

EUROPEAN SERIES

Volume 5 • No 1 • July 2000

Integration Rights and Practices
with Regard to Recognised Refugees
in the Central European Countries

UNHCR
Bureau for Europe

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**UNHCR, Integration Rights and Practices with Regard to Recognised Refugees
in the Central European Countries**

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The remarkable democratic transformations that took place in Central Europe at the end of the 1980 s, gave UNHCR and the Governments of the countries in the region a set of new opportunities and challenges as regards refugee protection. Countries once uniquely perceived as sources of refugees fleeing Communist regimes quickly became refugee receiving countries, thus considerably expanding the pool of European States where persons in need of international protection could seek and enjoy asylum.

All of the countries of Central Europe have now acceded to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol. They have also ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms and numerous other international and regional human rights treaties. Within a short span of time they have all promulgated national refugee legislation, established asylum procedures and have put in place the requisite administrative structures. UNHCR is, indeed, very pleased to have had the opportunity to be associated with and contribute to these laudable humanitarian efforts.

With asylum procedures well in place and, by and large, functioning in all of the Central European countries, the issue of refugee integration has come increasingly to the fore in recent years. Clearly, effective protection of refugees necessitates practical measures to assist and support refugees to achieve a meaningful level of self-sufficiency and self-reliance, leading to their integration into the social, economic and cultural fabric of the societies in which they live. Indeed, without adequate and sustainable integration programmes, refugee status determination is an unfinished business, so to speak.

In a number of Central European countries, there have been efforts to facilitate the integration of refugees both through legislative provisions and by implementing specific programmes. For the most part, however, these programmes are generally of the soft type, consisting of such activities as language training, employment counselling, vocational training and the like. In a few cases, a more comprehensive integration package has also been piloted.

Undoubtedly, there are major impediments to the integration of refugees in Central Europe, not least due to the prevailing social and economic conditions. Despite the difficulties and challenges, however, effective integration of refugees needs to be pursued as a key component of a successful refugee protection regime. This may require that the governments concerned, within the framework of regional co-operation and solidarity, devote a higher level of resources than they currently do. For its part, UNHCR will continue to support institution- and capacity-building activities and provide any technical assistance and advisory services required.

It is with the above considerations that UNHCR commissioned a consultant, Ms. Rosa Da Costa, to carry out an analytical study on the opportunities and challenges of refugee integration in seven Central European countries. The study identifies the strengths and weaknesses of the existing legislative and administrative frameworks and describes the state of their implementation. It offers a series of general and specific recommendations for a way forward.

Much of the information contained in this study has come from government sources and documentation provided by refugee-assisting non-governmental organisations in the seven countries surveyed, as well as relevant research material from independent experts. The situation assessments and activities of UNHCR offices in these countries have also been reflected as appropriate.

The views expressed in the study are necessarily those of the author and her sources. UNHCR hopes, however, that this study will constitute a solid point of reference for national authorities, non-governmental organisations, UNHCR staff and other interested actors in the region.

Anne Willem Bijleveld
Director
Bureau for Europe

Geneva, June 2000

**Integration Rights and Practices with Regard to Recognised
Refugees in the Central European Countries
By Rosa M. Da Costa**

Acknowledgements:

This publication was authored by UNHCR consultant, Rosa M. Da Costa, MA, LL.L, who holds a degree in political philosophy, as well as a law degree and has specialized in the fields of refugee law, human rights and democratic development. In addition to this, she has carried out a number of assignments with UNHCR and has worked with governments to develop human rights training programmes for police, Ministry of Interior staff and teachers. She has, furthermore, served as a consultant to human rights and refugee-assisting NGOs in the Czech Republic, and worked in the area of capacity-building through European Commission projects. The author's other publications include: *European Convention on Human Rights and Other International Protection Mechanisms*, editor (1997).

The author wishes to thank the various government representatives, NGO staff, local experts and UNHCR Branch Offices of the seven countries included in this project for their generous support in providing the information, documentation and extensive interviews that form the basis of this work. In particular, the support of the following UNHCR staff members should be mentioned: Radhouane Nouicer, Peter Nicolaus and Lawrence Bottinick, whose extensive contributions added immeasurably to this study. This work also benefited significantly from the excellent research assistance provided by Nina Schou during her 1998 summer internship, in the context of the NYU Public Interest Law Center's Internship Program, as well as the thorough research and professionalism of Lenka Vitkova.

Thanks also to Alexandra who was there throughout.

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ABBREVIATIONS

BRC	Bulgarian Red Cross
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CE	Central European
CIS	Commonwealth of Independent States
CNRR	Romanian National Council for Refugees
CRC	Convention on the Rights of the Child
CTD	Convention Travel Document
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECRE	European Council on Refugees and Exiles
EMW	European Convention on the Legal Status of Migrant Workers
ESC	European Social Charter
EU	European Union
EXCOM	Executive Committee of the UNHCR
HRC	Human Rights Commission
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labor Organization
IOM	International Organization for Migration
MENEDEK	Menedek Hungarian Association for Migrants
NGO	Non-Governmental Organization
OIR	Office for Immigration and Refugees
OPU	Organization for Assistance to Refugees
ORMA	The Office of Refugee and Migration Affairs
PAH	Polish Humanitarian Action
PIA	Program of Individual Adaptation of Refugees
PPI	Counseling Center for Integration (Poradna pro integraci)
RNCR	Romanian National Council for Refugees (NGO)
RSD	Refugee Status Determination
TP	Persons under Temporary Protection Status from Former Yugoslavia
UNHCR	United Nations High Commissioner for Refugees

CONTEXT OF STUDY

One of the consequences of the fall of the Soviet Bloc was to transform refugee-producing countries of Central and Eastern Europe into refugee receiving countries. Prior to 1990 the asylum institution, based on the 1951 Convention, did not exist in this region. Beginning with Hungary in 1989 all of the selected countries gradually acceded to this Convention and began establishing asylum systems. At the same time, UNHCR opened offices in these countries and began capacity building activities. These activities included assisting governments in setting up legal and administrative structures necessary for the implementation of the 1951 Convention, training activities, as well as supporting and indeed, at times, creating a sector within civil society with the mandate to promote refugee rights and provide assistance to refugees and asylum-seekers in need.

Hungary recognized its first Convention refugee in 1989, followed by the Czech Republic in 1990, Romania in 1991, Slovakia and Poland in 1992, Slovenia in 1995 and Bulgaria in 1996. Communities of recognized refugees now exist in all these countries, except Slovenia, Hungary's population of nearly 5,000 being the largest. The modest but growing numbers of recognized refugees in these countries, in conjunction with the process of harmonization with European Union asylum standards, has led to a second wave of asylum legislation providing for a more comprehensive framework for the integration of recognized refugees, in addition to further defining the refugee status determination procedure. Examples of such legislation are the Hungarian Asylum Law which, in 1998, also lifted the previous geographic limitation to European refugees, and the more recent asylum laws which entered into force in August 1999 in Slovenia and Bulgaria, as well as the draft Czech Refugee Law which is expected to enter into force in early-2000.

Remarkable progress has therefore been achieved in this region during a single decade. However, due to a variety of reasons, principal of which is the disparity in the level of economic prosperity between the West and the countries of Central and Eastern Europe, there continues to be a refugee migratory movement westward. Despite functioning asylum systems and legislative frameworks, the efforts of national governments, NGOs and UNHCR are often frustrated as asylum-seekers and, at times, even refugees continue westward, sometimes moving on after considerable effort by the above institutions to secure their protection. As a result, some governments may become increasingly less interested in putting resources and energy into adopting good asylum laws and refugee status determination procedures; measures which are only useful if refugees actually decide to remain in those countries. The asylum institution, as it appears to blur with migration, risks being considerably diminished in Europe as a consequence of this persistent movement westward.

In some of the countries under study, this flow westward is no longer simply due to the lure of better economic prospects in the West, an option which is increasingly

costly and difficult in the context of safe third country agreements, carrier sanctions and more restrictive refugee policies in Western Europe, but rather it also stems from the fact that neither the reception of asylum-seekers nor the assistance provided for the integration of recognized refugees has always proven adequate.

Furthermore, little has been produced in the way of comprehensive studies with regard to the issue of the integration rights and problems of refugees in this region who upon recognition struggle to begin new lives in their host country.

An in-depth analysis of the integration rights of recognized refugees is therefore necessary, particularly as the region is increasingly seen as the next refugee hosting area to undertake burden sharing in Europe. As such, the issue of integration in CEE countries bears an importance which surpasses what the relatively low populations of recognized refugees would suggest, given its impact on wider European asylum patterns, both at present and in the future. Thus, it is time to take stock of the state of integration in this region in an analytical, comprehensive and regional manner.

The commissioning of this study by UNHCR is a contribution to this effort, which is not only in keeping with their policy of active engagement in these countries, but is also an integral part of their mandate. The Statute of the Office of UNHCR, as well as its Annex, provide that one of the tasks of this Office is the protection of refugees by assisting both governments and private organizations in the process of integration of refugees within new national communities. Moreover, although it is frequently used and cited in the context of the refugee status determination procedure, the 1951 Convention is primarily about the integration rights of recognized refugees.

Finally, increased attention to integration is timely in view of the EU accession process being undertaken by candidate states in this region, a process which is likely to increase refugee flows and act as an incentive to settle in these host countries.

STRUCTURE AND CONTENT OF STUDY

This study deals exclusively with the integration rights of refugees recognized under the 1951 Convention Relating to the Status of Refugees.¹ While some of the lessons learned may be valuable for the eventual integration of persons with other statuses, it was considered necessary to restrict the inquiry to a status accompanied by common and clearly defined integration rights. The study is broad in scope, covering seven countries and concerning a wide range of socio-economic rights as well as other issues specific to refugees.

¹ The use of the term refugee in this study refers only to recognized refugees and does not include asylum-seekers or persons with alternative statuses.

In order to ensure that the study is both practical and useful, it goes beyond the issue of integration rights as such, and provides an analysis of the prevailing practice and trends, the more serious obstacles encountered by recognized refugees, as well as the major integration programs undertaken in these countries. In so doing, we highlight some of the best practices and innovative approaches, as well as the lessons learned in the various countries. We hope that both governments and other relevant actors in the region may benefit from the varied experiences, solutions and perspective of their neighbors.

The region's progress is measured in two ways, firstly in terms of objective benchmarks by providing an analysis of the applicable international standards, and secondly by providing a comparative analysis on how the practice and legislative provisions in the seven selected countries compare to each other.

Host Country Background Information

In order to provide a context for the reader, the study begins with a Host Country Background Information section in which essential economic and asylum data regarding each country are provided.

Organization of Chapters

Each chapter in this study, with the exception of the last, concerns a specific right or set of rights and is divided into four distinct sections: beginning with the relevant international standards; a regional comparative analysis; recommendations; and finally, individual country profiles.

International Standards

The first section on international standards in each of the chapters explores both the relevant standards contained in the 1951 Convention, as well as other international and regional human rights instruments, and where pertinent, sources of soft law such as UNHCR EXCOM Conclusions, Council of Europe Recommendations, and opinions of implementing bodies. At the beginning of each chapter a Table containing the main international standards with regard to the specific right being considered is provided, though it must be noted that this list of international provisions is not exhaustive.

While the 1951 Convention is the most commonly relied upon and most specific international instrument regarding the rights of recognized refugees, in many cases its standards have been superseded by more generous provisions in subsequent

international instruments. Contracting States bound by their other international obligations are obliged to accord recognized refugees the benefit of the highest standard or most generous provision from amongst the international instruments which they have ratified. This is of particular relevance to CE states, the constitutions of which often incorporate international treaties which have been ratified by Parliaments into national law, and which further provide that in the event of any inconsistencies between these international instruments and domestic legislation, the former will take precedence.

Furthermore, not only are some of the provisions in these other instruments more generous, but unlike the 1951 Convention, many also benefit from enforcement or implementation mechanisms. UN human rights instruments, including the two International Covenants, the Covenant on Civil and Political Rights and the Covenant on Social, Economic and Cultural Rights, as well as many of other UN instruments offer quasi-judicial petitioning systems which offer enforcement mechanisms absent from the 1951 Convention.

At the regional level, the European Convention on Human Rights (ECHR) also contains provisions which have in certain cases already proven effective in protecting rights which are related to integration, such as the right of aliens to the protection of family unity, the right to life in the context of the principle of non-refoulement, and also the right to social security and public relief benefits. This Convention offers, of course, the important advantage of a European Court of Human Right, whose decisions are binding.

The European Social Charter, which is the counterpart to the ECHR, will also become increasingly relevant to recognized refugees in this region as more and more CE countries ratify it. While the rights in this Charter are only guaranteed to nationals of Contracting States, an appendix specifically provides that the rights of recognized refugees under the 1951 Convention are to be included in this Charter. Hence, recognized refugees can use the supervisory and complaints mechanisms of the European Social Charter to enforce their rights under the 1951 Convention. Moreover, the 1995 Additional Protocol to the European Social Charter providing for a System of Collective Complaints is a particularly important recent improvement to this supervisory mechanism since NGOs with consultative status can report Charter violations directly to the Committee of Independent Experts in the form of a complaint.

Comparative Analysis

The comparative analysis section in these chapters aims to provide the reader with an overview of an evolving regional state practice, and how the selected countries rate in relation to each other as well as in relation to international standards on a specific issue or right. It offers at the same time a snapshot of how specific rights

or issues are being addressed, including trends and developments, common problems and gaps, and the best practices and programs in this region. Wherever possible comparative charts are provided for easy reference for the reader. Though useful in that they provide a quick overview of the situation in all seven counties, these charts are of course limited in terms of the quality and amount of information they can convey, so that the reader should refer to the Individual Country Profiles when further details are required.

