception facility, and it specified the deadlines and the type of documentation they need to submit to request this leave and the necessary documentation to be submitted when an applicant resides longer than 15 days outside of a reception facility. Not complying with these rules may result in losing the entitlement to material reception conditions and the reallocation of the applicant's place in the reception facility.

Stricter provisions now apply to certain applicants in Belgium, France and Germany. The Minister of Asylum and Migration in Belgium announced new measures in January 2020 to prevent abuse of the asylum system. Persons already benefitting from international protection in another EU Member State no longer received material reception conditions. Dublin applicants who absconded and re-applied for reception after six months were also no longer entitled to material reception conditions. Fedasil evaluates these rejections on a case-by-case basis, taking into account any specific vulnerabilities of the applicant. The 2019 update of the AIDA report on Belgium notes that the instruction has no legal basis and possibly violates the provisions of the recast Reception Conditions Directive.[473]

In France, rejected applicants can remain in the accommodation centre for one month to plan their move. The Law of 10 September 2018 provides that, after formal notice, the administrative authority and the reception facilities can ask the administrative court to allow the police to evict over-stayers. In practice, administrative authorities take priority action in this field. Material reception conditions under the Asylum Seekers Benefits Act in Germany can now be restricted to a greater extent when the applicant does not respect the duty to cooperate. Applicants awaiting a Dublin transfer are entitled only to limited material reception conditions. For applicants who have already been granted international protection in another EU Member State and whose obligation to leave the territory is enforceable, material reception conditions are limited to core benefits until leaving the country *(Überbrückungsleistungen)* (DE LEG 02).

7.7.2.2 Financial allowance

A few countries implemented changes related to the level of financial allowance and the method of payment. The level of benefits for applicants in Germany was adjusted to be more aligned with the general level of social security, for example with the level of basic support for job seekers. Electricity and maintenance are now provided as in-kind benefits, and therefore, their costs are deducted from cash benefits. The financial allowance rates were adjusted for different applicant profiles. As such, a new type of beneficiary group was established: applicants in reception centres are presumed to form a community with common benefits, hence individual applicants in reception centres are now entitled to reduced benefits. Applicants and persons whose stay is tolerated *(Duldung)* became entitled to student benefits, and the exclusion from the relevant study support under the Twelfth Book of Social Code is no longer applicable to them. (DE LEG 03)

Applicants in Malta are not entitled to financial allowance, but due to the lack of spaces in reception centres, AWAS amended its policies and provided allowances to applicants who hold an asylum certificate and are registered with the Refugee Commissioner. However, Aditus observed that there was a lack of information about this possibility, and applicants at times

waited several weeks for registration and their certificates before being entitled to an allowance.[474] According to AWAS, most cases were resolved immediately or within 48 hours.

The French government planned to cease the parallel payment of allocations for asylum seekers *(Allocation pour demandeur d'asile)* and the solidarity income support *(Revenu de solidarité active).* The allocation was paid monthly to a payment card instead of a withdrawal card since November 2019, which was strongly criticised by civil society organisations for limiting the use of the allowance.[475] The Forum Réfugiés-Cosi highlighted that the allocation, EUR 7.40 per day, does not allow applicants to find accommodation on the private market.[476]

Helsinki Foundation for Human Rights reported that applicants face similar challenges in Poland, where the amount of the allowance is not sufficient to find adequate housing in the capital city, where most applicants aim to stay for the period of the asylum procedure.[477] This affects applicants who want to stay outside of the reception centre by choice. About 55 % of applicants registered in the reception system opt for the financial allowance. Applicants can return to the centre, although the number of requests to terminate the allowance is very low. Applicants can also receive assistance for organisational, safety or family reasons or to prepare for an independent life after receiving a form of protection.

The pilot project for using prepaid cards for allowances in Luxembourg was considered to be a success and will be expanded in 2020. The implementation of the new payment card system in Finland continued, but the Finnish Immigration Service noted several technical issues throughout the process.

7.7.2.3 Freedom of movement

Only Germany reported a notable legislative change in 2019, where adult applicants without children are now required to live in an initial reception centre for a maximum period of 18 months, while federal states can extend this period to 24 months. The previous law defined a six-month maximum period (DE LEG 02).

