

**NATIONS UNIES
HAUT
COMMISSARIAT
POUR LES REFUGIES**



**VERENIGDE NATIES
HOOG
COMMISSARIAAT
VOOR DE
VLUCHTELINGEN**

Delegation Regionale
pour le Benelux
et les Institutions
Europeennes
Rue Van Eyck 11B
B - 1050 Bruxelles

Telefax : 627.17.30
Telephone : 649.01.53
Email : belbr@unhcr.ch

**UNITED NATIONS
HIGH
COMMISSIONER
FOR REFUGEES**
Regional Office
for the Benelux
and the European
Institutions

Regionale
Vertegenwoordiging
voor de Benelux en de
Europese Instellingen
Van Eyckstraat 11B
B - 1050 Brussel

Telefax : 627.17.30
Telefoon : 649.01.53
Email : belbr@unhcr.ch

Background Note on the Protection of Asylum Seekers and Refugees in Bulgaria

UNHCR welcomes the progress made by the Bulgarian Government in establishing a functioning asylum system, in particular its efforts during 2004 in implementing the Law on Asylum and Refugees (LAR), adopted in May 2002 and in force since December 2002.

Refugee legislation and practice

UNHCR also welcomes the 2005 amendments to the 2002 LAR of 8 April 2005 aimed at further alignment of the domestic asylum legislation with international standards and the evolving EU acquis. The Parliament adopted the Amendments on 8 April 2005¹. The UNHCR Representation in Bulgaria as well as the Bulgarian Helsinki Committee (a UNHCR implementing partner which provides free legal advice to refugees) submitted comments on the proposed Amendments², which were by and large taken into consideration. UNHCR has acknowledged that compared to the 1999 Refugee Law, the 2002 Law on Asylum and Refugees and its Amendments of 2005 represent significant progress in aligning Bulgarian law with international and European standards. However, UNHCR maintains its concerns especially regarding the Articles 13, 15, 16, and 25, as explained below:

- (a)** Article 13, as amended, still in part wrongly equates grounds for rejection of asylum applications as manifestly unfounded with circumstances in which refugee status might be canceled or withdrawn;
- (b)** Article 15, items 6 to 8 are not in line with the cessation clause of the 1951 Geneva Convention, by allowing for cessation of refugee status on the grounds of a mere wish to move to a third country or return (not re-establishment) to the country where persecution was feared;
- (c)** In Article 16, several of the numerous grounds for rejection of an asylum application, discontinuation of the procedure or withdrawal of status are at odds with international refugee law

as well as European standards, and the provision does not adequately distinguish between rejection, discontinuation of a procedure or withdrawal of status.

UNHCR has monitored access to the territory and has noted with some concern that during 2004, the number of asylum applications decreased by 60% in comparison to 2002, and that this trend continued during the first quarter of 2005. In the framework of closing Chapter 24 of Justice and Home Affairs (JHA) within the EU enlargement process, Bulgaria implemented ever stricter border control measures. This may have contributed to the decreasing number of asylum applications, as well as to the increasing number of persons denied entry into the country³.

Ensuring effective protection for asylum-seekers and supporting the government's efforts to promote the integration of recognized refugees continue to be major challenges. These challenges have to be seen in the context of the process of EU accession, strengthening of border controls with the prospect of Bulgaria having an external EU border, and combating human smuggling and trafficking⁴. While acknowledging improvements achieved in terms of processing asylum applications within the deadlines for the accelerated and the normal procedures set by the Law on Asylum and Refugees (LAR), the UNHCR Representation in Bulgaria has focused its activities on access to territory and a full implementation of the LAR. In 2005, UNHCR has concerns regarding the non-operability of the State Agency for Refugees (SAR) throughout the territory of Bulgaria, coupled with indications that persons potentially in need of protection in Bulgaria may not have been admitted to the territory.

