



EMN Ad-Hoc Query on EE AHQ on emergency situation in case of mass influx of asylum seekers

Requested by Barbara ORLOFF on 15th March 2017

Protection

Responses from Austria, Belgium, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Slovak Republic, Slovenia, Sweden, United Kingdom, Norway (21 in total)

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.



Background information:


The Estonian Ministry of the Interior is currently revising Estonian legislation to stipulate special provisions for emergency situations when a large number of asylum seekers or irregular migrants arrive to Estonia simultaneously. Therefore we would like to know if and how other Member States have enacted in their national legislation the provisions for emergency situations involving mass migration. More specifically we would like to know:

Questions

1. Does your national legislation provide a definition of emergency situation involving the sudden arrival of large numbers of asylum seekers or irregular migrants? If yes, please specify the definition.
2. Does your national legislation envisage derogations to detention rules contained in the Return Directive (2008/115/EC) in emergency situations (e.g. longer detention times)? If yes, please specify which derogations are foreseen.
3. Does your national legislation allow in emergency situations to reduce reception conditions to core basic material conditions of the asylum seekers (covering only basic needs)? If yes, please specify how it is stipulated in your national legislation.
4. Do irregularly staying migrants who have a return decision have access to material conditions? If yes, in case of an emergency situation can these conditions be reduced to a core minimum?


Responses


	Country	Wider Dissemination	Response
 	Austria	Yes	<ol style="list-style-type: none">1. According to Art. 36 Asylum Act, the Austrian Federal Government in agreement with the Main Committee of the National Council may declare that the maintenance of public order and the protection of internal security are at risk (para 1). In this respect, particular consideration has to be given to the number of foreigners applying for international protection and to the public systems, the functioning of which is affected by the current migration movements (para 2).2. No.3. In the case of mass flight movement (“Massenfluchtbewegung”), reception benefits for the foreigners concerned may be reduced. However, the satisfaction of basic needs must be ensured



			<p>and Art. 8 ECHR has to be considered (see Art. 8 of the Basic Welfare Support Agreement between the Federal State and the Provinces).</p> <p>4. Irregularly staying migrants only have access to basic welfare support if they cannot be removed for legal or factual reasons for which they are not responsible (Art. 2 Welfare Support Agreement; Administrative High Court, 27 February 2013, 2011/01/0005; see p. 27 of the Austrian national report for the EMN-study on the return of rejected asylum seekers). In the case of mass flight movement, only the reception benefits for the foreigners concerned (“die Grundversorgung dieser Fremden”) may be reduced (see Art. 8 of the Basic Welfare Support Agreement). Accordingly, reception benefits for irregularly staying migrants may be reduced if they are part of a mass flight movement.</p>
	Belgium	Yes	<p>1. No, our national legislation does not provide a definition of emergency situation involving the sudden arrival of large numbers of asylum seekers or irregular migrants. The only reference to “a mass influx or imminent mass influx of displaced persons” is related to the transposition of the Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof. According to the law of 18 February 2003 Law amending the Law of 15 December 1980 on the access to the territory, residence, establishment and removal of foreigners (the Immigration Act), a new chapter II bis was inserted in the Immigration Act, concerning ‘Foreigners who benefit from temporary protection on the basis of the Council Directive 2001/55/EC of 20 July 2001’.</p> <p>2. No derogations are foreseen.</p> <p>3. The European Reception Directive stipulates the cases in which the Member States by way of exception, for the shortest reasonable period, may differ from the ordinary rules for material reception conditions. This may, inter alia, when the housing capacity normally available, is temporarily exhausted. Using this possibility, the Belgian legislator has stipulated in Art 18 of the Reception Act that if the normally reception capacity is temporarily exhausted, the beneficiary of reception may be housed in an emergency reception structure, for a period of up to 10 days.</p>

During the emergency reception, some provisions of the Reception Act do not apply. But the basic needs of the residents must be provided for. These include, inter alia: - food - housing - access to sanitation facilities - full medical care. The resident who is housed in an emergency structure, is also entitled to a limited social support, including "at least the information and the necessary support to take the requisite steps, including in the context of the asylum procedure".


4. Note: Irregularly staying migrants who are found on the territory (and never asked for asylum or asked for asylum a longer time ago and the order to leave the country is already expired) are not entitled to material aid. They are only entitled to urgent medical aid. An exception to this rule: certain irregularly staying families with minor children (not asylum seekers) are legally entitled to a reception place and material aid on the basis of the fact that the minors (who reside with their parents illegally in Belgium) are indigent. The social services of the municipality of the place of residence verify that the family fulfils the conditions and, if the families wish to benefit from reception, they are referred to Fedasil (in principle, only the minor is entitled to material aid, but in practice the parents are accommodated together with the child). These families are accommodated in so-called family units. The family units are individual houses and apartments which are provided for the temporary stay of the concerned families. Legally, these families are being detained in the housing units but in practice the said housing units are normal houses and the families have liberties of movement. Every family gets support from a case manager or coach. The family units are under the direct competence of the Immigration Office. Right to material aid Asylum seekers have a right to material aid (which includes accommodation) from the lodging of their application and during the entire asylum procedure (examination of application by Commissioner General for Refugees and Stateless Persons (CGRS), 30-day period for possible appeal before the Council of Alien Law Litigation (CALL), examination of appeal and decision by CALL. In case of a negative appeal decision by the CALL, rejected asylum seekers are entitled to material aid until the order to leave the territory that has been issued to them has expired (usually a maximum of 30 days). Rejected asylum seekers can however not stay in the reception facilities following a negative appeal decision. They are transferred to specific 'open return places'. However, do note that these open return places are located in 'regular' reception centres for asylum seekers managed by the reception agency, Fedasil. Rejected asylum seekers are transferred to these specific places – after a negative appeal decision by the CALL- where they receive the same material aid as during the asylum procedure and receive intensive return