7.7.2.4 Access to health care

An important change was introduced in the field of health care in the Netherlands, where applicants in process reception centres (POL, *processopvanglocatie*) became entitled to non-emergency health care treatments. These facilities were originally designed to accommodate applicants for only one to two weeks before they are transferred to the asylum seekers' centre (AZC, *asielzoekerscentrum*), where the full scope of medical care is available. The provision of medical services was adjusted due to lengthy waiting periods where applicants generally stay about one and a half years in a POL. Adult applicant remain covered for essential treatments during the first two months following registration. Restrictions are planned to be introduced in France, where applicants for international protection were previously exempted from the three-month residence requirement for third country nationals. This will be revoked so applicants will no longer have access to the universal health care insurance (PUMA) until after three months of residence in the country. However, urgent care is still available to asylum applicants and France finances support measures in health care (for example through Comede - *Comité pour la santé des exilés*, Parcours d'exil, Primo Levi Center for Care and Support of Victims of Torture and Political Violence).

Staff changes were reported by Lithuania, where medical staff was increased in the Foreigners' Reception Centre and agreements were concluded with health care institutions to ensure continuity of services, even when a physician is not present in the reception centre.

AMIF co-funded several projects to facilitate access to health care in Croatia (psycho-social support provided by the Croatian Red Cross), Cyprus (provision of mental health services in the Kofinou Reception Centre) and Finland (the TERTTU project came to an end, having developed a health examination protocol for assessing health, well-being and health care needs and the PSYYK project was launched, aiming to train reception staff on mental health and developing a mental health work manual for them).

The Belgian Health Care Knowledge Centre published the results of a stakeholder consultation on applicants' access to health care and made recommendations for a more equitable approach.[478] Fedasil started stakeholder consultations to follow up on these suggestions.[479]

Civil society organisations noted concerns in several Member States related to the availability of practitioners in reception facilities and hindered access due to bureaucratic practices. For example, Médecins du Monde Belgique provided health care services and psychological support in reception facilities in Croatia[lii] and observed that mental health support should be substantially increased, especially for Dublin returnees. It also signalled that more children, women, pregnant women and families arrived, and overall applicants had worse health conditions, such as infectious diseases, which could be associated with long-term stay in poor conditions in camps in Bosnia and Herzegovina.[480]

Cyprus transferred to a new health care system in 2019, but applicants continue to receive services under the previous provisions. This created some confusion for health care practitioners, and applicants often had issues in accessing health services before the Council of Ministers issued a clarifying decision.[481]

The Danish Refugee Council in Greece observed issues in accessing non-emergency medical services since the conditions for issuing the social security number were unclear. The clarifying amendment was adopted in November 2019 but did not improve the situation in practice[482] as technical issues persisted.

Psychological support was sporadically available in transit zones in Hungary throughout 2019, subject to funding and not more than a few hours per week.[483] In Poland, In Poland, pediatrician duty hours have been introduced in each center for foreigners, in place of part of hours dedicated to general practitioners.[484] Access to health care services was reported to be difficult in Spain, with varied bureaucratic practices.[485]

7.7.2.5 Access to education

In 2019, UNHCR launched an awareness-raising campaign on the challenges faced by minor applicants and refugee children in accessing education in Europe.[486] Civil society organisations also signalled specific gaps in Ireland and Spain, in addition to the negative impact of poor reception conditions on children's education in Greece[487] and Hungary,[488] where access to formal education was generally unattainable *(see Sections 6 and 7.12.9)*.

The Irish Refugee Council expressed particular concern about access to education for children in emergency accommodation.[489] A pilot support scheme continued in 2019 to facilitate access to higher education for applicants. The scheme was altered in light of a review which indicated that a requirement to have been in school in Ireland for at least five years was too restrictive.[490] The majority of universities, institutes of technology and the Irish Refugee Council continued to offer scholarships and grants to support access to higher education.[491]

Children accommodated in the Temporary Migrants Stay Centres in Ceuta and Melilla in Spain were often excluded from education due to extreme overcrowding in the centres.[492]

The reception facilities in Zagreb and Kutina in Croatia considered their cooperation with local primary schools successful in enrolling applicant children quickly. The Jesuit Refugee Service was offered a short-term contract to re-establish child-friendly spaces in the reception centres.[493] They re-established child-friendly spaces in reception centres and assist children in completing homework and learning the Croatian language.