According to the findings of the border monitoring project implemented in 2004 under the "Joint Small Project" supported by the UNHCR Regional Support Unit Budapest, approximately 90% of refugees and asylum seekers reach Bulgaria by illegally crossing the "green" border (predominantly the Bulgarian / Turkish border and lately the Bulgarian / Greek border). When an alien expresses his / her wish to request protection, the border authorities are supposed to arrange for transportation to Sofia where the individual must present him- or herself to the refugee authorities. As indicated in the SAR report of 16 February 2005, 59 applicants for protection were directed by border police to the SAR, and 48 applications for protection were forwarded to the SAR from the Detention Center in Sofia. However, the delays or at times, the reluctance to forward applications for processing may lead to breaches of the rights of asylum seeker and even potential refoulement.

Anti-smuggling and anti-trafficking activities

The UNHCR Representation in Bulgaria continues to contribute to activities to combat human smuggling and trafficking in persons⁵ with a view to upholding refugee protection principles. It cooperated in efforts to ensure that anti-trafficking policies and strategies are accompanied by specific protection and assistance measures for victims and witnesses of trafficking. Upon adoption of the Law on Combating Trafficking in Human Beings on 7 May 2003, UNHCR Representation was invited by the Ministry of Justice to join a working group to draft subsidiary acts (i.e. rules of procedure for the work of National Commissions) for combating trafficking in human beings and rules of procedure of the temporary shelters and centers for protection and assistance of Victims of Trafficking. Upon UNHCR's interventions and written submissions to the Ministry of Justice (MoJ) and the working group, the final text of the Rules of Procedures includes the essence of the saving clause of the Palermo Protocol⁶. The Council of Ministers adopted the Regulations in May 2004. As per the official information from the Ministry of Justice dated February 2005, the Council of Ministers, in its decision of Oct. 1, 2004 appointed the Vice-Prime Minister as the Chairman of the Commission for combating trafficking in human beings⁷. However, the National Commission remains understaffed and the follow-up of the legislation has been delayed until late 2005.

Statistics

From 1 January 1993 until 31 December 2004, a total of 13,930 persons applied for protection in the Republic of Bulgaria. A total of 1,392 persons were recognized as refugees (333 children) and 3,336 were given humanitarian status (773 children). The asylum seekers came from 79 different countries. The majority were from Afghanistan, Armenia, Iraq, Iran and Nigeria. 69% of them were males of working age (18-58 years), 14% women and 17% children (53 accompanied by families and 233 unaccompanied). Most reside in the capital or in other urban areas such as Plovdiv, Varna and Burgas, as the job opportunities there are significantly higher than in rural areas.

According to the SAR's report for the period 1 January - 30 June 2005, 406 new applications for asylum were received, 7 persons were recognized as refugees and 32 were granted humanitarian status. The refugee status procedure was suspended in 204 cases, of which 42 were asylum-seeking children. In 214 cases the procedure was discontinued (under Art. 15 and 16 of the LAR). Statistical reports indicate that the trend of the increasing rate of granting humanitarian status and decreasing refugee status recognition continues in 2005⁸.

Construction of Refugee Transit Centers under the EU Phare Project

The majority of asylum seekers enter Bulgaria across the borders with Turkey and Greece. The LAR foresees (article 47 paragraphs 1 and 2) that the SAR shall establish 'territorial units' (i.e. branch offices) throughout the country and that 'transit centers' will be created for the registration, accommodation, medical examination and implementation of the accelerated procedure⁹. The construction of two refugee transit centers under the EU -funded (PHARE) project has started recently, for the time being only at the Turkish border. According to the plans, the project should be completed by the end of 2006. Currently, there are two registration / reception centers for asylum seekers in Bulgaria; one within the premises of the SAR in Sofia which can accommodate some 400 asylum seekers, and the second in the village of Banya near Nova Zagora, with a capacity of some 80 beds. In addition two centers for temporary accommodation of asylum seekers, run by the National Service Border Police (NSBP), are located at the Turkish/Bulgarian border checkpoints Kapitan Andreevo and Liubimetz.