			counselling for a maximum period of 30 days. After these 30 days, the rejected asylum seekers can no longer stay in these reception facilities unless they have signed up for voluntary return. In this case, they can stay in the open return places in the reception facilities until the moment of departure.
	Croatia	Yes	<p>1. 1.No, national legislation does not provide such definition. After the arrival of more than 11,000 people on 17 September 2015 alone, the Croatian Government established an ad hoc crisis headquarters for the coordination of activities concerning the arrival of refugees and migrants, which task was to ensure a coordinated action by all competent authorities and institutions. However, the same like Sweden, we have specific provisions in the Croatian Act on international and temporary protection for giving temporary protection in the event of a mass influx or an imminent mass influx of displaced persons from third countries who cannot be returned to their country of origin, especially if a risk exists that due to the mass influx it is not possible to conduct effectively the procedure for approval of international protection, for the purpose of protecting the interests of the displaced persons and others who request protection. Displaced persons are deemed to be third country nationals or stateless persons who have had to leave their country or region of origin, or have been evacuated, in particular in response to an appeal by international organisations, and are unable to return to safe and enduring conditions because of the situation prevailing in that country, who may fall within the scope of Article 1A of the Geneva Convention of 1951 or other international or national instruments giving international protection, in particular: 1. persons who have fled areas of armed conflict or endemic violence; 2. persons at serious risk of, or who have been the victims of, systematic or generalised violations of their human rights. Mass influx, means a large number of displaced persons who come from a specific country or geographical area, whether their arrival was spontaneous or aided. The Government of the Republic of Croatia shall render a decision on introducing temporary protection pursuant to a decision by the Council of Europe on the existence of a mass influx of displaced persons (Article 78),</p> <p>2. 2. No.</p> <p>3. 3. No.</p>


			<p>4. 4. A) No. The access to material conditions do not have migrants irregularly staying in Croatia. Only irregular migrants that are in detention centre have basic welfare and accommodation support. B) N/a.</p>
	Cyprus	Yes	<p>1. According to the article 20(1) of the Refugee Laws, ‘mass influx’ means arrival in the Cyprus Republic of a significant number of displaced aliens who come from a specific country or geographical area regardless of whether their arrival has been spontaneous or assisted, particularly through evacuation programme. Furthermore, according to the same article, “temporary protection” means a procedure of an exceptional character, which provides, in the event of a mass influx or an imminent mass influx of displaced aliens, who are unable to return to their country of nationality, immediate and temporary protection to such persons, in particular if there is also a risk that the procedure of granting asylum will be unable to process this influx without adverse effects for its efficient operation in the interests of the persons concerned but also of other asylum seekers.</p> <p>2. According to the article 20(1) of the Refugee Laws, ‘mass influx’ means arrival in the Cyprus Republic of a significant number of displaced aliens who come from a specific country or geographical area regardless of whether their arrival has been spontaneous or assisted, particularly through evacuation programme. Furthermore, according to the same article, “temporary protection” means a procedure of an exceptional character, which provides, in the event of a mass influx or an imminent mass influx of displaced aliens, who are unable to return to their country of nationality, immediate and temporary protection to such persons, in particular if there is also a risk that the procedure of granting asylum will be unable to process this influx without adverse effects for its efficient operation in the interests of the persons concerned but also of other asylum seekers</p> <p>3. No</p> <p>4. There are no derogations provided in the national law which transposed Directive 115/2008, however, Cyprus uses the detention measure with discretion and always as a last resort and</p>

			<p>therefore we do not use longer detention times than those provided in the Directive, in any situation.</p> <p>5. No</p> <p>6. No.</p> <p>7. No</p> <p>8. No, irregularly staying migrants who have been issued with a return decision, are only entitled to assistance regarding the issuing of a travel document and a return flight ticket.</p>
	Czech Republic	Yes	<p>1. No.</p> <p>2. No. CZ transposed the derogation under art.43 par. 3 of the APD only.</p> <p>3. No.</p> <p>4. Generally irregular migrants do not have access to material conditions. However, unsuccessful asylum seekers can apply for voluntary departure assistance and in this case they are treated as asylum seekers. Irregular migrants have access to free basic health care during the period for voluntary departure after the return decision was issued to them. No reduction is foreseen in the emergency situation under national law.</p>
	Estonia	Yes	<p>1. Currently the Estonian legislation does not provide a definition of emergency situation.</p> <p>2. No.</p> <p>3. No.</p>

