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POUR LES REFUGIES

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UNITED NATIONS
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VERENIGDE NATIES
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VOOR DE VLUCHTELINGEN

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

The Slovak Republic acceded to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol on 1 January 1993, as a legal successor to the Czech and Slovak Federal Republic. The new Asylum Act n° 480/2002, effective as of 1 January 2002, which replaced previous Refugee Law No. 283/1995, provides for the basic procedural framework for asylum seekers, refugees and those under temporary protection

Legal Developments

The new Asylum Act addressed the main gaps of the previous regime:

- It established an independent second instance in the asylum procedure. Regional courts are competent to receive appeals against the administrative decisions on asylum claims taken by the Migration Office of the Ministry of Interior;
- it defines the terms "persecution", "the safe third country" and "the safe country of origin";
- it broadens the right to family reunion for refugees in accordance with Article 8 of the European Convention on Human Rights;
- it establishes a transparent procedure regarding the use of the 'safe third country' and 'safe country of origin' and for granting temporary protection, and
- it introduces provisions relating to asylum seekers data protection.

In general terms, the Slovak asylum legislation has thus become compatible with European and international asylum standards.

In addition to this law, the Parliament adopted amendments to two relevant laws: on 19 June 2002 an amendment of the Civil Procedural Code, according to which regional courts are competent for appeals procedures in asylum issues, and on 2 July 2002 the amendment of the Law on Seats of Courts, according to which the Regional Courts of Bratislava and Kosice are identified as competent for dealing with asylum seekers' appeals. Both amendments came into force on 1 January 2003.

In a separate development, the new Aliens Act No. 48/2002, in force as of 1 April 2002 reinforced the protection against *refoulement* by introducing the suspensive effect of appeal against a decision on

expulsion (§ 57/3). It also introduces limits to expulsion procedures (§ 58) in line with Article 3 of the European Convention on Human Rights.

Remedies System

As mentioned earlier, the new Asylum Law introduced the possibility for a court to review first instance decisions on asylum claims (Article 21). According to the law, an appeal may be lodged within 30 days in regular procedures and within 7 days in cases of claims assessed manifestly unfounded, inadmissible and in airport procedures. In the case of claims deemed inadmissible, lodging an appeal has no suspensive effect.

According to Article 47 of the Aliens Law, the police department shall grant a residence permit of tolerated stay to the following categories of aliens:

- when expulsion cannot practically be implemented;
- if the alien's departure is not possible and there is no reason for his/her detention;
- to a person who has been granted temporary protection;

A permit is delivered for 6 months and is renewable upon review of the situation. In the second case, the concerned person is required to prove that his/her departure is not practically possible. In 2002, a total of 15 permit to stay were granted.

Statistics

In 2002, 9,743 asylum applications were lodged, which represents a 19 % increase from the 8,151 applications lodged in 2001. The largest groups of asylum seekers during this year were from China (1,764), Afghanistan (1,669), India (1,611), Iraq (1,245), Bangladesh (1,032), Russian Federation (576), Moldova (266), Vietnam (220), Somalia (199), Pakistan (168), Armenia (102).

The Slovak Migration Office (Ministry of Interior) issued 8,382 first instance decisions, out of which 20 persons were granted refugee status (18 in 2001): Yugoslavia (4), Afghanistan (3), Uzbekistan (3), Russian Federation (2), Congo (2), Iran (1), China (1), Egypt (1), Pakistan (1), Somalia (1) and stateless person (1). In total 309 applications were rejected with an increase of 250% from 2001 (130). Comparing the number of cases granted asylum to those of rejections, the acceptance rate was of 6.47% (13% in 2001). However 8,053 cases were terminated due to the departure of asylum seekers from the Slovak Republic during the asylum procedure and a total of 4,516 applications were still pending at the end of 2002. A total of 83 decisions were taken in the second administrative instance, out of which in only 3 cases the first instance negative decision was cancelled and returned back for further procedures. In the rest of the cases the appeals were rejected and the first instance negative decisions were confirmed or appeal procedures were terminated due to the "disappearance" of the applicants. In total 16 court complaints were submitted to the Supreme Court in 2002, out of which 11 were rejected, in 1 case the negative second instance administrative decision was cancelled and returned back and in 1 case the court procedure was terminated, because the applicant left the country; 3 cases were pending at the end of 2002.