Recommendations

The recommendations made in each of the chapters are specific to the particular context, experiences and problems encountered by refugees in this region, and are more practical in nature rather than policy oriented. Hence, it is strongly suggested that the recommendations in this study be supplemented by the many other sources of both policy and program recommendations, whether they be at the domestic level or that of organizations with a regional interest such as UNHCR, Council of Europe, and ECRE. In this regard, actors involved in delivering integration services and implementing programs for recognized refugees may benefit from drawing on more specialized sources of information for ways in which to improve particular programs, such as the materials made available by the ECRE Task Force on Integration which provide an array of interesting examples of integration projects (such as those relating to employment assistance, vocational training, housing, and community development) initiated in Western Europe.

Individual Country Profiles

In the individual country profiles, the reader can find details regarding the particular rights or issues addressed in each chapter, including the relevant domestic legal provisions, the state practice, obstacles in exercising these rights, and highlights of the related assistance programs in each country.

Final Conclusions and Recommendations

This last chapter has a dual purpose. The first is to provide the reader with an overview of the principal achievements, gaps and trends with regard to the legislative frameworks for integration, as well as the more serious regional obstacles to integration, which largely relate to the difficulties refugees face in securing a basic standard of living and reaching self-sufficiency.

The second purpose of this chapter is to provide conclusions and recommendations of a more general order, which are not necessarily issue-specific and were

therefore not included in previous chapters. Three types of recommendations are contained in this part of the study: suggestions as to what types of integration-related assistance at the asylum stage would facilitate the eventual integration of recognized refugees; recommendations as to what measures should be taken immediately post-recognition; and finally, recommendations pertaining to long-term investments which should be made towards structural support for integration in this region.

Purpose and Aims of Study

In addition to being a descriptive document, this study is also intended as a reference tool of regional practices and solutions for policy-makers as well as persons assisting recognized refugees on a day-to-day basis. We have tried to structure the study so as to be user friendly and of value to organizations, such as governments, UNHCR, European Union authorities and others with a special interest in policy and the allocation of funding, and who could thus benefit from a broad and comparative survey of the general state of integration in the region. At the same time, by offering a detailed description and discussion of the various practices and integration related programs in the different countries in the region, we also hope to provide those working directly with recognized refugees with the benefit of the experience, creative problem solving and initiatives undertaken elsewhere.

Moreover, Eastern European refugee institutions may wish to benefit from the lessons learned by their neighbors who often share common problems and are only a few years ahead in offering refugee protection and integration assistance, instead of looking toward Western Europe for models which, due to very different historical, social and economic conditions, may not always be readily transferable. Hence, this exchange may in fact at times prove more fruitful in that some of the characteristics and limitations that these countries share in common allow their strategies and solutions to be more relevant and easily adapted.

In addition, the report may be used as a guide for national governments seeking to evaluate their legal provisions and practices against their international obligations (including beyond the 1951 Convention), as well as a useful research and advocacy tool for other actors in the field of refugee rights, especially in the context of CE countries contemplating new legislation and integration programs.

The study can also contribute towards more regional goals and projects. For example, it may be used to supplement the process already underway to harmonize the protection aspects of asylum with the EU *acquis*. Integration rights are part of the EU *acquis* as the latter includes the 1951 Convention and other international instruments containing integration-related rights. Thus this study can contribute to this process of training, advocacy and general preparation towards EU accession by being used in conjunction with the asylum procedure gaps analysis (in relation to existing EU standards) already completed.

Donors and organizations involved in capacity building, including, but not limited to UNHCR and the EU, can employ the study to evaluate the progress achieved in the region and in particular countries with respect to refugee integration. Elements in need of more attention and assistance are easily identifiable, such that the report can be used to help inform their own needs analysis, operational strategies and decisions regarding the allocation of resources.

METHODOLOGY

Sources of Information

The main sources of information for this study varied from country to country but included UNHCR, government, NGOs, and independent experts, who kindly provided documentation as well as extensive interviews. While concerned with providing as objective information as possible which reflects accurately the situation in each of the seven selected countries, it was also essential to have access to a consistent and central source of institutional memory which could provide this information in a common language.

The UNHCR offices in these countries were able to provide this, as well as English language translations of major pieces of legislation and other government documents not otherwise available in English. Their assistance in interpreting these laws was also invaluable. While frequently verified with information provided by government and NGOs, UNHCR was an important source of information on the various integration programs and activities undertaken by different actors in each country. In most countries under consideration both NGOs and governments are UNHCR implementing partners.

Timespan of the Study and the Relevant Information

This study was undertaken from early 1998 to the end of 1999. As access and availability of information varied from country to country, the date of information gathered may therefore also differ slightly within this period, as may the extent of data provided on the various issues. Information regarding programs, legislation and other matters dating before 1998 were also examined where this was judged relevant or where it provided the reader with a useful background context.

The monetary figures provided in the study for 1998 and 1999 in the original currency are also provided in US dollars for easy reference, though it must be noted that only the average November 1999 exchange rate is used for this purpose. Readers should therefore be aware that only the figures in the original currency represent exact amounts.

Legislative Changes

In the course of writing this study, major legislative changes occurred, particularly in Bulgaria, Slovenia, and the Czech Republic where new asylum and other related laws were adopted or being considered in Parliament. Hence, the relevant sections of the study were redrafted in order to take account of the new legislation (or draft laws, in the case of the Czech Republic), and both sets of laws are now included with respect to these three countries. As these laws are too recent for one to evaluate their implementation, only state practices in the past are discussed.

With respect to the Czech Republic, the study includes the relevant provisions in the draft Refugee Law, which was considered in Parliament in September 1999 and signed by the President 1 December 1999, so that its entry into force is now expected in early-2000.

HOST COUNTRY BACKGROUND INFORMATION²

● BULGARIA

Bulgaria ratified the 1951 Convention on May 12, 1993, and the UNHCR office in Sofia opened in 1992. The first refugee to be granted refugee status by Bulgarian authorities was in 1996.

Statistics 1998-1999

In 1998, 833 asylum claims were submitted, and of the 431 decisions rendered that year, 87 were granted refugee status, 106 were rejected, and 230 were otherwise closed. The recognition rate for refugee status was 20.2%. That same year 8 persons were granted an alternative protection status (humanitarian status).

From January to October 1999, 1087 asylum claims were submitted, and of the decisions rendered, 149 were granted refugee status, 139 were rejected, and 732 were otherwise terminated. During the same period, 345 persons were granted humanitarian status for a period ranging from three months to one year, while the same status was terminated for 249 persons.

Statistics Pertaining to Recognized Refugees

A total of 604 persons were granted refugee status in Bulgaria as of October 1999. It is unknown how many of those recognized refugees have left Bulgaria. Approximately three recognized refugees have obtained Bulgarian citizenship.

Reception Conditions

The Agency for Refugees at the Council of Ministers of the Republic of Bulgaria is the State institution implementing government policies regarding refugee status. The Agency provides asylum-seekers legal, medical, and social assistance as well as housing. UNHCR funds assist the Agency in covering the expenditures for accommodation, medical services, and in-country transport of asylum-seekers as well as operating costs.

² Please note that figures for 1998 and 1999 which are in the original currency have been converted into US dollars using the November 1999 exchange rates. Thus, readers should be aware that only the figures in the original currency are exact. Moreover, Bulgarian Leva was devaluated on July 5, 1999 so that 1,000 Leva became 1 Leva, which equals approximately 2 USD. Since all information in this study was provided to us before July 5, 1999, the old rate, i.e., 1 USD = 2,000 Leva, is used when converting the currency.

Primary Legislation

—The Law on Refugees, XXXVIII, National Assembly of the Republic of Bulgaria, May 27, 1999, entered into force on August 1, 1999.

—Law on Bulgarian Nationality, State Gazette of the Republic of Bulgaria, No. 136. November 18, 1998, entry into force February 19, 1999.

UNHCR Implementing Partners

Bulgarian Red Cross (Refugee-Migrant Service).

Bulgarian Helsinki Committee (Legal Protection of Refugees and Migrants).

FUTURE Foundation.

Economic Data

As of October 1999, the national monthly minimum wage in Bulgaria was 67.00 BGL (34 USD), while the average wage was 210.91 BGL (105 USD). The national unemployment rate was 14.71%.

● **CZECH REPUBLIC**

The Czech Republic succeeded to the 1951 Convention on 11 May 1993 and it entered into force in August 1993 upon its publication in the Collection of Laws.³ UNHCR has had an office in the country since 1992. The first refugee to be granted refugee status was in 1990.

Statistics 1998-1999

In 1998, 4,082 asylum claims were submitted, and of the 2, 807 decisions rendered that year, 78 were granted refugee status, 584 were rejected, and 2,145 were otherwise closed. The recognition rate for refugee status was 2.8%.

During January to October 1999, 5,766 asylum claims were submitted, and of the decisions rendered, 55 were granted refugee status, 1,523 were rejected, and 6,441 were terminated.

In 1999, a total of 1,034 Kosovars were provided Temporary Protection Status, a regime created by government decree. After a voluntary return program, 77 persons remained under this status as of 31 October, 1999.

Statistics Pertaining to Recognized Refugees

A total of 1,875 persons were granted refugee status in the Czech Republic as of October 1999. It is unknown how many of those recognized refugees have left the Czech Republic. As of 1 January 1999, 261 recognized refugees had obtained Czech citizenship.

Reception Conditions

The operation of the refugee camp facilities falls under the responsibility of the Czech Ministry of Interior. In the reception center the asylum-seekers are subjected to a quarantine period of three weeks for the purposes of medical examinations, issuance of identify cards, visa and identification. Asylum-seekers are provided with free accommodation, basic medical care and a minimal amount of pocket money (10 USD per month). There are government social workers in each center. Refugee assisting NGOs have access to asylum-seekers in quarantine and in the reception

³ Please note that both the Czech Republic and Slovakia ratified the 1951 Convention earlier while still the former Czechoslovakia.

center after quarantine. The NGO staff, funded by UNHCR, provide social, psychological, and legal counseling to asylum-seekers on a weekly basis.

The Czech refugee status determination procedure can often take over one year if appealed to the second instance, and another year or more if appealed to the High Court.

Primary Legislation

—Refugee Act, No. 498/1990, entered into force 1 January 1991, amended by Law No. 317/1993 and Law No. 150/1996.

—Act on Foreigners Stay and Residence in the Czech Republic, No. 123/1992, as amended by Law No. 190/1994 and Law No. 150/1996.

—New laws on Asylum and the Stay of Foreigners were still under consideration in Parliament as of October 1999.

—Acquisition and Loss of the Citizenship of the Czech Republic, No. 40/1993, amended by Law No. 194/1999, July 29, 1999, entered into force on September 2, 1999.

UNHCR Implementing Partners

Helsinki Committee Refugee Counseling Center.

Helsinki Committee Citizenship Advice Center.

Organization for Assistance to Refugees (OPU).

Society of Citizens Assisting Immigrants (SOZE).

Counseling Center for Integration (PPI).

Economic Data

As of October 1999, the national minimum wage in the Czech Republic was 4,800 Czk (137 USD), while the average monthly wage was 14,100 Czk (403 USD). The national unemployment rate was 9%.

● **HUNGARY**

Hungary ratified the 1951 Convention on 14 March 1989, with a geographical limitation to European refugees. The same year UNHCR also established its office in the country, and the first refugee was granted refugee status.

Statistics 1998-1999

In 1998, 7,365 asylum claims were submitted, and of the 4,791 decisions rendered that year, 438 were granted refugee status, 2,947 were rejected, and 1,174 were otherwise closed. The recognition rate for refugee status was 9.1%. A total of 232 persons were granted an alternative protection status.

From January to October 1999, 10,137 persons submitted asylum claims and of the decisions rendered, 276 were granted refugee status, 3,030 were rejected, and 4,280 were terminated.

Statistics Pertaining to Recognized Refugees

A total of 4946 persons had been granted refugee status in Hungary as of October 1999. There are no reliable estimates regarding the number of recognized refugees who may have left Hungary, though as of September 1998, approximately 1700 had received Hungarian citizenship, of which an estimated 95% are thought to be of Hungarian ethnicity. Approximately, 1500 persons had received an alternative status by October 1999.

Reception Conditions

Reception conditions for asylum-seekers include detention facilities of the National Border Guards and refugee reception centers of the Office of Refugee and Migration Affairs (MOI).

Primary Legislation

—Act on Asylum, No. 1997/CXXXIX, December 9, 1997, entered into force on March 1, 1998.

—Government Decree on the Care/Maintenance and Benefit of Foreigners Coming under the Force of Act No. 1997: CXXXIX on Asylum, No. 25/1998 (II.18), entered into force on March 1, 1998.

—Act on the Entry, Stay, and Immigration of Aliens to Hungary, 1993.

—Act LV. Of 1993 on Hungarian Citizenship, June 1, 1993, entered into force on October 1, 1993.

UNHCR Implementing Partners

Office of Refugee and Migration Affairs (Government).

Menedek, Hungarian Association for Migrants.

Hungarian Maltese Charity Service.

Hungarian Helsinki Committee.

Economic Data

As of October 1999, the national minimum wage in Hungary was 22,500 HUF (95 USD), while the average gross wage was 70,500 HUF (293 USD) (net wage 46,500 HUF (193 USD)). The national unemployment rate was 7.0%.

● **POLAND**

Poland acceded to the 1951 Convention on 26 November 1991, and has had a UNHCR office in the country since 1992, the same year in which the first person was granted refugee status.

Statistics 1998-1999

In 1998, 3,373 asylum claims were submitted, and of the 3,208 decisions rendered that year, 62 were granted refugee status, 1,387 were rejected, and 1,759 were otherwise closed. The recognition rate for refugee status was 1.9%.

During the period of January to October 1999, 2,293 asylum claims were submitted, and of the 2,514 decisions rendered, 41 persons were granted refugee status, 1,953 were rejected, and 520 were otherwise closed.

Statistics Pertaining to Recognized Refugees

A total of 939 persons were granted refugee status in Poland as of October 1999. No information is available regarding the percentage of these persons who might have subsequently left Poland. As of June 1999, to UNHCR's knowledge, one recognized refugee had received Polish citizenship.