			<p>4. Yes, irregularly staying migrants have access to material conditions. Reducing the material conditions in case of an emergency situation is under discussion in the Ministry of the Interior.</p>
+	Finland	Yes	<p>1. In the Finnish legislation, there is no definition of an emergency situation involving the sudden arrival of a large number of asylum seekers or irregular migrants. However, there are provisions regarding such a situation (“large scale entry into the country”) in the Aliens Act and the Act on the Reception of Persons Applying for International Protection. Moreover, the Ministry of the Interior has given guidance regarding such a situation to migration administration under the ministry. Although there is no clear definition in the legislation of what constitutes a large scale entry into the country, it is generally considered that if the number of asylum seekers or irregular migrants entering the country exceeds 20,000 persons, question is of such a situation. Apart from the number of persons entering the country, also the suddenness of the situation affects the assessment of whether it is to be considered an exceptional situation of a large-scale entry into the country which entails applying special provisions related to it.</p> <p>2. No.</p> <p>3. In principle, no: even in a situation of large-scale entry into the country, the aim is to provide the same reception conditions to all asylum seekers as in a normal situation. However, in order to efficiently register all asylum seekers arriving in the country in a situation of large-scale entry into the country, Section 133 of the Aliens Act envisages directing asylum seekers to an organising centre on a short-term basis, for the purposes of registration. Furthermore, Section 12 of the Act on the Reception of Persons Applying for International Protection states that “The stay at organising centres is intended to be of short duration. The persons accommodated at organising centres are provided with supplies for the necessary means of support.” (unofficial translation)</p> <p>4. In short: yes, irregularly staying migrants have access to certain material conditions. The material conditions are reduced to a core minimum (i.e. indispensable subsistence and care as defined by the Constitution of Finland) for all irregularly staying migrants, whether it is a normal situation or a situation of large-scale entry into the country. When speaking of rejected asylum seekers who have been issued a return decision, they have access to material conditions as long as their removal is being processed, i.e. until their voluntary return or removal from the country is</p>

			<p>carried out. If, however, the person under a removal order will not leave Finland voluntarily and his/her removal cannot be enforced by the authorities, he/she is considered to be staying in Finland irregularly and his/her access to reception services and other material conditions is discontinued after 30 days. After this, the person in question has the opportunity to seek assistance elsewhere in the network of authorities and organisations. The number of irregularly staying persons is expected to increase in Finland as large numbers of decisions given to asylum seekers who arrived in Finland in 2015 will become final in the near future. The Finnish authorities are currently preparing guidance on how to respond to the situation. In December 2016, the ministerial working group on migration approved an action plan in preparation for an increase in the number of irregularly resident persons. An aspect that is considered particularly challenging is the arrangement of subsistence and care for irregularly resident persons after their accommodation in a reception centre ends. According to the guidelines provided in the action plan, municipalities should see to it that irregularly resident persons are guaranteed the right to receive indispensable subsistence and care, as defined by the Constitution of Finland. The guidelines state that a person needing indispensable and urgent help is referred to temporary housing service, so-called emergency accommodation. The emergency accommodation service also includes food and potentially other acute assistance, such as indispensable medication. Furthermore, irregularly resident persons are referred to the return system. According to the ministerial working group on migration, the drafting of necessary legislative amendments with regard to indispensable subsistence and care will start at the beginning of 2017.</p>
	France	Yes	<p>1. > Yes; Introductory comment: FR does not make any distinction between different types of migrants in such a situation. FR national legislation is not limited to asylum seekers but covers the arrival of all irregular migrants. FR introduced in its legislation specific legal provisions in order to deal with this issue, exclusively at the external borders (except when control at internal borders has been restored) : article 221-2 of the Code for Entry and Residence of Foreigners in France [CESEDA] foresees that when a group of irregular migrants superior to ten is apprehended outside a border check point, in the same premises or in several premises not distant from each other more than 10 km, the waiting zone (like in an airport in case of refusal of entry)</p>

			<p>extends from the premises where the irregular migrants have been caught to the nearest border check point. They can be detained during a period that cannot exceed 26 days.</p> <p>2. FR legislation foresees only derogations to procedural safeguards (rights notification and interpreter) Article 221-4 of CESEDA.</p> <p>3. NO</p> <p>4. Third country nationals whose asylum application was rejected can no longer have access to assistance allowances dedicated to asylum seekers. They have to leave the asylum seekers' accommodation within one month after the decision. If they have chosen voluntary return, they can stay one additional month before leaving. Rejected asylum seekers can benefit from specific accommodation solutions if they apply for voluntary return. A person subject to return decision has access to material conditions (emergency housing) only in exceptional circumstances, after the period of voluntary departure. Rejected asylum seekers can benefit from the State Medical Aid (Aide médicale d'État). A person subject to return decision benefits from urgent medical help also.</p>
	Germany	Yes	<p>1. Such a definition does not exist in German legislation.</p> <p>2. No.</p> <p>3. No.</p> <p>4. Irregularly staying migrants who have a return decision obtain benefits in accordance with the Asylum Seekers Benefit Act (Asylbewerberleistungsgesetz). The extent of the benefits depends on whether or not the person is responsible for the reasons for which a deportation cannot be enforced. If the person is not responsible, he/she receives regular benefits according to the Asylum Seekers Benefit Act (§ 1a II S.1). In the case that the person's deportation cannot be enforced owing to reasons for which he/she is responsible his-/herself, the person is only granted benefits to meet their basic needs for nutrition, housing including heating as well as body- and healthcare. These benefits are to be provided as non-cash benefits. That is to say the benefits are</p>

