

ROMANIA

Romania 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. During 2000, 1,366 people filed applications for asylum.¹ In 2001, 2,280 asylum applications were lodged, with 33 pending cases at year's end.² In the first quarter of 2002, 292 applications were filed.³ No information was available on the number of asylum seekers detained. Romania became a party to the 1951 Refugee Convention in 1991, and in 2000, a new refugee law went into effect to align Romanian asylum policies and practice more closely with European Union standards. Under the new law, asylum seekers are exempt from penalties for illegal entry.⁴

The U.N. Working Group on Arbitrary Detention reported, in 1998, that asylum seekers without proper travel documents who arrived at the airport in Romania from "safe third countries" were detained. A 2002 report indicates that asylum seekers may not be detained at the airport for longer than 20 days.⁵

According to the 1998 U.N. Working Group on Arbitrary Detention report, about 2-3% of asylum seekers were typically detained. At the time, it appeared that all other asylum seekers were detained only when they had committed a criminal offence and were subject to the Law relating to the Regime of Foreigners, which provides for detention and deportation for violation of various criminal laws, including leaving their assigned

¹ U.S. COMMITTEE FOR REFUGEES, WORLD REFUGEE SURVEY 2001 at 245, *available at* <http://preview.refuges.org/world/worldmain.htm> (Immigration and Refugee Services of America 2001) [hereinafter USCR WORLD REFUGEE SURVEY 2001].

² U.S. COMMITTEE FOR REFUGEES, WORLD REFUGEE SURVEY 2002 at 188, *available at* <http://www.refugees.org/WRS2002>. (Immigration and Refugee Services of America 2002) [hereinafter USCR WORLD REFUGEE SURVEY 2002].

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/taxis/vtx/home/+2wwBmelFXx8wwwwwwwwwhFqAIRERfIRfgItFqA5BwBo5Boq5AFqAIRERfIRfgIcFqF+8afDm15BGowcoSnmagd1DBGon5Dzmxwwwwww/opendoc.pdf> (June 13, 2002) (last accessed Aug. 29, 2002) [hereinafter *Asylum Trends in 28 Industrialized Countries*].

⁴ USCR WORLD REFUGEE SURVEY 2002, *supra* note 2, at 188.

⁵ *Civil and Political Rights, Including questions of Torture and Detention, Addendum, Visit to Romania: Report of the Working Group on Arbitrary Detention*, U.N. Commission on Human Rights, 55th Sess., Agenda Item 11(a), at ¶5,30, U.N. Doc. E/CN.4/1999/63/Add.4 (1998) [hereinafter UNHCR Working Group on Arbitrary Detention Report]; USCR WORLD REFUGEE SURVEY 2002, *supra* note 2, at 188.

residence, as well as illegally crossing borders. Furthermore, the U.N. Working Group on Arbitrary Detention reported that asylum seekers whose first instance appeal of a negative decision is rejected could be “directed” to residences, which the report refers to as de facto detention, to await removal.⁶

As of 2002, asylum seekers without means may be housed in one of two refugee reception center and provided with financial assistance. Limited medical care may be available.⁷

Is there independent review of the detention decision? No.

There is no judicial review or legal recourse in the event the authorities exercise detention under the Law relating to the Regime of Foreigners.

Are there limits on the period of detention? Yes.

Asylum seekers may be detained at the airport transit zone for no longer than 20 days, according to a 2002 survey.⁸ Authorities may hold foreign nationals for up to 3 months, with the possibility of an extension.⁹

A report issued in 2001 explained that detained asylum seekers processed under the in-country accelerated procedure are not granted Romanian Constitutional protections requiring issuance of a warrant for detentions of longer than 24 hours.¹⁰

Is there periodic review of detention? No.

Is there access to government-funded legal aid? No.

The U.N. Working Group on Arbitrary Detention reports that asylum seekers detained in the transit zone of the airport are not considered to be within the territory and so are not

⁶ UNHCR Working Group on Arbitrary Detention Report, *supra* note 5, at ¶¶ 4, 18.

⁷ DANISH REFUGEE COUNCIL, LEGAL AND SOCIAL CONDITIONS FOR ASYLUM SEEKERS AND REFUGEES IN CENTRAL AND EASTERN EUROPEAN COUNTRIES, *available at* <http://www.english.drc.dk/publications/> (Apr. 1999) [hereinafter DRC E. EUR. REPORT 1999], *Romania*; USCR WORLD REFUGEE SURVEY 2002, *supra* note 2, at 189.

⁸ USCR WORLD REFUGEE SURVEY 2002, *supra* note 2, at 188.

⁹ EUROPEAN COUNCIL ON REFUGEES AND EXILES, STUDY ON THE AVAILABILITY OF FREE AND LOW-COST LEGAL ASSISTANCE FOR ASYLUM SEEKERS IN EUROPEAN STATES at 254, *available at* <http://www.ecre.org/research/legalassistance/index.shtml> (November 2001) [hereinafter ECRE EUR. STUDY 2001].

¹⁰ *Id.* at 253-254.

protected by the constitutional rights to explanation of the grounds for detention and notification of charges in the presence of an attorney.¹¹ Though UNHCR has access to the airport transit zone holding area, they are not always notified of new arrivals. NGOs have limited access to this transit zone as well. According to a 1999 Danish Refugee Council report, there is only one organization that provides assistance to asylum seekers in the appeals stage, with only two attorneys on staff.¹²

Vulnerable groups: Unaccompanied minors, under the age of 14, are appointed a legal guardian and may be accommodated at a special reception center. According to a 1999 report, few unaccompanied minors have applied for asylum in Romania.¹³

¹¹ UNHCR Working Group on Arbitrary Detention Report, *supra* note 5, at ¶ 36.

¹² DRC E. EUR. REPORT 1999, *supra* note 7, *Romania*.

¹³ *Id.*