Integration

UNHCR welcomes the Refugee Integration Program¹⁰ adopted by The Council of Ministers on 26 May 2005 in fulfilment of the Prime Minister's Order of 21 January 2005. This National Program for the Integration of Refugees in the Republic of Bulgaria has been drafted on the basis of an in-depth analysis of the legal framework and practice, and contains main principles and aims with regard to refugee integration¹¹. The purposes are to systematize integration support for up to one year upon recognition; mainstream integration as a process and streamline State and UNHCR-funded integration activities for recognized refugees. The Program provides a medium-term plan of the actions to be undertaken by state institutions¹², non-governmental organizations and local authorities aimed at ensuring economic, social, political and cultural prerequisites for the integration of refugees in Bulgarian society, in line with the 1951 UN Convention relating to the Status of Refugees, the 1967 New York Protocol and other international and European legal instruments in the area of human rights, the Constitution of the Republic of Bulgaria, and national legislation. The Program includes also strategic guidelines for the period 2005-2007, after which, depending on the results, activities will continue to be supplemented or adjusted.

Activities to support integration, including vocational training and language classes, take place in an Integration Centre at the State Agency for Refugees (established in 1997 with the support of UNHCR). Integration measures may also be offered to asylum seekers, subject to availability of space. Recognised refugees may have access to scholarships for higher education under the Bulgarian system or the UNHCR scholarship program (DAFI programme, managed by UNHCR and the Bulgarian Red Cross, with funding from Germany).

Main considerations

UNHCR would support further efforts to strengthen cooperation between the SAR, as the competent refugee authority, and the Ministry of Interior, in terms of facilitating access to the territory and to asylum procedures. Improving the quality of asylum at all stages of the procedure remains the main focus of UNHCR's activities in Bulgaria.

UNHCR
August 2005

1 http://www.unhcr.bg/bglaw/amendments_lar_en.pdf

2 Available at: http://www.unhcr.bg/bglaw/unhcr_comments_2005en.pdf

3 In 2004 and 2005, the number of applications for protection decreased 60% in comparison to the 2002 period. As per the Report of the MOI National Service Border Police of 23 Feb. 2005, the number of third country nationals denied entry into Bulgaria was 7,509, as compared to 6,907 in 2003. According to the report, none of those persons sought protection.

4 MOI Project: Further strengthening of border control and management of future EU external borders, see at: http://www.eu.mvrbr/projects/prj_home_affairs06_eng.html.

5 UNHCR Sofia builds on the cooperation with the Police Academy and the US Department of Justice: see records of the international seminar in order to address the problems related to human smuggling and trafficking in persons http://www.unhcr.bg/events_records/2002/vipond_29_30/police_%20academy_en.pdf ,

6 http://www.unodc.org/unodc/trafficking_human_beings.html

7 Members of the commission include deputy-ministers of foreign affairs, justice, labor and social policy, interior, healthcare, education and science, the deputy-president of the State Agency for Child Protection, deputy chairman of the Supreme Cassation Court, deputy chief Prosecutor and the deputy director of the National Investigation Service. The first meeting of the Commission was held on 13 December 2004

8 The trend shows that in 2001, 385 persons were recognized as refugees, while 1,185 were granted humanitarian protection. In 2002: 75 persons were recognized as refugees, while 645 persons were granted humanitarian status. In 2003: 19 recognized as refugees and 411 granted humanitarian status. In 2004: 17 refugee status and 257 humanitarian status.

9 See more information in Chapter 2, Art. 2, 3 LAR.

10 http://www.unhcr.bg/pubs/2004_05/2004-2005.htm

11 <http://www.unhcr.bg/pib/index.htm>

12 According to the letter No. 92 of 26.05.05 by Deputy Minister of Finance, 300 000 BGN, approx. 150 000 Euros have been envisaged for the integration of newly recognized refugees in 2006.