			reduced to a concretized physical minimum. However due to the basic right to be granted a humane subsistence level this regulation is meant to be interpreted restrictively.
	Hungary	Yes	<p>1. According to the law LXXX of 2007 on asylum (article 80/A. and following), a ‘crisis situation caused by mass immigration’ can be declared in a Government Decree on the proposal of the competent minister as initiated by the National Commander of the Police or the head of the refugee authority. A crisis situation caused by mass immigration can be declared for the entire territory or defined areas of Hungary for max. 6 months at a time. A crisis situation caused by mass immigration can be declared if a) the number of those arriving in Hungary and seeking recognition exceeds aa) 500 people a day as a month’s average, or ab) 750 people per day as the average of two subsequent weeks, or ac) 800 people per day as a week’s average, b) the number of people staying in the transit zone in Hungary - not considering those contributing to taking care of the foreigners - exceeds ba) 1000 people per day as a month’s average, or bb) 1500 people per day as the average of two subsequent weeks, or bc) 1600 people per day as a week’s average. c) in addition to the instances specified in sections a) and b), the development of any circumstance related to the migration situation directly endangering the public security, public order or public health of any settlement, in particular the breakout of unrest or the occurrence of violent acts in the reception centre or another facility used for accommodating foreigners located within or in the outskirts of the settlement concerned. c) in addition to the cases specified in paragraphs (a) and (b), if any circumstance related to the migration situation occurs that ca) directly endangers the protection of the border of Hungary as set out in Article 2 (2) of the Schengen Borders Code, cb)directly endangers the public security, public order or public health in a 60 m wide zone of the territory of Hungary measured from the border of Hungary as set out in Article 2 (2) of the Schengen Borders Code and the border mark or in any settlement in Hungary, in particular the outbreak of unrest or the occurrence of violent acts in the reception centre or another facility used for accommodating foreigners located within or in the outskirts of the settlement concerned.</p> <p>2. Although 2008/115/EC allows to place third-country nationals in prisons as last resort, and the Hungarian law transposed these regulations, it was not a practice in Hungary until the “Crisis situation due to massive influx of migrants” has been introduced. In crisis situation it is allowed –</p>



in order to manage the huge influx of migrants – to use state-owned or local-government-owned movable and unmovable properties. In practice it meant that third-country nationals were placed during their aliens policing detention in buildings owned by prison facilities (but they were kept separately from the regular prisoners).



3. Services within the transit zones are provided according to the Reception Directive. According to 4/D. § of IRM Degree 52/2007. (XII.11.) during a high influx crisis situation the following provisions are provided for asylum seekers at transit zones: In the transit zones according to specific regulation medical and 24 hour social services are available. Special attention is paid to those with special needs and especially children. For asylum seekers accommodated in the transit zone housing (beds, bedsheets), hygiene packs, storage possibility for their personal belongings, hot water supply, use of sanitary facilities, access to media and communication facilities, possibility to engage in sports and free time activities, access to an area where they can freely practice their religion, 3 days a meal, 5 meals for children under 14 years of age must be provided; their age and health condition are taken into account. For meals a daily ration of 10 900 Kjoules is provided. Special attention is paid to health condition, age and religious constraints when providing daily meals. Women in state of pregnancy and mothers with new-born children under 14 receive dairy products and fruit on a daily bases. Additional food is supplied in case the medical condition of an applicant makes it necessary. According to 99/E. § (1) of Government decree 301/2007. (XI.9.) on the Implementation of the 2007. LXXX. Asylum Act (GovDcr) the asylum authority provides the material conditions for education within the transit zones: grants access to kindergarten and education during their asylum procedure for those asylum seekers that are covered by the National Public Education Act. The designated public education body provides education for children housed in transit zones, employs the necessary teaching staff. According to our laws, separate accommodation for those with special needs is provided by the asylum authority. According to 34. § of the GovDcr besides the medical services set forth in 26-27. § of the GovDcr additional medical, rehabilitation, psychological, expert psychological and psychotherapy is provided free of charge, if needed. According to the above-mentioned, families, single women, unaccompanied minors between the age of 14 and 18, and single men are housed in separate designated living areas at transit zones. In these living areas housing, sanitary and hygiene facilities, 24 hour social services, access to media and communication, free time activities, praying area, meals are provided. Transit zones provide medical services; special

			<p>attention is paid in cooperation with social workers to those with special needs, especially to the physical, emotional, and moral development of children. Medical services are also provided at transit zones just as in any other reception facility according to 26-28 § of the GovDcr including GP; in case of emergency specialist and hospital care with transport as well. Unaccompanied minors under 14 years of age are accommodated in facilities of the child protection services. Guardian is appointed for unaccompanied minors above 14 and legal counselling is provided as well. Some specifics as regards living conditions: - living areas are heated, suitable for housing families and are equipped with lockers - separate gender based sanitary facilities are provided - equipment to clean clothes is provided - each living area is equipped with possibilities to spend free time meaningfully (common areas, TV, internet, sporting equipment) - room designation for worship - meals are provided 3 times a day, 5 times for children under 14 Medical services include: - 24 hour nurse service (provided by the Police) - paediatrician twice a week - GP is available</p>
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4. Irregularly staying migrants with a return decision can be detained in detention centres (6+6 months). Basic needs are covered (including medical care) and the costs of their stay is advanced by the Hungarian state (if the public debt is not settled, entry ban can be imposed). The immigration authority shall have powers to order the confinement of a third-country national in a designated place, if the third-country national in question: a) cannot be returned or expelled due to commitments of Hungary conferred upon it in international treaties and conventions; b) is a minor who should be placed under detention; c) should be placed under detention, in consequence of which his/her minor child residing in the territory of Hungary would be left unattended if he/she was to be detained; d) is released from detention, however, there are still grounds for his/her detention; e) has a residence permit granted on humanitarian grounds; f) has been expelled, and is lacking adequate financial resources to support himself and/or does not have adequate dwelling. g) should be placed under detention under immigration laws, and detention would result in a disproportionate punishment taking into account the state of health and age of the third-country national concerned. The compulsory place of confinement shall be designated at a community hostel or a refugee center, if the third-country national is not able to support himself, and has no adequate place of abode, financial resources, income, or host or relative who can be compelled to provide support. In crisis situation due to massive influx of migrants the immigration authority shall have right to order as designated place of stay of a third-