After the entry into force of the Aliens law in April 2002 a sharp increase of applications by Chinese, Indians and Bangladeshis was noted. In the period of November / December 2002, more than 1,200 people were in the refugee centres due to a temporary "blockade" of the Western frontiers due to a NATO summit in Prague. The situation returned to normal in January 2003 when 200 people were held in the centres.

Specific Issues

Concerning the management of the asylum system, the main concern is the huge number of prematurely closed cases and the low number of recognition of refugee status. The Slovak Republic is a transit country given its economic situation, and asylum seekers are leaving it prior a decision on their asylum claim is taken.

The fact that the reception centres are all located just a few kms from the Western borders (with Austria and the Czech Republic) contributes in the decision of asylum seekers to move onwards to these countries. In this context it has been appreciated that a new reception centre has been open in the central region in Opatovska Nova Ves bordering Hungary. A capacity of 150-200 places can be expanded to eventually accommodate 500 people when additional reconstruction works will be funded. UNHCR has supported the involvement of an NGO in the social and legal activities and the Migration Office has accepted to fund partially the activities of the NGO which will recruit locally social and legal workers. The initial option of having two eligibility officers at the centre in order to conduct interviews in the centre has been dropped by the Migration Office reducing the possibility to speed up the asylum procedure. It has also been noted that asylum seekers are being transferred after few days to other locations situated in the West part of the country, which basically erases any benefit expected with the establishment of the centre in a more central location. This continuous movement of asylum seekers from different locations has been also denounced by the courts in Bratislava and Kosice as they are facing difficulties in notifying the calls for the hearings.

In a worrying development it has been also noted that since February 2003 some asylum seekers have been put in detention in the Medvedov detention centre (Bratislava) run by the Aliens and Border Police and were interviewed there by eligibility officers of the Migration Office. The criteria for detaining asylum seekers remain to be clarified. The fact that in the other detention centre for illegal migrants in Secovce, located near the Eastern border, such practice does not take place (asylum seekers are released and sent to refugee centres) casts doubts on the legality and the “effectiveness” of this new practice and restrictive measure.

New Developments

In March 2003, UNHCR recommended to the Slovak authorities to put on hold the processing of Iraqi cases and to accord a three month temporary protection. The responsible authorities accordingly stopped issuing decisions on Iraqi cases, but continued to conduct interviews. No temporary protection was granted in line with the policy adopted by the EU countries. In the meanwhile the large majority of Iraqis left the refugee centres and the country.

In May 2003, UNHCR called the first meeting for the establishment of a Task Force for the assessment of the asylum system in the Slovak Republic. The creation of this monitoring tool was supported by the Minister of Interior, Mr. Palace who has delegated to the Directors of the Aliens and Border Police to participate to the activities of the TF. In addition the EC delegation has nominated two representatives. IOM, the Embassies of the Netherlands and USA have also attended the meeting and assured their participation in the initiative as well as the Slovak Helsinki Committee (legal NGO). Four working groups (Reception, Procedure, Integration and Return) have been created to work for a 6 months period. A final report with recommendations will be presented. This process will also help to define the new migration policy of the Government as requested expressively by the Minister of Interior.

Main Points for Consideration

- Assist in training of newly recruited migration office eligibility officers
- Assist in training of new judges who are to be involved in appeal instance (PHARE project);
- Enhance the capacity of the Migration Office to speed up the process of claims with a particular attention to the issue of the interpreters
- Assess and further improve the quality of the decision-making process of the refugee status determination procedure at all levels through staff training and investment in technology.
- Support the opening of reception centres in other regions of Slovakia
- Support the strategy developed by the Inter-ministerial committee on separated children lead by the Ministry of Labour and Family of opening a clearing centre for separated children
- Strengthening the development of NGO legal and social counselling network services and stimulate the assistance of governmental entities in allowing access to EU structural funds for NGOs involved in the refugee programme.

- Stimulate the creation of a reliable co-ordination system among the different entities involved in the asylum system

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