Poland launched an AMIF-funded project in 2017, “Material and Educational Support for Foreigners Applying for International Protection in Poland”, to support children and vulnerable applicants. As a part of the project, the Office for Foreigners started educational and adaptation activities for children aged 3 to 6. This classes are essential to prepare children for the education path in the national system and create opportunities for leisure and fun activities. These lessons are organised also to inform children about their rights.

7.7.2.6 Access to employment

Several countries introduced changes or new initiatives that sought to facilitate access to the labour market for applicants, but some new national restrictions arose as well in 2019.

Examples of relevant legislative amendments include the revision of the Law on the Legal Status of Foreigners in Lithuania, which granted applicants the right to work if the Migration Department had not taken a decision on their application within six months of the lodging and the applicants were not responsible for the delay.

In France, access to the labour market was shortened from nine months to six months with the Law of 10 September 2018, this provision of which entered into force in March 2019.

Applicants in Belgium do not need to obtain a separate work permit since 1 January 2019; their right to work is noted in the residence permit. Applicants in private accommodation in Hungary have again the right to work after nine months from lodging an application, but since only a few are released from the transit zones, these measures have no impact in practice.[494] A legislative amendment in Finland clarified the start and end point of an applicant’s right to work (FI LEG 01).

A new law facilitates access to vocational training for all persons with a right to work in Germany, regardless of the initial residence. Unemployment benefits may now also be paid during the period of the integration course or the employment-related language course, when the federal employment agency considers the participation in such courses necessary for the sustainable labour market integration of the applicant (DE LEG 04). Labour market tests are no

longer applied for the employment of foreigners whose removal has been suspended or those who have a permission to stay pending the asylum decision (DE LEG 05).

Among reported projects, the Employer Tailored Chain Cooperation (ETCC) brings together organisations from seven countries (Belgium, Cyprus, France, Germany, Italy, the Netherlands and the United Kingdom) and Eurochambers at the EU level, with the support of AMIF funding, to bring together employers, supporting organisations and applicants and beneficiaries of international protection. The project screens the skills of applicants and examines the needs of employers to bridge the gap and create long-term, sustainable employment.[495]

The project Participation and Language, was extended to all reception centres (AZC) in the Netherlands and a participation desk was set up in all facilities to inform applicants about activities supporting their integration, including language courses, volunteering possibilities, sports, building a social network and getting accustomed to Dutch traditions. The AMIF-funded OSAKA project was finalised, focusing on the assessment and recognition of previous education, work experiences and skills. Regulations were issued by the Federal Minister of the Interior in Austria, specifying the terms for the employment of applicants and other foreigners at unskilled community service jobs, in addition to the corresponding honorarium to be paid. One of the provisions of the regulation stated that applicants who do community service jobs shall receive a maximum of €1.50/hour. UNHCR expressed a negative opinion on the provisions.[496] Following the dissolution of the Austrian Federal Government in May 2019, the provision was revoked. Applicants under 25 years who fulfilled certain additional criteria were able to commence in restricted economic sectors from June 2012 to September 2018 due to a respective government decree. This decree was revoked in September 2018.

The Aliens Police Act 2005 was amended in December 2019 to give applicants who started an apprenticeship in this period the opportunity to complete their apprenticeships in Austria. Based on the amendment, applicants who started an apprenticeship before the date of 12 September 2018 and whose asylum procedure is still pending have the possibility to complete their apprenticeships despite a negative decision on international protection. This is achieved by a postponement of the period granted for voluntary departure (Aliens Police Act 2005, Article 55a). Furthermore, the amendment allows a former applicant who lodged an appeal with suspensive effect to supreme courts to have the removal postponed in order to finish an apprenticeship (Aliens Police Act 2005, Article 125(31-34)).

Applicants in federal asylum centres in Switzerland cannot engage in gainful employment since the entry into force of the asylum reform in March 2019.[497]

Diverse practical barriers continued to be reported in Portugal[498] and Slovenia.[499] In addition, applicants in Spain faced long, bureaucratic and expensive procedures to have their qualifications recognised.[500]

7.7.2.7 Language instruction and socio-cultural orientation

Relatively few developments were reported in access to language instruction for applicants. Some initiatives are detailed in Section 7.12.11, and they typically target recognised beneficiaries of international protection but are often accessible to applicants as well.