Reception Conditions

Reception facilities for asylum-seekers are funded by the Polish Government. The conditions of stay are considered satisfactory by UNHCR, and separate rooms/wings are generally provided for families, unaccompanied minors and single women. The special dietary requirements of the different religious groups, such as Muslims, are taken into account.

Primary Legislation

—Act on Aliens, Journal of Laws No. 114, item 739, June 25, 1997, entered into force on December 27, 1997.

UNHCR Implementing Partners

Polish Humanitarian Organization.

Host Country Background Information

Caritas Poland.

Helsinki Foundation for Human Rights.

Department for Migration and Refugee Affairs, of the Polish Ministry of Interior.

Economic Data

As of October 1999, the national minimum wage in Poland was 650 PLN (163 USD), while the average wage was 1,879 PLN (470 USD). The national unemployment rate was 12.2%.

● **ROMANIA**

Romania ratified the 1951 Convention on 7 August 1991, and has had a UNHCR office in the country since January of that year. The first asylum-seeker to be granted refugee status was in 1991.

Statistics 1998-1999

In 1998, 1,236 asylum claims were submitted, and of the 2,638 decisions rendered that year, 175 were granted refugee status, 2,300 were rejected, and 62 were otherwise closed. The recognition rate for refugee status was 6.6%. A total of 101 persons were granted an alternative protection status.

During the period of January to October 1999, 1,238 asylum claims were submitted, 488 persons were granted refugee status, 715 were rejected, and 804 were otherwise closed.

Statistics Pertaining to Recognized Refugees

A total of 1404 persons were granted refugee status in Romania as of October 1999. No information is available regarding the percentage of these persons who might have subsequently left Romania. As of the same date, 2 recognized refugees had received Romanian citizenship.

Reception Conditions

The Ministry of Interior operates a reception center with a capacity of 250 persons. This center was rehabilitated with UNHCR co-funding and opened in February 1999. All operating costs are covered by the Ministry of Interior. Another center is being prepared to open in 2000. Its 350 person capacity will be split between asylum-seekers and temporary housing for vulnerable recognized refugees. Finally, there is a closed center near the Otopeni airport for illegal migrants and asylum-seekers, with a capacity of 50 persons.

As of June 1999, the average duration of the Romanian refugee status determination procedure was as follows:

Decision by Commission: 1 month.

Decision by first Instance Court: 6 months.

Decision by Tribunal: 12 months if decision confirmed; 18 months if reversed.

Primary Legislation

—The Law concerning the status and the regime of refugees in Romania, No. 15, Official Gazette of Romania, No. 59, April 2, 1996.

—Law on Romanian Citizenship, No.21/1991, Official Gazette of Romania, Part I, No.44, March 1, 1991, entered into force on April 6, 1991. A draft of the new Citizenship Law was still under consideration as of July 1999.

UNHCR Implementing Partners

Romanian National Council for Refugees.

Romanian Forum for Refugees and Migrants (ARCA).

Save the Children —Romania.

Romanian Association of Magistrates.

Ministry of Interior; Refugee Office.

Police Academy.

Economic Data

As of October 1999, the national minimum wage in Romania was 450,000 Lei (25 USD), while the average wage was 1,650,000 Lei (92 USD). The official national unemployment rate was 10%.

● **SLOVAKIA**

Slovakia succeeded to the 1951 Convention on 1 January 1993, with ratification on 4 February 1993. The UNHCR office was established in the country in October 1993 and became operational as of January 1994. The first asylum-seeker to be granted refugee status was in 1992.

Statistics 1998-1999

In 1998, 506 asylum claims were submitted and of the 309 decisions rendered that year, 49 were granted refugee status, 36 were rejected, and 224 were otherwise closed. The recognition rate for refugee status was 15.9%.

During the period of January to October 1999, 1,031 asylum claims were submitted, and 25 persons were granted refugee status, 164 were rejected, and 626 were otherwise terminated. As of the same date, a total of 8 persons had mandate refugee status.

Statistics Pertaining to Recognized Refugees

A total of 480 persons were granted refugee status in Slovakia as of October 1999. UNHCR estimates that since the establishment of the refugee status determination procedure approximately 30% of all recognized refugees have left the country. Also as of October 1999, 41 recognized refugees had received Slovak citizenship.

Reception Conditions

The Slovak Government is entirely responsible for the reception facilities and arrangements of asylum-seekers. The refugee status determination procedure is under the competency of the Ministry of Interior. After declaring the intention to apply for refugee status in Slovakia, the asylum-seeker is accommodated in the Reception Center where he is subject to a medical quarantine, and is subsequently moved to a Refugee Camp. During their stay at the Reception and Refugee Camp, NGOs provide asylum-seekers with legal and social counseling, as well as material and emergency assistance which is not covered by the state.

As of September 1998, the duration of the Slovak refugee status determination procedure ranged from three months to two and a half years, depending on the particulars of each case.

Primary Legislation

—Refugee Act No. 283/1995, November 14, 1995, entered into force on January 1, 1996.

—Law on Stay of Foreigners on the Territory of the Slovak Republic, No. 73/1995 of April 5, 1995, entered into force on June 1, 1995.

—Law of the Slovak National Council regarding Citizenship of the Slovak Republic of January 19, 1993, entered into force on February 15, 1993.

—Decree of the Slovak Ministry of Interior No. 4/1996, which regulates the course of actions of Police Departments and the Migration Office in the execution of the Refugee Act No. 283/1995, came into effect on January 16, 1996.

UNHCR Implementing Partners

INFOROMA.

Goodwill Society.

Organization for Aid to Refugees.

Bjoernson Society.

Slovak Humanitarian Council.

Migration Office of the Ministry of Interior of the Slovak Republic.

Economic Data

As of October 1999, the national minimum wage in Slovakia was 3,600 SK (86 USD), while the average wage was 10,133 (241 USD). The national unemployment rate was 18.63%.

● **SLOVENIA**

Slovenia ratified the 1951 Convention on 6 July 1992 and a UNHCR office opened in the country that same year. The first asylum-seeker to be granted refugee status was in 1995.

Statistics 1998-1999

In 1998, 499 asylum claims were submitted, and of the 180 decisions rendered that year, 1 person was granted refugee status, 97 were rejected, and 56 were otherwise closed. The recognition rate for refugee status was 0.6%. A total of 26 persons were granted an alternative protection status.

During the period of January to October 1999, 765 asylum claims were submitted, no persons were granted refugee status, 185 were rejected, and 313 were otherwise terminated. As of December 1999, approximately 4,000 persons remained in Slovenia under temporary protection status.

Statistics Pertaining to Recognized Refugees

A total of 3 persons were granted refugee status in Slovakia as of October 1999, of which 1 naturalized to a third country citizenship. No recognized refugee has yet been granted Slovene citizenship.

Reception Conditions

The Reception Center has a capacity of approximately 250 persons, and is currently over-crowded and short of staff. The deportation center is located in the same facilities, although asylum-seekers and foreigners subject to deportation are accommodated separately. The operating costs of the center are covered by the government while UNHCR provides financial support to vulnerable cases.

As of September 1998, the duration of the Slovene refugee status determination procedure was one and a half years for those cases in which the asylum-seeker remained in the country until the final decision on his claim was rendered.

Primary Legislation

—Law on Asylum, No. 61/99, published in the Official Gazette 30 July 1999, entry into force August 14, 1999.

Host Country Background Information _____

—Order on the Implementation of the Rights of Aliens to whom Refugee Status has been recognized, No. 260-03/96-4/1-8, July 25, 1996, by the Government of the Republic of Slovenia.

—Foreigners Act, No. 1/91-I, entry into force, June 25, 1991, as amended in July 1997.

—Citizenship of Republic of Slovenia Act No. 1-8/91, entry into force June 25, 1991.

UNHCR Implementing Partners

The Ministry of Interior.

The Ministry of Education.

The Ministry of Labour, Family and Social Welfare.

Foundation GEA 2000 (Legal services).

Slovinska Filantropija (Psychological assistance).

Economic Data

As of October 1999, the national minimum wage in Slovenia was 39,981 SIT (210 USD), while the average wage was 109,269 SIT (575 USD). The national unemployment rate was 8.0%.

**LEGAL RESIDENCY STATUS, NATURALIZATION
AND ASSIMILATION**

This chapter examines residency status, naturalization and assimilation, three topics which are best treated together as they are inter-related. Under article 34 of the Convention relating to the Status of Refugees⁴ (hereinafter referred to as the 1951 Convention), Contracting States have the dual obligation to facilitate both the naturalization and assimilation (i.e., integration) of recognized refugees. Moreover, because the type of legal residency status granted to refugees upon recognition is relevant with respect to their eligibility to apply for naturalization, these issues are addressed jointly in this chapter.

**PART I:
LEGAL RESIDENCE AND RELATED RIGHTS**

1. International Standards

The type of legal residency status to be granted recognized refugees does not benefit from an explicit provision in the 1951 Convention or any other international instrument, but is nonetheless an integral aspect of integration, particularly so in this region where rights are with residency status, rather than citizenship. Seen from this perspective, granting refugees a long-term residency status may be interpreted as a concrete measure facilitating integration.

Indeed, besides being simply recognized refugees in their host countries with the related rights under the 1951 Convention, in most countries in the region refugees also benefit from a durable legal residency status and its more generous accompanying regime of rights. This legal residency status therefore constitutes the basis of their more general rights and legal standing in their host country, and is hence, appropriately addressed at the beginning of this study.

⁴ Convention relating to the Status of Refugees, UNTS No. 2545, July 28, 1951, entry into force April 22, 1954, and Protocol relating to the Status of Refugees, UNTS No. 8791, January 31, 1967, entry into force October 4, 1967.

The most common residency statuses accorded recognized refugees in the selected countries, are residence for a specified time (otherwise known, as temporary or long-term residence) and permanent residence. A less advantageous residency status does not necessarily breach the standards of treatment in the 1951 Convention or other international instruments, so long as the minimum guarantees protected by these are satisfied. When assessing this question however, article 34 of the 1951 Convention, in particular, must be kept in mind, given the effect of the residency status on the naturalization and general integration of recognized refugees.

The proof of one's legal residency status is usually in the form of identification/residency cards, which are necessary in order to gain access to many rights, including the right to work and to social assistance benefits. In the past, refugees in some of the selected countries in the region have experienced difficulties obtaining these cards, and though these problems appear in large part to have been resolved, they reveal the fact that without such identification/residency cards serving as proof of their status, refugees are unable to implement even their most basic of rights. We will elaborate further on this topic in Chapter VII on Identification Papers and Convention Travel Documents, as well as in Chapter III on Housing.

In addition to granting refugees a form of legal residency status and the rights attached to this status, some of the selected countries in the region have also decided to grant recognized refugees a more generous default regime of rights, often assimilating refugees rights to those of nationals. Such provisions will also be examined in this section.

2. Comparative Analysis

Residency Status

Permanent residency is the predominant type of residency status granted to recognized refugees in the countries in this study. In Slovenia, Slovakia, Hungary and Bulgaria, permanent residency status is granted automatically upon recognition of refugee status. In the Czech Republic, refugees are to be considered as permanent residents only with regard to certain rights, and in Poland refugees are in principle only eligible for the equivalent permission to settle after a three year stay in that country and the satisfaction of some additional requirements. Under the Czech draft Refugee Law, however, the complicated regime of rights and residency status is streamlined and recognized refugees are to be considered permanent residents for all purposes, thus bringing Czech practice into line with the majority of the countries in the region.

In the case of Romania, the lack of security with regard to the continuity of the residence granted recognized refugees is particularly problematic. The relevant

provision in the Refugee Law stipulates that recognized refugees have the right to *inter alia* remain in the territory of Romania. They are thereby granted a residence permit, which is contained in the form of an identification card and which is generally extendable every six months. The possibility of being granted domicile, a status that would appear to be more or less equivalent to permanent residency, is also provided for in the Refugee Law and the Law on Foreigners. However, as discussed in more detail below, in Romania this status is neither functional in practice,⁵ nor advantageous to recognized refugees. Indeed, not only will refugees have their refugee status withdrawn if they do acquire domicile, but they would appear to actually have fewer rights as aliens with domicile than as recognized refugees.

Even more severe than this restrictive residency regime for refugees is the impact of the Romanian provision imposing a three-year (maximum five-year) automatic expiration period on refugee status. Under this provision, once refugee status has expired refugees are to be treated according to the regime for foreigners. As such, they may be entitled to remain in Romania on the basis of some type of alien resident status, but must in accordance with that regime satisfy all the requirements attached to that particular residence permit. These requirements, which include proof of accommodation and financial means as well as a travel document, may present important obstacles to refugees who as a result may not be able to adjust their status in Romania.

To date, the Romanian Refugee Decisions Commission has extended refugee status beyond the three and even five-year limit, to all refugees who have requested it. However, it must be borne in mind that these extensions have been granted upon review of each case on the same conditions as the original refugee application. As such, while such extensions may provide a temporary solution to individual cases on an *ad hoc* basis, this practice cannot be relied upon to ensure a durable residency status or even the continuing protection required by the 1951 Convention.

In Poland, refugees are granted residence permission for a specific period immediately upon recognition, and may acquire permission to settle only after a minimum three-year stay in their host country based on the former type of residence, and provided that they can satisfy other requirements. These requirements include secured accommodation, the ability to support oneself, as well as proof of durable family or economic ties. Due to a temporary provision in the law, refugees may for the time being benefit from having the time spent in Poland during their refugee status determination procedure count towards the residency required for permission to settle. Despite this temporary benefit however, as of June 1999, to UNHCR's knowledge, no recognized refugee who had applied for permission to settle in Poland had ever received a positive decision. Indeed, while the first recognized refugees in

⁵ There is no government body at this point in time which actually administers the procedure to acquire domicile.

Poland automatically received permanent residence cards, this practice was subsequently discontinued and refugees have been unable to obtain permission to settle since that time. This appears to be mostly due to the difficulty in satisfying the strict criteria regarding housing and proof of self-sufficiency.