			<p>country national the transit zone. According to the effective national legislation with the exceptions set out in law, the immigration authority may order third-country nationals to remain at the following assigned places of residence: a) the third-country national's registered place of abode; b) the host's permanent or temporary residence in the event that the third-country national was invited, or the accommodation provided by the host; c) the place of abode or permanent or temporary residence of the person responsible to provide support for the third-country national; d) the accommodation provided by charity organizations; e) the medical institution providing care for inpatients for the duration of treatment to prevent severe damage to health, following consultation with the government body in charge of the healthcare system; or f) social institutions providing personal care to third-country nationals who satisfy the criteria required by law. In the absence of the prospects specified above, the third-country national may be placed in a community hostel or a reception center. Reception centers may be used only for minor third-country nationals and their parents with actual custody. The place designated for an unaccompanied minor for compulsory confinement shall be a reception center for unaccompanied minors; in the absence of this, a children's institution or a commercial or private accommodation maintained under contract. Unaccompanied minors may be placed in private accommodation at relatives other than immediate family members, if the relative undertakes a commitment in writing to provide room and board and support for the minor, and if it is evident that such placement is in the minor's best interest by virtue of the relationship between the minor and said relative. Third-country nationals who are victims of trafficking in human beings may be placed in a reception center reserved for victims of trafficking in human beings or in other places of accommodation maintained under contract. The costs of confinement in a community hostel or reception center shall be borne by the third-country national, unless he/she is issued a residence permit on humanitarian grounds, or if the third-country national has been granted international or subsidiary protection by the court or the refugee authority. In the absence of prospects specified above (Sections Nr.1.), the immigration authority may impose the obligation to stay at an assigned place and order the third-country national to stay within the administrative area of a specific county, or the territory of the reception center or community shelter. In this case the place of accommodation is granted for the migrants, but other benefits are not entitled. The third country nationals have to keep the house rules, bear the necessary medical examinations and tolerate vaccination.</p>
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	Italy	Yes	<p>1. The Decree n. 142 of 2015 (art. 11) declares emergency situations when the ordinary reception system runs out of accommodations due to considerable and close-range arrivals. To meet the needs, temporary facilities (CAS) are put in place. The temporality of these facilities foresees that migrants are then moved to the ordinary reception system.</p> <p>2. No. Asylum seekers stay in temporary facilities (CAS) until they are transferred in the ordinary reception system (SPRAR), but they are not in a detention condition.</p> <p>3. No, the national legislation does not reduce reception conditions to core basic material conditions. In CAS, reception conditions are the same of the ordinary reception system, according to art. 11 comma 2 D.lgs. 286/1998, that refers to art. 10 comma 1 of the same law. The standards to be ensured in ordinary reception facilities are the respect of privacy, gender and age; the safeguard of the mental and physical health of the asylum seekers and people with special needs; the family unit.</p> <p>4. NO</p>
	Latvia	Yes	<p>1. No, the national legislation does not provide the definition of emergency situation in case of mass influx of asylum seekers or irregular migrants. Nevertheless the Action plan for coordinated activities of involved institutions in case of mass influx of asylum seekers arriving from crisis-affected countries to Latvia (adopted by the Cabinet of Ministers in 04.07.2012.) prescribes that envisaged measures to be applied when the number of asylum seekers exceeds the accommodation capacity and reaches 500 to 3,000 people in period of 1-5 days or 3000 to 20,000 in 5-10 days.</p> <p>2. No.</p> <p>3. Not applicable.</p> <p>4. Access to material conditions differs whether the voluntary return decision or removal order has been taken: 4.1. If the voluntary return decision is in force the irregularly staying migrant has a right to emergency medical assistance, schooling for minors and access to the night shelter</p>



			(case by case approach is applied taking into account individual assessment and needs of vulnerable persons); 4.2. In case removal order is issued the irregularly staying migrant is placed in an accommodation centre and he/she has a right to receive food and material support for household needs in accordance with specified maintenance standards, emergency medical assistance, as well as guaranteed health care services in the amount and according to the procedures laid down in laws and regulations and with his/her own means health care services and medicines which have been prescribed by medical personnel.
	Lithuania	Yes	<p>1. No, national legislation of Lithuania does not provide such definition. However, the Government of the Republic of Lithuania has approved the management plan for emergency situations, which determines mobilization and management of both material and human resources under possible and during ongoing emergency situation. Mass influx of aliens is considered one of the emergency situations. The plan designates the institutions responsible for the management of these situations, including, organizing detention and temporary accommodation of irregular migrants, assurance of public order, organization of health care, communication with foreign institutions. In addition, the Government of the Republic of Lithuania recently confirmed the Description of Accommodation of Asylum Seekers Procedure (8th of March, 2017). This description is also applicable in case of increased influx of asylum seekers when the reception capabilities are exceeded.</p> <p>2. No.</p> <p>3. N/a</p> <p>4. n/a</p>
	Luxembourg	Yes	<p>1. Yes. Article 2 t) of the Law of 18 December 2015 on international protection and temporary protection defines massive inflow as the arrival in the European Union of a large number of displaced persons, who come from a specific country or geographical area, whether their arrival in the Community was spontaneous or aided, for example through an evacuation programme. The law defines in those cases that “temporary protection” applies. Article 2 r) defines temporary</p>