All applicants became entitled to participate in an integration course after nine months of stay in Germany and have access to employment-related language courses after registering as a job seeker at the federal employment agency. This opportunity was previously reserved for applicants with high chances of recognition. Tolerated persons may participate in employment-related German courses after six months of stay (DE LEG 04).

Greek language courses were offered to applicants in the Kofinou Reception Centre in Cyprus through an AMIF-funded project targeting third country nationals in general.

In Poland, Polish language classes are organised within AMIF-funded project, they are both for children and adults. The programme for adults was prepared taking into account their special needs - to support their functioning in everyday life and handling official matters. In 2019, a special programme was created for group of children who begin compulsory education in polish schools (at the age of 6-18), which aims at helping them to adapt to the formal education. The third type of Polish language courses is designed for pupils who already have attended Polish schools. During classes, teachers support children with their homework, explain problematic topics and carry out compensatory activities.

7.7.2.8 Reduction or withdrawal of material reception conditions

Only a few, but important, legislative and policy changes were reported in 2019 on the possibility to reduce or withdraw material reception conditions for certain applicants.

The Decree of 28 December 2018 concerning material reception conditions came into force in January 2019 in France, specifying the grounds and modalities for rejecting or withdrawing material reception conditions.

The Office of Foreigners in Poland ceased applying the legal provision on the full withdrawal of material reception conditions for seriously disruptive applicants following the CJEU ruling in Haqbin.

New legislation in Sweden enabled withdrawing certain allowances when applicants chose to live outside of the reception facilities in socio-economic areas with high rates of immigrants and socio-economic challenges. The aim of the provision is to avoid segregation and foster social inclusion.

7.7.2.9 Strengthening security and ensuring peaceful daily life

As in 2018, some Member States continued to introduce changes to legislation, policy and practice to strengthen security in reception facilities.

The Federal Minister of the Interior in Austria presented a package of new measures in February 2019, including an additional action to accelerate asylum procedures; the implementation of preventive detention according to the Reception Conditions Directive, Article 8(2); imposing a curfew at night for applicants in reception centres; and transforming initial reception centres into ‘departure centres’. After the dissolution of the Austrian Federal Government in May 2019, some measures were no longer pursued. The new term ‘departure centre’ was revoked in May 2019.

The issue of disruptive applicants remained at the forefront of the political agenda in the Netherlands. The State Secretary for Justice and Security announced in December 2019 that reception centres which needed additional guidance and supervision (EBTL, *extra begeleiding en toezicht locatie*) would be transformed into an enforcement and supervision centre (HTL, *handhaving en toezichtslocatie*) as of February 2020. All applicants with serious disruptive behaviour can be placed in the HTL. Strict rules apply to residents and they are enforced by community service officers (BOAs, *buitengewone opsporingsambtenaren*). The centres provide material reception conditions in kind, and shops and services are available on the territory as applicants are no longer allowed to leave the facility.[501] It was also planned to reduce material reception conditions for applicants in the Dublin procedure *(see Section 5)*. The role of the so-called "chain marines" was established (chain referring to the organisations involved in the migration process: AVIM, IND, COA, DT&V, and marines can be deployed to all reception centres when residents cause disruption.

The Migration Office in Slovakia continued to cooperate closely with NGOs and private security services to address the disruptive behaviour of some applicants and improve the security and protection of applicants and local communities in general.

The entry into force of the asylum reform in Switzerland provided a legal basis for establishing a new type of reception facility for uncooperative applicants. Only one such facility was functioning for nine months in Les Verrières (Neuchâtel canton) before it was temporarily closed in September 2019 - it was planned to accommodate 20 applicants at first, increasing progressively to 60 places. In reality, only 33 applicants had been assigned there between December 2018 and July 2019 due to the relatively low number of applications at the time in Switzerland.

[lii] Medicines du Monde provided compulsory medical examinations, psychological assistance and translation services at reception centres, while health services are provided within the public health system at the nearest health center. The Ministry of the Interior has contracts with several NGOs to provide services in reception centres (medical care, legal counselling, psychosocial support, organising free time and everyday activities for applicants, training and educational programmes). Several associations operate in the reception centres (Croatian Red Cross, Medecins du Monde, Jesuit Refugee Service, Croatian Baptist Aid, Rehabilitation Centre for Stress and Trauma, Volunteer Centre Osijek, Are you Syrious, etc.).

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