Moreover, this difficulty to acquire permission to settle, poses a serious obstacle to their naturalization. In spite of this however, the less favorable status of residency permission for a specified period which refugees are granted automatically does guarantee them all the basic rights, including a residency term of up to two years, which is renewable thereafter.

Proving the Refugee's Legal Residency Status

While obtaining a residency status which ensures a durable or continued right of stay in the host country does not, with the exception of Romania, generally seem to pose a problem for recognized refugees in most of the countries at hand, the matter of proving this residency status on the other hand, has presented certain problems in the past. In keeping with a long standing practice, many countries in the region, including the countries under study, require both citizens and aliens to be issued an identification card, which serves a number of purposes and is necessary in the implementation of many basic rights. In the case of aliens, these identification cards often also serve as proof of their residency status. Difficulty in securing these cards is therefore a matter to be taken seriously.

In Slovakia this has proven an obstacle for some recognized refugees in the past, who due to administrative difficulties in providing authorities with an address of permanent residence, could not obtain an identification card proving that they were permanent residents, and as a consequence were unable to exercise the rights and benefits associated with this status (such as the right to work and receive social security benefits). This situation is now being successfully managed however, due in large part to the assistance of local NGOs with housing and in securing the cards, as well as the state housing program.

Recognized refugees in Bulgaria experienced a similar problem obtaining identity/residency cards in the past. This was due to an administrative problem with issuing social security numbers which are also required in order to exercise certain basic rights and were to be affixed on the cards. As a result, despite the fact that by law they were entitled to the legal status and rights of a permanent resident, in practice recognized refugees were unable to exercise many of these rights until the spring of 1996, when they received their identity/residency cards.

Thus, it is important to be aware of the fact that in addition to being granted a residency status, refugees must also be able to prove this status in order to implement

the rights associated with it. As such, the timely issuance of these identity/residency cards is essential to the integration rights of refugees.

Administrative Requirements Attached to Residency Status

The administrative requirements attached to the residency status of recognized refugees, including its renewal, vary considerably from country to country. While in Romania refugees are generally required to extend their identity/residency cards every six months, in Slovakia and the Czech Republic they are extendable yearly and in Poland every two years. The draft Czech Refugee Law also provides for a two-year renewable period.

In Hungary on the other hand, permanent residence cards are valid for long periods, namely from three to fifteen years or even indefinitely, depending on the age of the person. In the case of both Slovenia and Bulgaria, these identity/residency cards are also to be valid for relatively long periods, though due to the fact that the legislation is so recent, there is as of yet no practice upon which to confirm the administration requirements regarding their renewal. For further details on this topic, please refer to Chapter VII on Identity Papers and Convention Travel Documents.

A Default Regime of Rights/Status

In addition to the particular type of residency granted to refugees, many of the countries in this study also include a general provision in their refugee law granting refugees what may be categorized as a default regime of rights, which in turn can be broadly described as citizenship legal rights. The rights accorded to refugees by virtue of this general provision go beyond those of the 1951 Convention and often, even those tied to their residency status. This default regime of rights, therefore, offers refugees a more generous standard of treatment (which as seen above, can be granted either by virtue of their residency status or through a separate provision), which is analogous to that of citizens, and which in the absence of a more specific provision in the law becomes their default standard of treatment.

It is a particularly useful tool when the law is otherwise silent or unclear on specific rights and issues, or when the state practice is discriminatory towards refugees or aliens generally. In other words, this default regime of rights can facilitate the implementation of refugee rights. It may also be used to lobby against the passing of more restrictive legal provisions since the default regime can be referred to as a statement of principle about the general standing or status of refugees in that host country.

The Czech Republic, Slovakia, Hungary, and Bulgaria have all adopted a generous default regime of rights for recognized refugees, where by virtue of a single

legal provision, recognized refugees are granted the general rights of citizens. Different formulations are used to express this, such as, refugees are to have the status of citizens , are to be considered as citizens , or, alternatively, are to have the rights of citizens . This is followed by a qualification to the effect that special provisions may provide otherwise.

As noted above, this regime is expected to be abolished in the case of the Czech Republic, which has opted under its draft Refugee Law, to simply grant recognized refugees permanent residence, including all the rights associated with this status. In practice, this change is not expected to affect refugees in any significant way as permanent residents in the Czech Republic have essentially the same rights as citizens in any case. Slovenia also grants refugees permanent residence and all the associated rights, with the exception of some specific rights, such as the right to employment, for which they are granted the rights of citizens.

The least favorable countries with respect to a default regime of rights are Poland and Romania. In particular, the Romania Refugee Law offers one of the least favorable regime of rights to recognized refugees since it contains no separate default regime of rights and no favorable residency status from which they could draw such rights. Instead, the Romanian Refugee Law enumerates the specific rights of refugees in the form of a list, which in conjunction with their rights under the 1951 Convention, appear to be exhaustive. Like Romania, Poland neither grants permanent residence status nor a default set of rights, so that they have in principal only the rights under the 1951 Convention and the rights associated with permission to reside for a specified period.

Table 1:
Legal Residency Status and Related Rights Granted to
Recognized Refugees⁶

	Type of residency status granted	Requirement regarding renewal of ID/residency cards	Default regime of rights/status granted ^①
Bulgaria	Permanent residence	Up to 3 years	Of citizens
Czech Republic	Current law: different depending on each right Draft Refugee Law: Permanent residence	Current Law: 1 year Draft Refugee Law: 2 years	Current Refugee Law: Of citizens Draft Refugee Law: of permanent residents
Hungary	Permanent residence	Dependant on Age Under 20: 6 years 20-50: 15 years 50 and over: valid indefinitely	Of citizens
Poland	Permission to reside for a specified period	2 years	No default regime
Romania	Temporary residence permit. Note: 3 year (max. 5) automatic expiration period on refugee status	6 months	No default regime
Slovakia	Permanent residence	1 year	Of citizens
Slovenia	Permanent residence	Valid during period enjoys refugee status but unknown whether renewal requirements will apply	Of permanent residents (except employment, to which rights of citizens apply)

^① *This regime applies unless legal provisions provide otherwise.*

⁶ Chart reflects situation as of August 1999, including the new Slovenian and Bulgarian Asylum Laws as well as the Draft Czech Refugee Law.

3. Recommendations

As seen above, the general practice in the region supports a durable and secure residency status for refugees, most often in the form of permanent residency, a status which also offers them the related set of rights, in addition to the minimum rights of the 1951 Convention. Such a residency status offers refugees the best chances for rapid integration into their countries. In view of this, we make the following recommendations:

A Secure and Durable Residency Status

In addition to their refugee status, refugees should be granted a secure and durable form of legal residency status, such as permanent residence, upon recognition. Granting refugees permanent residence is one of the most effective measures which states can take to facilitate integration, as is required by article 34 of the 1951 Convention. Such a status not only offers refugees a form of legal residency which due to its long-term security is conducive to integration, but it also grants them the rights attributed to this status, rights which are frequently essentially the same as those granted to nationals.

Moreover, it has the benefit of linking the status and rights of refugees with a more common and better known form of legal residence, thereby facilitating the implementation of their rights. A more common residency status is bound to cause less confusion and requiring less training at the level of implementation for government institutions, refugee-assisting non-governmental organizations (hereinafter NGOs), as well as in the private sector, such as with employers and landlords. Recognized refugees would therefore only require special attention or treatment in those areas where they are granted special protection or rights by virtue of their refugee status. Furthermore, in addition to bureaucratic simplification, a streamlined and durable residency status may have a beneficial psychological impact on refugee integration, by possibly reducing the stigma often associated with refugee status and providing refugees a sense of long-term security, which encourages the establishment of durable ties in the host country.

This recommendation is specifically relevant to the situation of recognized refugees in Romania and Poland, the only two countries in this study not granting refugees permanent residence.⁷

⁷ Technically, the Czech Republic does not as of yet grant recognized refugees general permanent residence status, however this is proposed in the draft Refugee Law soon expected to be adopted. Moreover, refugees are already considered permanent residents under the present law for certain purposes, such as naturalization for example. For further details please refer to the country profile in this chapter.

Residency Status Should Be Compatible with Residency Requirement for Naturalization

In connection with the above, the legal residency status granted refugees upon recognition should for the purposes of integration also ideally be compatible with the form of residency required for naturalization. Romania and Poland are again of special concern in this regard. More details on this matter are provided in the recommendations relating to naturalization in this chapter.

Repeal of Romanian Provision Imposing an Automatic Expiration Period on Refugee Status

In order to improve the situation of insecurity with regard to their stay and continued protection in Romania, the provision providing for an automatic expiration period for refugee status should be repealed as soon as possible.

Monitoring of Issuance of Identity/Residency Cards

In the context of the long-standing practice in the region of issuing identity/residency cards proving one's residency status in the country (and requiring these cards for the implementation of basic rights) it is important that this process be monitored and when necessary that recognized refugees be assisted by both government and NGOs in promptly acquiring these cards upon recognition. This may entail providing refugees with special assistance in order to ensure that they are able to satisfy the conditions for their issuance. One of these conditions is proof of a domicile or permanent address, a requirement which may be subject to difficulties in the future due to the housing situation in the region. The shortage of affordable housing may continue to result in informal accommodation arrangements which refugees cannot document, and the refusal by some landlords to provide them with an official lease or other necessary papers, as this may sometimes be more advantageous.

Hence, immediately upon recognition, assistance should be provided to refugees in securing either temporary or permanent accommodation which they can provide as a registered place of domicile. Moreover, for refugees living in private accommodation who are unable to obtain proof of an official lease/contract from their landlord, consideration should be given to offering refugees a default place of registered residence, such as with the government refugee office or a government refugee camp or integration center. Similarly, attention should be paid to ensuring that the refugee is able to provide a registered place of residence each time he must renew his identity/residency papers, in addition to when he first leaves the temporary government accommodation centers.

Long-Term Validity Periods on Identity/Residency Cards

Administrative requirements, and particularly those regarding the renewal of a refugee's legal residency status in the host country, should be facilitated as much as possible. An effective way to do this is by granting long-term validity periods on their identity/residency cards. This would not only be likely to alleviate the problems associated with the bureaucratic requirements for renewals, such as proving a formal place of domicile, but it would also allow refugees the possibility of securing long-term employment contracts, since these cannot in principle exceed the period of their legal residency in the country. Indeed, it is conceivable that a number of other areas of a refugee's life are similarly adversely affected due to relatively short-term permissions of stay in the host country. The situation in Romania, whereby the identification card serving as a residence permit is usually extendable every six months, is the most onerous for refugees in this respect. For the purposes of integration, it is therefore suggested that a refugee's identity/residency card be issued for a minimum validity period of two years, and ideally for a longer term such as is the case in Hungary.

Granting a Generous Default Regime of Rights

It is recommended that recognized refugees be granted either permanent residence and the accompanying rights, or an equivalent default regime of rights such as those granted to citizens. The positive state practice in the region, as well as its many benefits to refugees were discussed in the previous section. Furthermore, such a measure is consistent with the obligation of best efforts required by article 34 of the 1951 Convention whereby Contracting States are requested to facilitate the integration of recognized refugees.

Just as importantly, we have also seen that a general provision attributing to refugees a default regime of citizen rights (or permanent resident rights), acts as an important point of reference in case of legislative gaps or gray areas relating to refugee rights. It can also inform the interpretation of other legal provisions and their implementation, as well as future government action.

MAIN INTERNATIONAL STANDARDS

Convention relating to the Status of Refugees of 28 July 1951

Article 34

Naturalization and Assimilation

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

Council of Europe Recommendation 564 (1969) on the Acquisition by Refugees of the Nationality of their Country of Residence of 30 September 1969

Paragraph 9

Recommends that the Committee of Ministers, with a view to avoiding any perpetuation of the problems of European refugees, invite member governments:

- (i) to facilitate naturalisation:*
 - (a) by a liberal interpretation of the legal requirements in respect of assimilation of refugees, taking particularly into account their total period of residence in the host country and the fact that most of them have adopted the way of life of the community which has welcomed them;*
 - (b) by making every effort to remove, or at least reduce, legal obstacles to naturalisation, such as the minimum period of residence when it exceeds five years, the cost of naturalisation fees when it exceeds the financial possibilities of the majority of refugees, the length of time elapsing between the receipt of applications for naturalisation and their consideration, and the requirement that refugees should prove loss of their former nationality;*

- (ii) *to accede to the United Nations Convention of 1961 on the Reduction of Statelessness and to treat de facto stateless refugees as though they were stateless de jure, in accordance with the resolution passed by the conference of Plenipotentiaries which adopted the aforementioned convention;*
- (iii) *to adopt provisions in national legislation with a view to enabling refugee children, born in a country to which their parents came as refugees, to obtain the nationality of that country at birth and refugee youth to obtain the nationality of their country of residence at their request at the latest upon their coming of age;*
- (iv) *to grant refugees married to a national of the country of residence special facilities for acquiring the nationality of their spouse.*

**Statute of the Office of the United Nations High Commissioner for Refugees, General Assembly Resolution 428 (V) of 14 December 1950
Article 2(e)**

Calls upon Governments to co-operate with the United Nations High Commissioner for Refugees in the performance of his functions concerning refugees falling under the competence of his Office, especially by:

...

- (e) *Promoting the assimilation of refugees, especially by facilitating their naturalization;*

**PART II:
NATURALIZATION**

1. International Standards

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

1951 Convention, Article 34, Naturalization and Assimilation

Although the granting of national citizenship continues to be a matter solely within the competence of each state to decide, it is the most durable, and often most desirable long-term solution for a person wishing to end his refugee status. Indeed, as expressed by the drafters of the 1951 Convention, [t]he position of a de jure or de facto stateless refugee is abnormal and should not be regarded as permanent.⁸ While refugee status offers the person certain guarantees, he continues to be vulnerable in that he lacks an effective nationality. He cannot return to his country of origin, and neither can he rely on the comprehensive state protection normally attached to citizenship, even if he is granted certain rights such as the right of stay and non-refoulement in his host country.