protection as a procedure of exceptional character to provide, in the event of a mass influx or imminent mass influx of displaced persons from third countries who are unable to return to their country of origin, immediate and temporary protection to such persons, in particular if there is also a risk that the asylum system will be unable to process this influx without adverse effects for its efficient operation, in the interests of the persons concerned and other persons requesting protection. However, in order to trigger the temporary protection regime article 69 requires that there has to be a EU Council decision taken in accordance with article 4 to 6 of the Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof. If there is no decision of Council the massive inflows will not fall into the temporary protection regime.

2. No. The derogations foreseen in the Directive 2008/115/EC were not transposed into national law by law of 1 July 2011.

3. Article 1 (3) of the Law of 18 December 2015 on reception of applicants for international protection and temporary protection excludes from its scope and the reception material conditions established in article 2 g), situations of massive inflows of displaced persons if the temporary protection regime has not been triggered in accordance with article 69 mentioned above. Article 11 of this Law foresees that if the housing capacities normally available are temporarily exhausted, the applicant for international protection (AIP) may be accommodated in an emergency accommodation structure for a reasonable period which shall be as short as possible. In any case, even at times of high influxes, a dignified standard of living shall be ensured to all AIP's.

4. a) No. According to the law irregularly staying migrants who have a return decision do not have access to material conditions. They are granted 30 days to leave the country (the period can be extended) and may benefit from an assisted return scheme. In the case of rejected international protection applicants the same legal principle applies. However, in practice, rejected applicants of international protection, who did not apply for AVRR-Luxembourg programs and who are subsequently subject to forced return continue to stay in reception facilities upon execution of their return, unless transgressing internal regulations. They also can benefit from certain social

			benefits, such as health care. Also, they may further be attributed humanitarian social aid in case of an urgent need. b) N/A.
	Netherlands	Yes	<p>1. The Dutch Alienact2000 does not hold such a definition</p> <p>2. Please specify which derogations are foreseen. According article 59 of the Dutch Aliens Act irregular migrants may be detained for the maximum period according the Return Directive. The maximum detention period is 6 months. This period may be prolonged with 12 months in case of: (a) a lack of cooperation by the third-country national concerned, or (b) delays in obtaining the necessary documentation from third countries. There is no specific legislation about detention for emergency situations as mentioned above.</p> <p>3. In the national legislation “Regeling verstrekkingen asielzoekers en andere categorieën vreemdelingen 2005 (Rva 2005)” there is a possibility to reduce reception conditions under special circumstances. According to this legislation minister can ordinate the reception organisation (COA) to exclude certain categories of applicants from reception in the case the available housing capacity is exhausted in combination with the need for that capacity for vulnerable groups. The applicant who is excluded from reception will be provided with shelter which will cover the basic needs.</p> <p>4. a. Yes, only when they voluntarily cooperate with their repatriation. The material and non-material conditions are lower than the conditions for applicants without a return decision. This facility, and these conditions, is outside the legislation as mentioned in the answer to question 3 and not mentioned in the EU Reception Directive. It is a last gesture to the irregularly staying migrants to help to return to their country of origin. b. Yes, see answer to question 3.</p>
	Poland	Yes	<p>1. Act of 26 April 2007 on crisis management enacted only a general definition of crisis: „Crisis situation shall be understood as a situation that impacts negatively on the safety of people, property in large sizes or the environment and produces significant restrictions on the operation of competent public administration authorities due to the inadequacy of possessed capabilities and resources”. Then according to the Article 4 of this legal provision civil planning tasks shall</p>

