

LUXEMBOURG

Luxembourg is a state party to the United Nations Convention Relating to the Status of Refugees and its Protocol, as well as to the International Covenant on Civil and Political Rights and its First and Second Optional Protocols. 628 asylum seekers applied for asylum during 2000; of the 1,800 total asylum requests examined, 100 were approved.¹ By year's end 2001, 689 asylum applications had been lodged.² In the first quarter of 2002, 157 applications were filed.³

Asylum seekers are detained by the Ministry of Justice if their identification is false or non-existent, if they entered illegally at the airport, or if they apply for asylum after their attempt at illegal entry has been refused by border control.⁴ Generally, detention of asylum seekers is uncommon.⁵ In 2001, the administrative court and the appeal court held that detaining asylum seekers in prison prior to their deportation was unlawful and that such imprisonment should be applied restrictively in very specific cases (*i.e.*, reasons of public order).⁶ Asylum seekers must reside in open reception centers, or designated

¹ UNITED STATES DEPARTMENT OF STATE, HUMAN RIGHTS COUNTRY REPORTS: LUXEMBOURG (2000), *available at* <http://www.state.gov/g/drl/rls/hrrpt/2000/eur/index.cfm?docid=866> (last accessed Aug. 29, 2002).

² UNHCR, The Official Homepage of UNHCR, *visited* March 11, 2002, <http://www.unhcr.ch>.

³ UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, ASYLUM TRENDS IN 28 INDUSTRIAL COUNTRIES: JANUARY TO MARCH 2001—JANUARY TO MARCH 2002, *available at* <http://www.unhcr.ch/cgi-bin/texis/vtx/home/+2wwBmelFXx8wwwwwwwwwhFqAIRERfIRfgItFqA5BwBo5Boq5AFqAIRERfIRfgIcFqF+8afDm15BGowcoSnmagd1DBGon5Dzmxwwwwww/opendoc.pdf> (June 13, 2002) (last accessed Aug. 29, 2002) [hereinafter *Asylum Trends in 28 Industrialized Countries*].

⁴ UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, RECEPTION STANDARDS FOR ASYLUM SEEKERS IN THE EUROPEAN UNION at 122 (July 2000) [hereinafter UNHCR EU REPORT 2000]; DANISH REFUGEE COUNCIL, LEGAL AND SOCIAL CONDITIONS FOR ASYLUM SEEKERS AND REFUGEES IN WESTERN EUROPEAN COUNTRIES at 180, *available at* <http://www.english.drc.dk/publications/> (May 2000) [hereinafter DRC W. EUR. REPORT 2000]; E-mail from Agnes Rausch, Caritas, Luxembourg, to Jaya Ramji, Debevoise & Plimpton (Aug. 28, 2001) (on file with Debevoise & Plimpton) [hereinafter Caritas Correspondence (Aug. 28, 2001)].

⁵ Caritas Correspondence (Aug. 28, 2001), *supra* note 4.

⁶ EUROPEAN COUNCIL ON REFUGEES AND EXILES, COUNTRY REPORTS 2001 at 148, *available at* <http://www.ecre.org/publications/countryrpt01.shtml> [hereinafter ECRE REPORT 2001].

hotels or houses until a final decision is made on their claims. Asylum seekers can be detained while awaiting transfer to a Dublin Convention country, but this is not often done in practice.⁷

Once they have registered with the Refugee Reception Office of the Ministry of Justice, asylum seekers are sent to the Social Department of the Government Commission for Foreigners (CGE), where they are interviewed with a social worker to evaluate their needs in terms of housing, basic needs, and health care.⁸ Single men are housed separately, and, if not placed in the reception centers, families are generally housed in a hotel or youth hostel. These accommodations are free unless the asylum seeker has the means to pay for them. Asylum seekers without family members in Luxembourg stay at a CGE reception center, a center run by an NGO, or a hotel. In exceptional cases, asylum seekers can find private accommodation, which the CGE will pay for.⁹ Asylum seekers must reside in a designated accommodation, whether a reception center or otherwise, until a final decision is taken on their claim. These accommodations are open and generally, there are no restrictions on the movement of asylum seekers into and out of the centers.¹⁰ The free movement of asylum seekers depends on the time spent for the asylum procedure and on the time needed to return rejected persons.¹¹