This lack of an effective nationality is evidenced for example, in the relative lack of state protection granted to recognized refugees while outside their country of asylum. In contrast to nationals who benefit from the protection of their country of origin while abroad and have the right of return to that country, recognized refugees have relatively few guarantees in these respects.⁹ This is demonstrated in the following statement contained in the Schedule to the Convention Travel Document, which stipulates that:

*The issue of the document does not in any way entitle the holder to the protection of the diplomatic or consular authorities of the country of issue, and does not confer on these authorities a right [duty] of protection. (sic)*¹⁰

⁸ A. GRAHL-MADSEN, Commentary on the Refugee Convention 1951, at 245 (1997).

⁹ While refugees traveling with valid Convention Travel Documents do have the right to return to the country of asylum, they are in a potentially precarious situation should their Convention Travel Documents expire. In that situation, they must essentially rely on the good will of that country, while nationals by contrast always have a guaranteed right of return to their country of citizenship regardless of the term of validity of their passports, so long as they can prove their nationality.

¹⁰ Para. 16, Schedule to the Convention relating to the Status of Refugees, July 28, 1951.

From a legal point of view, naturalization therefore represents the objective completion of the integration process into a new society, the right to full legal protection from the state in question (both within and outside the country), and the acquisition of an effective nationality. From a more sociological perspective, it also indicates the existence of a subjective attachment and commitment to the host country on the part of the refugee.

While article 34 does not contain an obligation of results, it does impose differing degrees of obligation on Contracting States. The first part of the provision consists of a general recommendation for the facilitation of naturalization and assimilation, while the second, requires a more specific requirement to expedite and reduce the costs of naturalization.¹¹ Thus, while retaining their sovereign right to grant citizenship, the original comments to the Draft 1951 Convention reveal that states nonetheless intended to *inter alia*, give favorable consideration to requests for naturalization by refugees, and to reduce the financial obstacles which this procedure may represent for refugees with little or no financial means.¹² Moreover, by mentioning that *in particular*, costs should be reduced and the naturalization procedures expedited, it is implied in article 34 that other measures to facilitate naturalization are also encouraged and that those stipulated are not intended to be exclusive. Indeed various other measures may be taken in order to facilitate naturalization, including easing the conditions for naturalization, such as by reducing the period of residence required or simply by not requiring proof of release from a former nationality. The duty to facilitate naturalization as far as possible, also entails an obligation on the part of the relevant authorities to take this decision in good faith.¹³

The Council of Europe has adopted several Recommendations and Resolutions on the acquisition by refugees of the nationality of their country of residence. The Recommendation of 1969 to this effect, which was followed by the accompanying Resolution of 1970, invites governments to facilitate naturalization by adopting a liberal interpretation of the legal requirements regarding the assimilation of refugees, and by removing or reducing the legal obstacles to naturalization. The latter could include shortening the required period of residence when it exceeds five years, reducing the costs and waiting period of the procedure, and waiving the requirement for proof of loss of a former nationality. It is also recommended that refugee children born in the country of asylum be able to obtain the nationality of that country at birth, that refugee youths be able to naturalize upon their request at the latest when they

¹¹ N. ROBINSON, *Convention relating to the Status of Refugees: Its History, Contents and Interpretation*, at 141 (1953).

¹² A. GRAHL-MADSEN, *supra* note 8, at 245.

¹³ A. GRAHL-MADSEN, *supra* note 8, at 247.

come of age, and finally that refugees married to a national be granted special facilitation in acquiring their spouse's nationality.¹⁴

As a follow up to the above Recommendation, the Council of Europe adopted another on the same topic in 1984.¹⁵ This time, expressing concern that economic recession had brought about a resurgence of xenophobic and racist movements, as well as the conviction that naturalization within a reasonable time period is one of the most crucial factors for the integration of refugees. It justifies a more favorable treatment for refugees in that they constitute only a small percentage of the national population and do not therefore place an excessive burden on the receiving country. Moreover, facilitating naturalization for refugees does not discriminate against other foreigners, since unlike refugees, they continue to benefit from the legal protection of their country of origin.

2. Comparative Analysis

In accordance with article 34 of the 1951 Convention which recommends that states facilitate the naturalization procedure for recognized refugees, some of the countries under study have reduced the residency requirements necessary in order to be eligible for naturalization, while others have chosen to waive other types of requirements which are particularly problematic for refugees. Still other countries however, have not yet taken any measures to facilitate what may, from a legal perspective at least, be described as the final stage of the integration process.

Reduced Residency Requirements

Two of the most generous legal provisions in this regard have been adopted by Hungary and Bulgaria, which have both elected to facilitate the naturalization of refugees by significantly reducing the residency requirements. As such, refugees in Hungary must satisfy a residency requirement of three years instead of the eight years demanded of other aliens, and refugees of Hungarian origin benefit further by being required only one year of residency before being eligible for naturalization. In Bulgaria, the 1998 Citizenship Law also grants refugees special consideration by reducing the residency requirement to three years, even though it increased it from five to eight years in the case of other aliens.

¹⁴ Para. 9(I)(iii)(iv), *Recommendation 654 (1969) on The Acquisition by Refugees of the Nationality of Their Country of Residence*, Eur. Consult. Ass. (September 30, 1969).

¹⁵ *Recommendation 984 (1984) on the Acquisition by Refugees of the Nationality of the Receiving State*, Eur. Consult. Ass. (May 11, 1984).

None of the other countries under consideration have legal provisions specifically reducing the residency requirements for the naturalization of recognized refugees. The most common period of residency required of aliens in general for the purposes of naturalization is five years. This is the case in Romania, Poland, Slovakia and the Czech Republic, while Slovenia continues to impose the harshest requirement in this respect, namely, ten years.

Special Problems Related to an Inadequate Residency or Refugee Status

Although five years is a reasonable residency requirement, including by Council of Europe standards, problems specific to the status of refugees in Romania and Poland render this a difficult condition to meet.

As discussed under the section on Legal Residence and Related Rights, refugee status in Romania is limited to a period of three years (with a possible, and in theory, final extension of another two years on the same conditions as the initial refugee status) after which the refugee automatically falls under the foreigners regime, the requirements of which he may be unable to satisfy in order to maintain his legal residency in the country. The current residency requirement for naturalization is five years, and in the draft Citizenship Law it is increased to seven years. Hence, unless refugees are married to a Romanian citizen (in which case the residency requirement is reduced to three years), are able to obtain a two year extension on their refugee status, or manage to otherwise adjust their status and residence in Romania under the aliens regime, this present discrepancy of two years renders it impossible for refugees to even become eligible for naturalization. Moreover, under the draft Citizenship law, this gap is only widened further so that even fewer refugees are likely to become eligible.

The fact that to date, Romanian authorities have in practice granted extensions on refugee status (even beyond the maximum five years) only mitigates the problem to a limited extent, since these extensions have not been granted automatically, but rather only upon the review of each individual refugee case on the same conditions as the original application for asylum.

As such, it is hoped that this time limit on refugee status will be repealed, as was done in the case of a similar provision in the Czech Republic in 1996. In this connection, readers may be interested in consulting the legal arguments advanced by the United Nations High Commissioner for Refugees (hereinafter UNHCR) for repealing the automatic expiration of refugee status in the Czech Republic, which are summarized in the country profiles in this chapter, as these arguments are equally applicable to Romania.

In Poland, the situation is less complex. In this case, the problem stems from the fact that upon receiving refugee status, refugees are first granted permission to reside

for a specified period, a status which does not render them eligible for naturalization, for which permission to *settle* is required. This situation is aggravated by the fact that in practice, no refugee who has applied has been granted permission to settle in Poland to date, even though by law they are eligible to apply for it after a three-year stay in the country and providing that they are able to meet certain other conditions. Unfortunately, the present requirements are such, particularly those relating to housing, self-sufficiency and requirement of a clean criminal record from the country of origin¹⁶, that it is now considered extremely difficult for refugees to obtain this status, a situation which directly affects their eligibility for naturalization.

Nevertheless, a general provision in the Polish Citizenship Law stipulating that the five year residency requirement may be reduced in specially justified instances, was applied in the case of the only recognized refugee to have naturalized in Poland to date. Romania has a similar legal provision by which the residency requirement of five years can be reduced in well justified cases, but to date it has never been applied to recognized refugees.

Other Conditions for Naturalization and Special Waivers

In addition to a minimum residency period, the countries under study impose a variety of other conditions for naturalization. These conditions typically include either all or some of the following: proof of accommodation and the capacity to support oneself; a clean criminal record, often including one from the person's country of origin; the ability to speak the language of the country in question; some knowledge of the Constitution of that country; and a release from any other citizenship.

By far the most problematic of these conditions is the requirement for release from a former citizenship, and evidence of a criminal record (usually required to be clean) from the refugee's country of origin. Slovenia, the Czech Republic, and Poland all require *aliens* to be dismissed from another citizenship, while the relevant Slovak provision states that it will be considered in favor of the applicant if he has no other citizenship or can prove he has legally renounced it. In the case of the Czech Republic, a 1996 amendment to the Citizenship and Refugee Law improved the situation for refugees by allowing authorities to waive this requirement at their discretion, and the new Citizenship Law, effective September 1999, now waives this requirement entirely when applied to refugees.

¹⁶ While one of the requirements for obtaining permission to settle in Poland is proof of a clean criminal record from one's country of origin, according to UNHCR, this requirement could perhaps be waived in the case of refugee applicants.

Romania, Slovakia, Slovenia and Poland, are also of particular note with regard to their requirement for a criminal record from the country of origin, since their legislation contains no special exceptions for recognized refugees. At the same time, it should also be noted that in practice, the Romanian Citizenship Commission has waived this requirement for refugees since 1996, as have the Slovak authorities. In the case of Slovenia, there has of course been no occasion to test this condition in practice, and similarly, in Poland there has been only one case of naturalization by a refugee, who on that occasion underwent an expedited procedure.

For those countries which still impose them, both the requirement for proof of a clean criminal record from the country of origin and dismissal from a previous citizenship pose very considerable obstacles to refugees who, due to their particular circumstances, should not be required to seek the cooperation or services of the authorities of the country from which they fear persecution. Indeed, seeking this assistance from them may even place the refugee's family who are still in the country of origin in danger. These conditions are, therefore, incompatible with refugee status and legal exceptions should be made for refugees with regard to them in the legislation on citizenship.

Expediting of Naturalization Proceedings and Reduction of Costs

As concerns the specific obligation stipulated in article 34 of the 1951 Convention to expedite naturalization proceedings (an obligation which does not relate to a reduction of the residency requirement but rather to the duration of the procedure itself) and reduce as far as possible its costs, to the best of our knowledge none of the selected countries has as of yet adopted any legal provisions or practices to this effect.¹⁷

Figures on Naturalizations and Comments Regarding Country Practices

In terms of the numbers of naturalization of recognized refugees to date,¹⁸ the figures vary widely, starting with Slovenia which of course has no cases to date, to one case in Poland, two in Romania, three in Bulgaria, forty-one in Slovakia, 261 in

¹⁷ Only one case of naturalization of a recognized refugee in Poland can be considered to have been expedited, though as a single incident it cannot be considered as of yet to constitute a practice.

¹⁸ The figures here provided on naturalizations of recognized refugees refer to slightly different dates in each country. In the case of Slovenia, Poland, Slovakia and Romania the figures are from 1999, while figures for Bulgaria, the Czech Republic and Hungary were only available for 1998. For more precise dates the reader should consult the country profiles in this Chapter or the Host Country Background Information provided at the beginning of the Study. It should also be noted that they are in some cases, approximate figures, based on information provided by UNHCR.

the Czech Republic, and approximately 1700 in Hungary. In order to be statistically meaningful, these figures should be compared to *inter alia*, the total number of recognized refugees and applications for naturalization in each country, as well as to the length of the residency requirement imposed and the date on which the first positive refugee status decisions were rendered. Notwithstanding the fact that we do not provide such a breakdown in this study, these figures are nonetheless useful insofar as they indicate the extent of the practice to date in each country.

Some salient points may be made with respect to the state practice of some countries in the region. In Romania and Slovenia for example, in addition to the obstacles to naturalization discussed above, the delays in the procedure for persons who have already or will in the future become eligible are considerable. In Romania, several applications by refugees, most of whom are married to Romanian citizens, have now been pending since at least 1996, and in Slovenia, the present waiting period may be as long as four years. Hence, the naturalization process is further delayed by several years, in two countries where refugees already face difficult or long residency requirements in order to become eligible to apply. In this context, the recommendation in the 1951 Convention to expedite the naturalization procedures for refugees would be especially helpful and should be advocated.

In the case of Hungary, no significant obstacles to naturalization appear to have been encountered by refugees, though it must be borne in mind that of the 1700 such naturalizations by September 1998, nearly all of them had been granted to refugees of Hungarian origin. Moreover, since Hungary only lifted the geographic limitation to European refugees in March 1998, no comment may as yet be made with regard to state practice in the context of other groups of refugees, though their legal provisions are amongst the most generous in the region.

The Czech Republic, while boasting an impressive number of such naturalizations (especially in proportion to the total number of recognized refugees) and a generally good record with respect to waivers regarding the requirement for release from a foreign citizenship, have nonetheless issued a few negative decisions which have caused concern due to their appearance of arbitrariness. In these few cases, Czech authorities refused to grant the above mentioned waiver (which at the time was still a discretionary decision) due to reasons such as that the refugee had not been living at his registered residence, had in their consideration been traveling abroad too often, was being investigated for a crime, or had not paid his taxes or health insurance. However, under the new Citizenship Law effective September 1999, the discretionary nature of this waiver is no longer an issue as it has been replaced by a provision exempting refugees from this requirement altogether.