			<p>include: □ preparing crisis management plans; □ preparing structures to be run in a crisis situation; □ preparing and maintaining resources necessary to perform the tasks included in the crisis management plan; □ maintaining databases required in the process of crisis management; □ working out the solutions in the event of destruction or disruption of critical infrastructure; □ ensuring coherence between the crisis management plans and other plans compiled in this regard by competent public administration authorities. The obligation of compiling these plans shall result from separate regulations. The National Crisis Management Plan as well as voivodship, poviát and gmina crisis management plans, hereinafter referred to as ‘crisis management plans’ shall be compiled. Therefore based on the Act of 26 April 2007 on crisis management Poland has developed detailed plans and procedures that regulate migration management in emergency situations (mostly adopted in 2014 as a response of the situation in Ukraine): □ National Plan for Emergency Management, adopted 6 March 2012 and updated 23 July 2013 by the Council of Ministers □ Standard Operational Procedure – 10 “Actions undertaken in case of a massive influx of foreigners on the territory of Poland” (part of the National plan for Emergency Management) □ Action plan of the Ministry of the Interior on organization, reception, transport and stay of foreigners/asylum seekers from Ukraine □ Strategy on the proceedings to be used in case of a massive inflow of foreigners in the South sector of the Polish border □ Action plan of the Office for Foreigners □ Action plan of the Department for Social Assistance (Office for Foreigners) Action plan of the Office for Foreigners On 2 April 2014, the Office adopted Contingency Plan of the Office for Foreigners in case of a sudden influx of Ukrainian migrants. The Plan was based on three scenarios in which a different number of Ukrainians apply for refugee status: □ influx of foreigners up to 20 individuals per day, □ influx of foreigners from 20-100 individuals per day, □ influx of more than 100 persons per day. For each scenario, the Office would adopt different measures concerning the organization of work in the Office (i.e. secondments of employees, launch and management of Central Reception Points and new accommodation centers, additional responsibilities of the departments), means of communication and transportation, as well as sources of financing. Moreover, the contingency plan enumerates potential risks hindering its implementation. The Plan was updated in 2016. On 8 July 2014 Office for Foreigners adopted a more detailed contingency plan focusing on additional accommodation possibilities, Central Reception Points and temporary accommodation campgrounds. The Plan was updated on 12 August 2016. Actions undertaken in case of a massive</p>
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influx of foreigners on the territory of Poland The document had been developed since June 2011 in the Ministry of the Interior in cooperation with the Government Security Centre, in parallel in the course of work of two above mentioned teams, i.e. the inter-ministerial Team for Migration and the inter-ministerial Team for National Border Management. The document contains an action plan for the State authorities in case of a potential migration crisis at the eastern border of Poland, which is a development on the standard operational procedure designed by the Government Security Centre, which is a component of “The National Crisis Management Plan” approved by the Council of Ministers on 6 March 2012. It is a set of non-binding guidelines. Action plan of the Ministry of the Interior on organization, reception, transport and stay of foreigners/asylum seekers from Ukraine Adopted in January 2014 as an answer to a viable threat of a surge in the number of asylum seekers from Ukraine affected by a growing political and economic crisis. Strategy on the proceedings to be used in case of a massive inflow of foreigners in the South sector of the Polish border Agreed in October 2015, identified actions to be taken to manage changing migration flows from the Mediterranean and Balkan routes to the EU Member States. The strategy covered both the asylum and the return procedures, as well as addressing identification and reception matters.


2. Not applicable (Using detention rules falls within the competence of the Border Guard).


3. Pursuant to the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland and Ordinance Ministry of Internal Affairs and Administration of 19 February 2016 on the amount of aid for foreigners applying for international protection foreigners in the centre receive: accommodation; food; reimbursement of costs of transport in specific cases, i.e. cases connected with refugee status proceedings, medical examination and vaccination or other justified cases; constant financial aid for the purchase of personal hygiene products in the amount of PLN 20 a month and so-called pocket money in the amount of PLN 50 a month; provision of non-recurring financial aid for the purchase of clothes and shoes in the amount of PLN 140; provision of cash equivalent to food for children aged 6 and below and schooled children in the amount of PLN 9 a day. Outside of the centre foreigners receive: benefit in cash covering the cost of stay on the territory of Poland. This form of assistance may apply when it is required for organisational reasons or when it results from other provisions of the act. No of family members Amount per day/per person Amount per month/per person Single 25


PLN (around 6,25 EUR) 750 PLN (around 187,5 EUR) 2 persons 20 PLN (around 5 EUR) 600 PLN (around 150 EUR) 3 persons 15 PLN (around 3,75 EUR) 450 PLN (around 112,5 EUR) 4 persons 12,50 PLN (around 3 EUR) 375 PLN (around 93,75 EUR) Moreover, irrespectively of the form of assistance, all foreigners have the right to: access to public schools and necessary didactic materials (books and school materials) free Polish lessons, access to classrooms in each facility; health care coordinated by the Petra Medica Sp. z. o. o. in Warsaw, pursuant to an agreement concluded with the Office for Foreigners, which covers: medical points in the centre – where doctor and nurses provide medical assistance, specialised treatment, psychological care – psychologists can be accessed in centres for foreigners, also by people who receive benefits outside the facility; dental care – foreigners may obtain dental treatment in dentist's offices with which the Office for Foreigners has signed agreements on the provision of the above mentioned services; assistance with a voluntary return. However pursuant the Act of 28 July 2011 on the legalization of stay of certain foreigners on the territory of the Republic of Poland and amending the Act on granting protection to foreigners within the territory of the Republic of Poland and the Act of foreigners the maximum limit of state budget expenditure for assistance to foreigners in the procedure is PLN 100 000 000 each year, over a period of 10 years (excluding expenses related to resettlement or relocation). In addition, correction mechanisms are set, if there is a risk of exceeding the limit: reduction at least one of cash benefits (what concerns purchase for cloths and shoes, hygienic products, pocket money, cash equivalent for food and burial costs); reduction at least one of non-cash benefits (what concerns free polish lessons, education materials, transport costs); limiting the scope of medical care (by exclusion of one of benefit: addiction treatment, dental treatment or health program; or provide only basic medical care in case of a large inflow of foreigners).