Asylum seekers have a monthly reporting requirement to renew their asylum seeker permit, which enables them to receive monthly financial aid.¹² Depending on the type of accommodation, asylum seekers may receive full board, half board, or may cook for themselves.¹³ Asylum seekers receive medical benefits and financial assistance from the government.¹⁴ Further, NGOs provide free clothing, and asylum seekers may enroll in a free course after three months, such as language classes.¹⁵ Families, single women and single men are housed separately in reception centers.¹⁶ Due to changes in these

⁷ UNHCR EU REPORT 2000, *supra* note 4, at 120, 123.

⁸ Caritas Correspondence (Aug. 28, 2001), *supra* note 4.

⁹ *Id.*

¹⁰ *Id.*

¹¹ E-mail from Agnes Rausch, Caritas, Luxembourg, to Min Jung Lee, Debevoise & Plimpton (Feb. 21, 2002) (on file with Debevoise & Plimpton) [hereinafter Caritas Correspondence (Feb. 21, 2002)].

¹² Caritas Correspondence (Aug. 28, 2001), *supra* note 4.

¹³ *Id.*

¹⁴ DRC W. EUR. REPORT 2000, *supra* note 4, at 187.

¹⁵ Caritas Correspondence (Aug. 28, 2001), *supra* note 4.

¹⁶ UNHCR EU REPORT 2000, *supra* note 4, at 122.

procedures in early 2002, asylum seekers are now granted the same social aid during the whole asylum procedure until a final decision is made.¹⁷

If a decision is finally refused, the asylum seeker is provided with food and housing until removal.¹⁸

Is there independent review of the detention decision? Yes.

If the Ministry of Justice cannot be contacted, the decision to detain aliens with falsified travel documents for up to 48 hours must be confirmed by the public prosecutor's department.¹⁹ Review is not automatic, and must be initiated by the asylum seeker.²⁰ Appeals of detention may be taken to the Administrative Court initially, and then to the Administrative Court of Appeals. Administrative Courts have ordered the release of asylum seekers, finding that prisons are not appropriate facilities for foreign nationals who do not constitute a threat to national security or public order.²¹

Are there limits on the period of detention? Yes; three months.

The limit for detention due to forged documents and for pre-deportation detention is one month. The detention period can be extended, month-by-month, to a maximum of three months. In practice, however, the authorities rarely, if ever, detain asylum seekers.²²

Is there periodic review of detention? Yes; monthly.

Detention is reviewed by the Ministry of Justice on a monthly basis. Appeals may be made to the Administrative Court; decisions are rendered within 10 days.²³

Is there access to government-funded legal aid? Yes.

Asylum seekers have the right to free legal aid, paid for by the government, to assist them with their asylum interview with an officer of the Ministry of Justice.²⁴ NGOs also offer

¹⁷ Caritas Correspondence (Feb. 21, 2002), *supra* note 11.

¹⁸ Caritas Correspondence (Aug. 28, 2001), *supra* note 4.

¹⁹ DRC W. EUR. REPORT 2000, *supra* note 4, at 180.

²⁰ Caritas Correspondence (Aug. 28, 2001), *supra* note 4.

²¹ UNHCR EU REPORT 2000, *supra* note 4, at 123.

²² DRC W. EUR. REPORT 2000, *supra* note 4, at 184.

²³ *Id.*

²⁴ *Id.* at 183.

support services, in particular in connection with the filing of an appeal after an initial rejection.²⁵

Vulnerable groups: Unaccompanied minors may be appointed a guardian, but will in all cases automatically be appointed a legal representative for the whole asylum process.²⁶

²⁵ UNHCR EU REPORT 2000, *supra* note 4, at 120.

²⁶ DRC W. EUR. REPORT 2000, *supra* note 4, at 190.