Table 2:
Naturalization Requirements for Recognized Refugees¹⁹

	Residency requirements ^①	Requirement: Criminal Record from country of origin	Requirement: Proof of release from former citizenship	Is residency status granted compatible with naturalization residency requirements?
Bulgaria	3 years based on permanent residence ^②	X	X	✓
Czech Republic	5 years based on permanent residence	X	X as of 1999 ^②	Current Law: ✓ as of 1996 Draft Law: ✓
Hungary	3 years based on permanent residence ^②	X	X	✓
Poland	5 years based on permission to settle	✓	✓	No, newly recognized refugees granted permission to reside for a specified period
Romania	5 years based on lawful residence	✓ ^③	X	No, 3 year (max. 5 year) automatic expiration of refugee status
Slovakia	5 years based on permanent residence	✓ ^③		Considered "in favor" of applicant
Slovenia	10 years based on permanent residence	✓	✓	✓

X Yes ✓ No

^① Residency requirements for naturalization may also vary depending on other factors, such as whether the applicant is married to a citizen of the host country.

^② Special facilitation of requirement for recognized refugees.

^③ Waived in practice for recognized refugees.

¹⁹ Chart reflects the situation as of September 1999, including the new Slovenian and Bulgarian Asylum Laws, as well as the Czech Draft Refugee Law and the most recent amendment (effective September 1999) to the Czech Citizenship Law waiving the need for proof of release from a former citizenship in the case of recognized refugees.

3. Recommendations

Observance of Council of Europe Recommendation Regarding Residency Requirement

In keeping with the 1969 Council of Europe Recommendation and its accompanying 1970 Resolution on the Acquisition by Refugees of the Nationality of their country of residence, countries where the required minimum period of residency exceeds five years should reduce this requirement in the case of recognized refugees. This is particularly applicable to Slovenia, which still requires a ten-year residency period in order to be eligible for naturalization.

Harmonization of Asylum and Citizenship Laws, and Residency Status Compatible with Naturalization Requirements

Additionally, it is recommended that countries such as Poland and Romania harmonize their refugee and citizenship legislation, as well as state practice so as to ensure that refugees can indeed be eligible to apply for naturalization within a five-year residency period in their host country. Amongst other reasons, the need for harmonization of their legislation stems from the fact that the status granted to recognized refugees in these two countries is inadequate or incompatible with the residency requirements for naturalization.

In Poland, the most integration-friendly and simplest solution would be to grant refugees permission to settle automatically upon recognition, rather than permission to reside for a specified period. This recommendation is proposed in view of the fact that the residency requirement for naturalization is based on permission to settle, a residency status which aliens including refugees may only apply for after three years of residence (based on permission to reside for a specified period), and which no recognized refugee who has applied has been granted to date. Moreover, the present requirements for obtaining permission to settle are so stringent that it is now considered extremely difficult for a recognized refugee to obtain this status, thus rendering naturalization an even more distant prospect for refugees.

Under such conditions, and given the fact that there is as of yet no practice of granting permission to settle to refugees, it is likely to take considerably longer than the minimum eight years (i.e., a minimum three-year residency to become eligible for permanent residency and a further five years to be eligible for naturalization) for refugees to even become eligible for naturalization. Other solutions, such as using the fast track naturalization procedure for special cases which was used in the case of the one refugee naturalized to date, can only be applied to individual cases and therefore do not improve the general situation of recognized refugees in this regard.

With regard to Romania, there is an urgent need to harmonize the citizenship and the refugee legislation in order to allow refugees to become eligible to apply for naturalization. It would be timely if this could take place before the adoption of the new Citizenship Law, the drafts of which to our knowledge have actually aggravated this problem. For reasons already explained above the most effective way to achieve this and to improve the integration conditions for recognized refugees is clearly to lift the automatic expiration clause on refugee status altogether, so that they may be eligible to apply for naturalization after five years of residency in Romania. The current practice of extending refugee status based upon a review of the case on essentially the same terms as the original asylum application, is not considered an adequate solution from the perspective of a general integration policy or the obligation of best efforts with regard to facilitating naturalization, contained in the 1951 Convention. Both the refugee and the residency status granted to recognized refugees should at least be compatible with the residency requirement for naturalization.

¶ *Other Conditions for Naturalization Must also Be Compatible with Refugee Status*

Other conditions for naturalization, and especially conditions which impose requirements incompatible with refugee status such as release from a former citizenship and proof of a clean criminal record from one's country of origin, should be waived in the case of recognized refugees.

More specifically, Slovenia, Poland and Slovakia should waive the requirement (or in the case of Slovakia, the preference) for release of a foreign citizenship. With respect to the requirement for proof of a clean criminal record from one's country of origin, the adoption of a legal provision waiving this requirement in the case of refugees is also to be encouraged in Slovenia and Romania, despite the fact that in practice the latter has been cooperative in this regard since 1996.

¶ *Comprehensive Policy Facilitating Naturalization for Recognized Refugees and their Immediate Family Members*

Given that refugees may be considered vulnerable persons lacking an effective nationality, consideration should be given to facilitating naturalization in other ways, especially as regards certain conditions for naturalization which may prove too difficult or impossible for individual refugees to meet. For example, the economic situation in the host country may render it impossible for the refugee to satisfy the particular requirements relating to financial self-sufficiency and housing, or a language requirement may serve to exclude an elderly or illiterate refugee.

Moreover, naturalization should be facilitated for the children of recognized refugees and other close family members, as a common citizenship can help safeguard the principle of family unity.

¶ *Expediting Naturalization Procedures and Reduction of Costs*

In accordance with article 34 of the 1951 Convention, the naturalization procedures should also be expedited and the costs reduced for recognized refugees, practices which to the best of our knowledge are not generally implemented in the countries under study, despite the fact that the procedure in many of these countries currently involves from long waiting periods of several years. Such measures are especially necessary where refugees suffer from an inadequate legal status or situation of insecurity, such as in Romania, where refugees who have managed to become eligible for naturalization (mostly due to the fact that they are married to Romanian nationals) should be given priority and permitted to adjust their status in this way as quickly as possible.

MAIN INTERNATIONAL STANDARDS

**Convention relating to the Status of Refugees of 28 July 1951
Article 34**

Naturalization and Assimilation

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

**Statute of the Office of the United Nations High Commissioner for Refugees, General Assembly Resolution 428 (V) of 14 December 1950
Article 2(e)**

Calls upon Governments to co-operate with the United Nations High Commissioner for Refugees in the performance of his functions concerning refugees falling under the competence of his Office, especially by:

...

- (e) Promoting the assimilation of refugees, especially by facilitating their naturalization;*

**PART III:
ASSIMILATION**

1. International Standards

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

1951 Convention, Article 34, Naturalization and Assimilation

Commentators on this provision of the 1951 Convention agree that the Ad Hoc Committee responsible for drafting this Convention²⁰ (hereinafter Ad Hoc Committee) intended that the term assimilation be understood in the sense of integration into the economic, social and cultural life of the country and not as denoting any notion of forced assimilation or coercion.²¹ In this study, we will therefore refer to the terms assimilation and integration interchangeably.

In his commentaries, Grahl-Madsen expresses the opinion that assimilation or integration refers to the process of laying the foundations for the refugee to familiarize himself with the customs, language and way of life of his country of asylum. This may be accomplished through such means as language and vocational courses, lectures on national institutions and culture, and by creating opportunities for stimulating contacts between refugees and the host population. Indeed, as pointed out by a delegate at the Ad Hoc Committee, assimilation may be seen as a description of a particular stage in the life of a refugee, one which precedes and corresponds to the conditions for being granted citizenship.²²

The Statute of the Office of the UNHCR, as well as its Annex, also contain provisions stipulating as one of the tasks of this Office, the protection of refugees by assisting both governments and private organizations in the process of assimilation of

²⁰ On the basis of a Resolution by the Human Rights Commission, the Economic and Social Council in August 1949 adopted Resolution 248 (IX) (B) appointing an Ad Hoc Committee consisting of Representatives of 13 governments. This Committee prepared the draft of the Convention relating to the Status of Refugees which was adopted in 1951. For further details of the history of the Ad Hoc Committee *see*, N. Robinson, *supra* note 7, at 1-5.

²¹ N. ROBINSON, *supra* note 11, at 142.

²² A. GRAHL-MADSEN, *supra* note 8, at 247.

recognized refugees within national communities.²³ In particular, the UNHCR Statute calls upon governments to promote the assimilation of refugees, especially by facilitating their naturalization.²⁴

2. Comparative Analysis

As integration is the main subject of this study as a whole, we will only consider for the purposes of treating assimilation in this chapter whether domestic legislation in the selected countries in the region contain provisions explicitly stating the general obligation of the state to facilitate the integration process of recognized refugees. Such statements are noteworthy as an expression of intent of the government and a legal framework for integration programs, as well as an advocacy tool for improving integration practices. Other new trends and developments in relation to integration, such as the sub-contracting of state programs to NGOs, and the emergence of increasingly specialized NGOs with an exclusive mandate to assist in the integration of recognized refugees, will also be highlighted.

Of course, the absence of such a formal declaration in the law does not in any way imply or amount to a failure to meet the obligation of best efforts in relation to integration contained in article 34 of the 1951 Convention. Many countries may not have made such statements but may nonetheless grant specific rights and benefits integral to the integration process of recognized refugees, or may even have integration programs in place. All of these will be discussed in detail in the remainder of the study. Hence, we will not provide any conclusions in this chapter as to the degree to which the countries in this study may or may not be fulfilling the requirements of article 34 regarding the integration of recognized refugees. Such conclusions are best left to be determined in relation to the integration topics treated in each of the subsequent chapters.

Positive Legislative Trend with Respect to Statement of Integration Obligations by States, and NGO-Government Joint Ventures

With regard to the integration responsibilities of states under consideration, we note a positive trend emerging from the new legislation in the region which indicates an increased willingness on the part of governments to formally recognize their obligations in this area, frequently in the form of an explicit statement to this effect.

²³ Art. 8(c), Statute of the Office of the United Nations High Commissioner for Refugees, December 14, 1950, U.N. General Assembly Resolution No. 428(V), Annex.

²⁴ Art. 2(e), Statute of the Office of the United Nations High Commissioner for Refugees, December 14, 1950, U.N. General Assembly Resolution No. 428(V).

The new refugee laws in Bulgaria, Hungary and Slovenia already all include legal provisions formally recognizing their obligations with respect to integration, while in the case of the Czech Republic it is included in the draft Refugee Law. Hence, Slovakia, Romania and Poland are the only countries to date whose Asylum Laws do not include such a statement, though some of their other laws and Government Decisions do elaborate on certain integration-related state responsibilities. In this section we will only highlight the more comprehensive integration provisions, while the others are detailed in the relevant Individual Country Profiles included in this Chapter.

The focus as well as the formulation of each government's legal obligations with regard to the integration of recognized refugees, varies considerably. Some legal provisions are vague statements of intent, while others detail the exact type of assistance to be provided, some envision their integration assistance as beginning with asylum-seekers, while others clearly restrict it to recognized refugees. Also, the type of assistance which governments choose to render to refugees in this process can be quite different, with some focusing on housing, others on vocational training, and yet others providing general assistance, including material assistance and language courses.

Bulgaria

For example, in Bulgaria, the statement on the integration of refugees appears in the new Asylum Law as a process which begins with asylum-seekers, for whom the government is to organize not only language courses, accommodation and other basic conditions of reception, but also vocational training courses and auxiliary economic activities. This policy may be a positive consequence of the Bulgarian Government's experience with the Integration Center which has provided a venue for the above activities for asylum-seekers and recognized refugees in Bulgaria. It is a policy which hopefully will render the living conditions, including the aspect of boredom and dependency during long refugee status determination (hereinafter RSD) procedures, as humane as possible while also increasing the chances of successful integration of these refugees upon recognition.

With regard to recognized refugees specifically, the Bulgarian Government undertakes in its Asylum Law to coordinate and organize together with other organizations the following types of integration assistance: assistance with regard to the basic conditions of life including social, psychological and medical services; dissemination activities relating to refugee problems and charitable events for refugees; the running of the Integration Center where language and vocational training and other integration activities will continue to take place; and the development of legal instruments and integration programs for the integration of refugees. Local governments are also obliged to accept and register refugees on their

territory, and to grant them the opportunity to exercise their rights on the same terms as nationals. Hence, with some exceptions, these provisions leave the specifics of state integration assistance to be defined at a later time through the elaboration of particular programs and activities.

Hungary

In contrast to Bulgaria, the Hungarian Asylum Law draws a clear distinction between the right of refugees to integration assistance (which is in addition to care and maintenance assistance), and the right of asylum-seekers and persons with alternative status to only the basic conditions of life. In their Decree Regulating the Care of Refugees, it is also specifically stated that the promotion of the social integration of refugees is a state responsibility.

Interestingly, at the same time that the Hungarian Government is acknowledging its obligations with respect to integration, the above Decree also allows the government to contract out to other organizations most integration-related activities and services, such as care and maintenance assistance, professional training programs, Hungarian language training, family reunification, and the general promotion of social integration in Hungarian society. These contracts could be implemented by a variety of service providers, such as NGOs, municipal governments, and religious organizations, though as of November 1999, the government had not yet contracted out any such services to NGOs, and their integration program was not yet fully operational.

Slovenia

The Slovenian Government also recognizes its responsibilities in the area of integration in the new Slovenian Refugee Law, in which they promise to establish conditions for the integration of refugees into the cultural, economic and social life of the Republic of Slovenia.²⁵ Their specific assistance towards this goal includes the organization of Slovenian language courses and other forms of education and vocational training, and acquainting refugees with Slovene history, culture and the Constitution. Given the negligible number of recognized refugees in that country to date however, it is expected that any state integration program which may be implemented in the near future will be of a very modest nature. Nonetheless, the adoption of a basic legislative framework for a state integration program in the new Refugee Law constitutes a foundation upon which future practice can be built.

²⁵ Art. 19, Law on Asylum, Official Gazette of the Republic of Slovenia No. 61/99, July 30, 1999, entry into force August 14, 1999 (unofficial UNHCR English translation).