4. Access to material conditions is closely connected to the final decision in the refugee status proceedings within the time limits determined in the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland. Social assistance and medical care shall not be granted after: 14 days from the date of delivery of final decision on discontinuance of proceedings, where proceedings for granting international protection have been discontinued; the date of execution of obligation to leave the territory of the Republic of Poland after the refusal of granting refugee status or granting subsidiary protection; 2 months from the date of delivery of final decision in other cases. After this time irregularly staying migrants who have a

			<p>return decision have no access to material conditions. The period of granting the social assistance and medical care is extended until the date when the foreigner should leave the territory of the Republic of Poland in case: <input type="checkbox"/> the foreigner applies for help in voluntary return; <input type="checkbox"/> the foreigner informed the Head of the Office for Foreigners in writing way of his intention to voluntarily return after a delivery of the negative decision; <input type="checkbox"/> the foreigner should be transferred to another Member State responsible for examination of the application for international protection under Regulation 604/2013; <input type="checkbox"/> in cases if for spouses or their minor children, living of the center, separated procedures granting international protection are underway, the period of social assistance given to spouses and their minor children ends with the expiry of that period of assistance, which is longer.</p>
	Slovak Republic	Yes	<p>1. No.</p> <p>2. No.</p> <p>3. Slovak legislation does not allow for reduction of reception conditions for asylum seekers in emergency situations. However, it should be noted that asylum seekers in the Slovak Republic are provided assistance in material form. According to the Act on Asylum, they are provided free of charge accommodation in the asylum facility, board, basic toiletries and other essential things. Moreover, they are also provided with some pocket money.</p> <p>4. If speaking about detained persons, yes they have. National legislation does not specify the possibilities in emergency situations.</p>
	Slovenia	Yes	<p>1. On January 2017 the Parliament adopted a new provisions (10a, 10b) of the Alien Act which contains also legal acts in case of sudden arrival of large numbers of asylum seekers or irregular migrants into Slovenia. However, the new provisions are currently under assessments of the Constitutional Court based on Ombudsman opinion that provisions violated Constitution, several EU legislation and international conventions. Implementation of provisions 10a, 10b are not under the ban during the phase of assessment of the Constitution Court. In practice we apply the</p>

			<p>following definition: Situation of sudden and disproportional influx of illegal migrants/asylum seekers that influences security at the borders as well as security inside the country.</p> <p>2. Such provisions are not in place.</p> <p>3. Such measures are not in place according to current legislation.</p> <p>4. Even in such conditions the irregular migrants have access to appropriate material support. Even during the time of 2015/2016 migration crisis welfare of migrants was not an issue regardless of the number of migrants. The only issue was overcrowding of accommodation capacity in the peak times.</p>
	Sweden	Yes	<p>1. No, not directly. However, there are specific provisions in the Swedish Aliens Act for temporary protection under Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof. Article 2 (d) in the directive states that in this directive 'mass influx' means arrival in the Community of a large number of displaced persons, who come from a specific country or geographical area, whether their arrival in the Community was spontaneous or aided, for example through an evacuation programme. Article 5.1 in the same directive states that the existence of a mass influx of displaced persons shall be established by a Council Decision adopted by a qualified majority on a proposal from the Commission, which shall also examine any request by a Member State that it submit a proposal to the Council.</p> <p>2. No</p> <p>3. Yes, we have one provision in the Swedish Law on Reception of Asylum Seekers and Others covering specific emergency situations when it could be possible (not mandatory) to reduce reception conditions to core basic material conditions. A special provision in this law states that the Government may issue special regulations that deviate from this law, if Sweden is at war or</p>

			<p>danger of war, or there is such extraordinary conditions that are caused by war outside Sweden or that Sweden has been at war or danger of war.</p> <p>4. There are regulations in the Law on Reception of Asylum Seekers and Others stating that the right to material conditions ceases when the person in question leaves Sweden after a return decision. However, for single adults the right to material conditions generally expire a month after the expulsion order was issued, unless it is manifestly unreasonable. This means that the regulations are more favourable when children are involved. In case of an emergency situation the conditions could also be reduced for categories other than single adults. For further information, see the answer under question 3).</p>
	United Kingdom	Yes	<p>1. No.</p> <p>2. The UK is not part of the return directive so this question is not applicable.</p> <p>3. The UK legislation on asylum support instructs that as well as providing free accommodation and utilities, the UK can only provide cash support to cover “essential living needs” which are currently defined to include food, clothes, toiletries, household cleaning items, non-prescription medicines and some provision to cover the maintenance of interpersonal relations and a minimum of participation in social cultural and religious activities. The latter is considered to be covered by provision within the cash allowance for some travel and communications.</p> <p>4. A failed asylum seeker usually loses access to accommodation and subsistence support once appeals have been exhausted (21 days after the final rejection of their asylum claim or any appeal). They may only continue to receive support in limited circumstances, generally when they can show that there is a legal or practical obstacle that prevents them from leaving the UK. An exception is made if the failed asylum seeker has a child in their household: in these circumstances, access to accommodation and subsistence support continues until the child turns 18 or the family leaves the UK.</p>

	Norway	Yes	<p>1. NO</p> <p>2. NO</p> <p>3. Instruction GI-05/2017 from the Ministry of Justice has the following wording in this regard: UDI will provide simple but acceptable accommodation. The offer will ensure the residents' basic needs and the individual's need for security. In addition to other guidelines and framework conditions..., suitable accommodation must be assessed in light of the current situation with the number of asylum seekers coming to Norway. For example, in an extraordinary situation, it may be necessary to have an accommodation offer with a lower service level and / or a lower standard than usual to ensure accommodation for all.</p> <p>4. Do irregularly staying migrants who have a return decision have access to material conditions? YES If yes, in case of an emergency situation can these conditions be reduced to a core minimum? No reduction is specifically aimed at this group; what applies in general for reception facilities also applies to this group. See above.</p>
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