Czech Republic

The current Czech Refugee Law for its part, does not include any such formal statement on the integration responsibilities of the state, though the authorities have been implementing some successful programs and have contracted out some of the more important of these programs since February 1998 to PPI (Poradna pro integraci, in English, Counseling Center for Integration, and hereinafter PPI), an NGO dealing exclusively with recognized refugees.

However, these state integration activities, as well as the more general role of the Czech Government in facilitating the process of integration for refugees is formally recognized in the draft Czech Refugee Law, which provides specific assistance to refugees in the form of free Czech language courses, temporary accommodation in integration centers for the period immediately following their recognition, and an offer of permanent housing.²⁶

The formal incorporation of a statement regarding integration in the draft Czech Refugee Law thus complements an already positive state practice. This state practice has included a successful integration program focusing on housing assistance considered to be one of the best practices of this type in the region (for more details please refer to Chapter III on Housing), a promising and to date successful practice of contracting out state integration activities to NGOs, and the existence of a specialized NGO focusing exclusively on the integration of recognized refugees, the latter being to our knowledge unique amongst the selected countries in the region.

The establishment of PPI as the focal point and chief provider of integration-related assistance and activities for recognized refugees in the Czech Republic has greatly helped in both enhancing and streamlining integration-related activities in that country. Funded principally by UNHCR and the Czech Government, their major program activities include the following: managing the government-funded housing integration program and all the UNHCR integration-specific programs²⁷; disseminating information and providing orientation sessions on the rights and obligations of refugees for newly recognized refugees; establishing self-sustaining refugee community centers in other Czech cities besides Prague; and offering general counseling and assistance on all matters directly affecting this population.

²⁶ Arts. 68-70 and 79-80, Draft of the Law on Asylum and on the change of Law No. 283/91 Coll. on the Police of the Czech Republic, in the reading of later regulations (unofficial UNHCR English translation), version of May 1999, still under consideration in the Parliament of the Czech Republic as of October 1999 [hereinafter Draft Law on Asylum].

²⁷ These programs include for example promotion of social contacts between refugees and local communities, provision of move-in-allowances and educational grants, general counseling, specific assistance to socially vulnerable persons, and organization of Czech language courses.

In 1999, PPI expanded its operations from Prague, to include the establishment of self-sustaining refugee community centers in other major cities such as Brno and Usti nad Labem, with the opening of other such centers being planned in the future in Plzen and Ostrava. In these centers, PPI social workers, together with a team of volunteers, organize cultural and educational programs, and offer integration counseling services to the population of recognized refugees living in those cities.

Another positive consequence of PPI's government contracts, which include the refugee housing program as well as a program for socio-legal counseling, is that they have helped to strengthen their relationship with government institutions and serve as a test case for future NGO-government joint ventures. With the establishment of PPI in 1998, UNHCR also transferred its contracts for the implementation of all its integration-related programs to this NGO. PPI's success to date, is reflected by such achievements as securing the government contract (through a process of government tender) for the refugee housing program for two years in a row (1998 and 1999); having identified a record number of flats in the context of the same program; and having secured further government contributions during 1999, including one to help support their socio-legal counseling activities.

Slovakia and Poland

In Slovakia and Poland there is no statement with respect to the obligations of the state to facilitate integration in their Asylum legislation, though other laws and Government Decisions do mention the responsibility of the state in this regard.

In the case of Slovakia, this obligation is implicit in a document entitled Complete Solution of Integration of Foreigners with the Status of Recognized Refugees into the Society, which details the areas in which special assistance is to be offered to refugees and provides that the government is to approve a budget for integration on an annual basis (as part of the budget of the Ministry of Interior). More specifically, it states that the Ministry of Interior in cooperation with ministries, municipalities, UNHCR and non-governmental organizations involved, guarantees to solve training questions relating to job opportunities, social housing, Slovak language training, education and re-qualification courses, social security and health care and the creation of general conditions for the reception of refugees in local communities .

As for Poland, it is the Social Welfare Act which addresses the issue of integration and states that one of the tasks of the voivods (i.e., municipalities) is to coordinate activities in the area of integration of recognized refugees. A draft Ordinance on the Integration of Refugees was also under consideration in 1999, and included both financial and non-financial forms of assistance, such as special

language, housing and employment assistance. And like the Czech Republic and Hungary, it also provided for the possibility of contracting out state integration tasks to non-governmental and private organizations, an approach which has already been preceded by the financial support granted by the Polish Government to some NGO led initiatives in 1998. This draft Ordinance was not endorsed by the Legal Department of the Council of Ministers due to an inadequate legal enabling provision, though measures (in the form of an amendment to the Law) are expected to be taken in the near future in order to remedy this technical problem.

Romania

No noteworthy statements with regard to the state's obligation to facilitate the integration of refugees appear to be included in any relevant legislation in Romania. In fact, as already mentioned previously, the Romanian three-year (maximum five-year) time limit on refugee status constitutes an important obstacle, both objective and subjective, to the process of integration which requires a certain degree of security regarding one's status and future in the host country. This situation of insecurity for refugees in Romania is further aggravated by the fact that their limited refugee status also negatively affects their eligibility for naturalization.

3. Recommendations

Bearing in mind that we have limited the scope of this section on integration to include only legal provisions formally recognizing the state's obligation to facilitate the integration of recognized refugees, and the new initiatives in this region already mentioned in the Comparative Analysis section, we recommend the following:

Legal Provision Explicitly Recognizing State Responsibility to Facilitate Integration

That the countries under study which have not already done so, acknowledge their responsibility to facilitate the integration of refugees in the form of a legally binding obligation by adopting a provision to this effect in their legislation. Indeed, a legal provision to this effect would be in accordance with article 34 of the 1951 Convention. In addition to providing a general legal framework upon which to build or improve refugee integration programs and practices, it also imposes on local offices and municipalities dealing with refugees on a regular basis a legal obligation to facilitate their integration into the local society. Given the extent to which government services and authorities may be decentralized, it is important that the moral obligation be also a legal obligation to assist refugees in their integration process.

Government-NGO Joint Ventures in the Field of Integration

Consideration should be given to encouraging the development of more government/NGO joint ventures in the area of integration assistance. The increased willingness by some governments in the region to contract out their integration-related activities to refugee-assisting NGOs or to simply provide them with extra funding, is a positive trend which indicates a growing maturity in their relations. Implementation of integration activities by NGOs rather than government tends to offer some important advantages, including more flexibility in their responses, access to potentially more diverse sources of funding for complimentary activities, a stronger rapport of trust with their clients, and a more comprehensive, less bureaucratic approach, which the departmentalization of government services simply cannot provide. In many countries in the region, NGOs also have considerably more experience in the area of refugees and integration.

Furthermore, the implementation of integration-related activities tends to be a relatively uncontroversial area for cooperation between governments and the NGO community. It presents less opportunities for situations of conflict of interest (between the best interests of their client and those of their funder) for the NGO service provider than other areas such as legal assistance during the RSD procedure. Nonetheless, it is advisable that NGOs accepting government fees for service contracts or benefiting from other important sources of government funding give considerable thought to the impact of this decision on the organization and adopt clear policies in this regard. In particular, a strategy regarding diversification of funding which would ensure that the NGO does not become entirely dependant on government sources for its survival is recommended.

Increased Role by Municipalities and Local NGOs in the Integration Process

An increased role by municipalities and local NGOs in the integration process would also be beneficial as communities are more likely to accept and meet the needs of refugees when they are given a role in the process and understand they are stakeholders in refugees becoming self-sustaining. Local NGOs should also foster partnerships in this process, perhaps by establishing community centers for use by ethnic minorities to hold trainings, cultural activities and other events fostering contacts with host neighborhoods.

Promotion of Specialized NGOs in the Field of Integration

At this point in time, consideration should be given to whether it would increase effectiveness to promote the creation of more specialized organizations, whose

mandate would focus exclusively on the integration of recognized refugees. This decision will depend on the situation, needs, and program structures in each country. As has been demonstrated by PPI, an NGO of this kind in the Czech Republic, however, the more focused approach of such specialized organizations could improve the monitoring of the integration process, the quality of counseling services, the identification and responsiveness to integration problems, as well as fund-raising and advocacy efforts on behalf of recognized refugees.

**PART IV:
INDIVIDUAL COUNTRY PROFILES:
LEGAL RESIDENCE, NATURALIZATION AND ASSIMILATION**

1. Bulgaria

Legal Residence and Related Rights

Situation until 31 July 1999

According to article 2 of the Ordinance on Refugees, recognized refugees are to have at the very least the administrative and legal status of a permanent resident.²⁸ In practice, this means that with a few exceptions,²⁹ they have essentially the same rights as citizens. Refugees receive a refugee certificate with an identification number, with which they can then exercise their rights, including to employment and social assistance.

New Law on Asylum Effective as of August 1st, 1999

Under the new Refugee Law, effective as of August 1st, recognized refugees are granted the same rights and obligations as Bulgarian citizens, with the following exceptions: the right to vote and be elected; to hold positions in the state administration for which Bulgarian citizenship is required; to serve in the Bulgarian army; and other restrictions provided for by law.³⁰ Recognized refugees are also granted permanent residency status in Bulgaria, even though it does not appear to be explicitly mentioned in the law. This is evidenced in the fact that recognized refugees are eligible to apply for naturalization after a three-year residency, which as seen below, must be based on permanent residence.

Naturalization

In keeping with their requirements under the 1951 Convention, the new Bulgarian Citizenship Act, which entered into force February 19, 1999, includes

²⁸ Ordinance for Granting and Regulating Refugee Status, adopted by the Council of Ministers of the Republic of Bulgaria, Decree No. 208, October 4, 1994, entry into force November 1, 1994 [hereinafter Refugee Ordinance].

²⁹ The right to vote, be elected, serve in the military, and ownership rights are the relevant exceptions.

³⁰ Art. 28, Law on Refugees, XXXVIII National Assembly of the Republic of Bulgaria, May 27, 1999, entry into force August 1, 1999 (unofficial UNHCR English translation).

provisions which facilitate the naturalization process for recognized refugees to an even greater extent than the previous law. Indeed, whereas the permanent residency requirement to apply for naturalization for other aliens in this new law was increased from five to eight years, it was reduced to three years in the case of recognized refugees.³¹ In addition to the residency requirement however, like other aliens refugees must satisfy other conditions as well. These include: being of age; not having been sentenced or indicted for a crime prosecuted by a Bulgarian court and having no pending criminal proceedings against oneself; having an income or occupation enabling one to be self-sufficient in Bulgaria; and having a sufficient degree of knowledge of the Bulgarian language.³²

Other general provisions facilitating naturalization in the Law on Bulgarian Nationality which may also be of interest to refugees and their families include the following: article 17, granting adult children of parents (at least one parent) who are Bulgarian nationals the right to naturalize after only one year of permanent residence in Bulgaria; and articles 20 and 21 granting naturalization to children of parents who have adopted Bulgarian nationality. With regard to the latter, for children under fourteen years of age naturalization is automatic, and between fourteen and eighteen years of age they may naturalize under the same conditions if they so request.

This new law also allows for the acquisition of Bulgarian nationality by place of birth to: children of foreign nationals (or where the nationality of one parent is unknown) born in Bulgaria, if they do not acquire another nationality by descent; to children born in Bulgaria whose parents are stateless or of unknown nationality; and to any child who is found in Bulgaria and whose parents are unknown.³³

The various provisions in the Bulgarian Law facilitating the naturalization procedure for refugees, stateless persons and family members mentioned above, are particularly noteworthy examples of legal provisions which not only meet the 1951 Convention standard, but also promote a comprehensive policy for the unity of the refugee family and their integration into Bulgarian society.

An application for naturalization may be refused however, even if the conditions for acquisition of Bulgarian nationality are satisfied, if in view of his conduct, there are serious grounds to consider that the applicant constitutes a threat to public order,

³¹ Art. 14(3), Law on Bulgarian Nationality, State Gazette of the Republic of Bulgaria No. 136, November 18, 1998, entry into force February 19, 1999 (unofficial UNHCR English translation).

³² Arts. 13(1), 13(3), 13(4), 13(5), Law on Bulgarian Nationality, State Gazette of the Republic of Bulgaria No. 136, November 18, 1998, entry into force February 19, 1999 (unofficial UNHCR English translation).

³³ Arts. 10, 11 and 12, Law on Bulgarian Nationality, State Gazette of the Republic of Bulgaria No. 136, November 18, 1998, entry into force February 19, 1999 (unofficial UNHCR English translation).

public moral [*sic*], and public health or to the security of the Republic of Bulgaria.³⁴ Persons who have naturalized may also be subject to the revocation or deprivation of their Bulgarian citizenship if, *inter alia*, they misrepresented the facts which served as grounds to grant them citizenship, or if while living abroad they have been found guilty of a grave crime against Bulgaria.³⁵

With regard to the fees applicable to naturalization procedures, neither the present Law on Bulgarian Nationality nor the former contain any special provisions reducing these costs for refugees.

As of March 1999, the Agency for Refugees reported that at most three recognized refugees had received Bulgarian citizenship, and seven or eight applications were pending. According to the Bulgarian Helsinki Committee, a UNHCR implementing partner, they have assisted with at least five applications, and provided information to approximately twenty more persons seeking information on this issue. The naturalization procedure is estimated to take about two years. Dual citizenship is recognized under Bulgarian law.

Assimilation

No specific provision stipulating a general obligation on the part of the state to facilitate assimilation existed in the Bulgarian Ordinance on Refugees, which was effective until July 31, 1999. However under the new Refugee Law which comes into effect after the above date, both the role of the Agency for Refugees and the integration center, as well as the integration rights of asylum-seekers and recognized refugees are explicitly recognized.

Under this new law, the government Agency for Refugees shall: organize, in interaction with the Central Executive bodies, the Bulgarian Red Cross and other non-governmental organizations, the activities related to their distribution on the territory of the country, job opportunities, and provision of social, medical and psychological assistance to refugees during their refugee-status determination procedure, as well as to those who have already been granted refugee status.³⁶ The same agency, together with other organizations, is also responsible for carrying out dissemination work on

³⁴ Art. 22, Law on Bulgarian Nationality, State Gazette of the Republic of Bulgaria No. 136, November 18, 1998, entry into force February 19, 1999 (unofficial UNHCR English translation).

³⁵ Arts. 26-29, Law on Bulgarian Nationality, State Gazette of the Republic of Bulgaria No. 136, November 18, 1998, entry into force February 19, 1999 (unofficial UNHCR English translation).

³⁶ Arts 37(3), Law on Refugees, XXXVIII National Assembly of the Republic of Bulgaria, May 27, 1999, entry into force August 1, 1999 (unofficial UNHCR English translation).

refugee problems amongst the general population and relevant legal entities, and for organizing charitable events for the social support of refugees.³⁷

Moreover, the Agency for Refugees is to, work up (*sic*) independently or participate in the preparation of drafts of legal norms and regulations and international treaties on refugee problems and develop programs for the integration of refugees in the Bulgarian society. ³⁸ Importantly, local governments and administrations are also given responsibilities in this new Refugee Law, including that of accepting and registering recognized refugees and their families on their territory, and of providing them with the opportunity to exercise the rights granted to them in the Refugee Law on the same terms as Bulgarian nationals.³⁹

One of the interesting aspects of this new law is the integration assistance which the Bulgarian Government promises to grant to asylum-seekers. Indeed, beyond the basic social and material assistance associated with their reception, the law provides that the Agency for Refugees *shall* provide assistance to asylum-seekers in adapting to Bulgarian conditions, by providing Bulgarian language courses during the RSD procedure. Worded in more discretionary terminology, the law stipulates that the same Agency *may* also organize auxiliary economic activities whereby refugees during the procedure for granting refugee status, shall have an opportunity for vocational training and employment. ⁴⁰

From the point of view of integration, both the provisions providing for integration assistance to recognized refugees and asylum-seekers in the new Refugee Law are most welcome. In the case of the latter, the language courses, vocational training and other activities they may benefit from during their RSD procedure will undoubtedly facilitate the eventual integration process of those who are subsequently recognized, especially in view of the importance of both language and employment in this process.

Through this new Refugee Law, Bulgaria has finally concretized in its legislation the various integration-related activities that have been implemented *de facto* by the Agency for Refugees (albeit under a UNHCR project) for some time, and recognized the rights of refugees and the obligations of the Agency in this regard. It is hoped that

³⁷ Arts. 37(4), 37(8), Law on Refugees, XXXVIII National Assembly of the Republic of Bulgaria, May 27, 1999, entry into force August 1, 1999 (unofficial UNHCR English translation).

³⁸ Art. 37(5), Law on Refugees, XXXVIII National Assembly of the Republic of Bulgaria, May 27, 1999, entry into force August 1, 1999 (unofficial UNHCR English translation).

³⁹ / 4, Additional Provisions, Law on Refugees, XXXVIII National Assembly of the Republic of Bulgaria, May 27, 1999, entry into force August 1, 1999 (unofficial UNHCR English translation).

⁴⁰ Arts. 37(1) and 39 respectively, Law on Refugees, XXXVIII National Assembly of the Republic of Bulgaria, May 27, 1999, entry into force August 1, 1999 (unofficial UNHCR English translation).

in conformity with the new law, the Bulgarian Government will endeavor to implement the specific programs for asylum-seekers mentioned above, as well as to develop concrete programs of individual integration assistance for recognized refugees in the near future.

2. Czech Republic

Legal Residence and Related Rights

According to article 19 of the Law Concerning Refugees,⁴¹ a recognized refugee has the same status as a citizen of the Czech Republic with the exceptions of military duty and the right to vote or be elected. Moreover, certain other rights are governed by special rules which are more restrictive than those applicable to citizens. These exceptions are stipulated in the same provision and include exceptions to: the right to engage in gainful activity and to acquire real property (i.e., immoveable property), which are subject to special rules applying to aliens; as well as the right to health insurance and social security, according to which refugees are considered as foreigners with permanent residence permits. The Law on Foreigners reinforces the idea that refugees should not generally be treated as foreigners by stipulating that the Foreigners Act shall not apply to them unless a special provision provides otherwise.⁴²

In the draft Refugee Law, the regime of rights applicable to recognized refugees is streamlined so that they are simply granted permanent residency, a status which grants them most of the rights enjoyed by nationals.⁴³

1996 Amendment to the Law Repealing a Five-Year Time Limit on Refugee Status

An amendment to the Law Concerning Refugees in April 1996 introduced significant improvements to the legal status of recognized refugees in the Czech Republic. Without a doubt the greatest improvement in the law consisted of the repealing of the five-year time limit on refugee status, which not only improved their protection against refoulement, but also made possible genuine integration by providing refugees with a permanent durable solution in their country of asylum.

⁴¹ Art. 19, Law Concerning Refugees, No. 498/1990, November 16, 1990, entry into force January 1, 1991, *as amended by* Law No. 317/1993, December 8, 1993, entry into force January 1, 1994, and Law No. 150/1996, April 26, 1996, entry into force August 1, 1996.

⁴² Art. 1(2), Act on Foreigners Stay and Residence in the Czech and Slovak Federal Republic, No. 123/1992, March 4, 1992, *as amended by* the Law No. 190/1994 and Law No. 150/1996, April 26, 1996, entry into force August 1, 1996.

⁴³ Arts. 50 and 76, Draft Law on Asylum *supra* note 26.

Thus, although previously recognized refugees were also accorded the same status as Czech citizens, this was limited to the five-year period during which their refugee status was valid, after which they became regular aliens subject to the foreigners regime.

UNHCR undertook active discussions with the Czech authorities on the matter and submitted their written position and recommendations to them in 1995, with a view to identifying a solution for those refugees whose five years would soon expire, and of introducing an amendment to the Czech Refugee Law which would effectively repeal this time period on refugee status altogether. As stated in their position paper to the government,⁴⁴ UNHCR's interest in the issue stemmed from its mandate responsibility to ensure the continuous protection of the concerned persons, and to avoid hardship for those who had began a new life in the Czech Republic and severed links with their country of origin. It was argued that the situation should be considered in light of article 34 of the 1951 Convention whereby the Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. Furthermore, UNHCR wished to bring Czech legislation and practice into line with international refugee standards which do not allow for this type of automatic expiration of refugee status, a concept which amounts to the imposition of a mixed cessation/cancellation clause which is contrary to international law. This provision was indeed repealed by an amendment to the law in April 1996,⁴⁵ and a positive solution was found for those refugees whose five-year refugee status had expired under the old law, such that they either reapplied for refugee status and were recognized again or approached their embassies for passports and subsequently received Czech permanent residence.

It is hoped that this positive example will be followed in the case of Romania which adopted a new provision imposing a three-year (maximum five-year) expiration period on refugee status at the same time that the Czech Government was repealing theirs.

⁴⁴ Aide-Memoire concerning the implementation of the five-year time limit for refugee status as provided for in/24, Law Concerning Refugees, No. 498/1990, submitted to the Czech Government by UNHCR, Prague, and dated November 1, 1995.

⁴⁵ Art. 3(2), Law Concerning Refugees, No. 498/1990, November 16, 1990, entry into force January 1, 1991, as amended by Law No. 317/1993, December 8, 1993, entry into force January 1, 1994, and Law No. 150/1996, April 26, 1996, entry into force August 1, 1996.

Naturalization

Recognized refugees are considered permanent residents for the purposes of naturalization.⁴⁶ As such, like other foreigners, they are eligible for naturalization after five years of permanent and continuous residency in the Czech Republic.⁴⁷ This residency requirement is reduced to three years if they are married to a Czech national.

Other conditions for Czech naturalization include the following: proof of release from the citizenship of another state; proof that the applicant was not sentenced in the past five years for a willful punishable offence; and demonstrated knowledge of the Czech language.⁴⁸ More recently however, the requirement for proof of release from a former citizenship was eliminated by a subsequent amendment to the Czech Citizenship Law which became effective in September 1999. Parents may include in their application children under fifteen years of age.⁴⁹

The naturalization requirements for recognized refugees were significantly eased in the 1996 amendments to the Citizenship and Refugee Laws⁵⁰, which provided that refugees are to be considered permanent residents for the purposes of naturalization, and that the requirement for release from another citizenship could be waived in the case of recognized refugees at the discretion of the Czech Government. As mentioned above, as of September 1999, this process is further facilitated by an amendment to the new Citizenship Law which now exempts recognized refugees altogether from the

⁴⁶ Art. 3, Law Concerning Refugees, No. 498/1990, November 16, 1990, entry into force January 1, 1991, *as amended by* Law No. 150/1996, April 26, 1996, entry into force August 1, 1996. Simultaneous to the amendment repealing the five year expiration period on refugee status, another amendment was made to the Czech Refugee Law which provided that for the purposes of naturalization, refugees are to be considered aliens with permanent residence. This amendment benefited recognized refugees in two ways. It finally clarified the residency status which was to be attached to the previous five-year refugee status, by declaring that it was to be considered as permanent residency, and it also resulted in rendering those recognized refugees eligible for Czech citizenship, which may be obtained after five years of permanent and continuous residency in the Czech Republic.

⁴⁷ Art. 7(1)(a), Law on Acquisition and Loss of the Citizenship of the Czech Republic, No. 40/1993, December 29, 1992, entry into force January 1, 1993, *as amended by* Law No. 272/1993, October 12, 1993, entry into force November 11, 1993 and Law No. 139/1996, April 26, 1996, entry into force May 24, 1996.

⁴⁸ / 7(1), Law on Acquisition and Loss of the Citizenship of the Czech Republic, No. 40/1993, December 29, 1992, entry into force January 1, 1993, *as amended by* Law No. 272/1993, October 12, 1993, entry into force November 11, 1993 and Law No. 139/1996, April 26, 1996, entry into force May 24, 1996.

⁴⁹ / 9(1), Law on Acquisition and Loss of the Citizenship of the Czech Republic, No. 40/1993, December 29, 1992, entry into force January 1, 1993, *as amended by* Law No. 272/1993, October 12, 1993, entry into force November 11, 1993 and Law No. 139/1996, April 26, 1996, entry into force May 24, 1996.

⁵⁰ Art. 19(2)(b), Law on Acquisition and Loss of the Citizenship of the Czech Republic, No. 40/1993, December 29, 1992, entry into force January 1, 1993, *as amended by* Law No. 150/1996, April 26, 1996, entry into force August 1, 1996.

requirement to obtain a release from a previous citizenship.⁵¹ This exemption is particularly welcomed, as this was the requirement for naturalization with which refugees experienced the most difficulty in the past.⁵²

The requirement with regard to proof of a clean criminal record, on the other hand, has not presented any problems since it is only required for the last five years, which is the period of residency necessary in the Czech Republic to be eligible for naturalization anyway. Thus, in effect, only the criminal records from the Czech Republic are required. Authorities appear to have been flexible with respect to the language requirement also, and have waived it in practice on several occasions. In a number of cases, however, the application for naturalization of recognized refugees has been denied for reasons which appear arbitrary, and which are based on the discretionary nature of the decision —a justification which was reinforced by a recent decision of the High Court confirming that naturalization is not a right and may be denied even if all the criteria are satisfied.⁵³

According to the Ministry of Interior, 261 recognized refugees acquired Czech citizenship during the period of three years from 1996 to 1998.⁵⁴

Thus, despite the denial of some applications, Czech authorities have generally exercised flexibility in the implementation of their naturalization procedures, and have adopted special legal provisions facilitating the requirements in the case of recognized refugees.

Assimilation

Despite some successful government integration programs, the present Refugee Law does not contain any provision stating the general obligation of the state to

⁵¹ Arts. 4 (b) and 5(b), Law changing the Law No. 40/1993 on Acquisition and Loss of the Citizenship of the Czech Republic, No. 194/1999, July 29, 1999, entry into force September 2, 1999.

⁵² Czech authorities were generally cooperative in granting waivers to this requirement. However, insofar as the power to waive this condition in individual cases was entirely at the discretion of the authorities under the previous law, it appears at times to have been used in an arbitrary fashion. In such cases, the waiver was not applied and the application for naturalization was denied on the basis of the applicant's failure to supply proof regarding the release of his previous citizenship.

⁵³ *Izevbuwa v. Czech Ministry of Interior*, High Court Decision 5 A 50/98-13 (March 15, 1999).

⁵⁴ Correspondence, Ministry of Interior and UNHCR, Prague, dated April 15, 1999. The breakdown provided was that of 24, 83 and 154 naturalizations of recognized refugees in 1996, 1997 and 1998 respectively. Amongst these were nationals of the following countries: Vietnam, Albania, Bulgaria, Romania, Afghanistan, Iraq, Cuba, Ukraine, Nigeria, Iran, Turkey, Armenia, Russia, Bosnia-Herzegovina, Croatia, Iraq, Cambodia, Congo, Ghana, and Zaire. In addition, out of the total of 261 naturalizations of refugees during this period, 34 were stateless persons.

facilitate the integration of refugees, with the exception of free Czech language course provided for in the law.⁵⁵

This is expected to change with the adoption of the new Refugee Law, the draft of which officially provides for a State Integration Program. More specifically, this program provides recognized refugees with free Czech language courses, the offer of accommodation which is to serve as a permanent residence, as well as integration centers for their temporary accommodation immediately after recognition.⁵⁶ These activities reflect many of the programs already in existence, but with their formal incorporation in the law, the Czech Republic now undertakes integration assistance as a legal responsibility of the State.

Also noteworthy, is that as of 1998, the Department for Refugees of the Ministry of Interior renamed their department in order to include their integration mandate. It is now called the Department for Refugees and the Integration of Foreigners, a change which will complement the new provisions in the draft Refugee Law also explicitly recognizing the integration responsibilities of the Czech Government towards refugees.

Another initiative worthy of special mention, though not provided for in the law, is the fact that since February 1998 the Czech Government has contracted out (on a fee-for-service basis) to a specialized refugee-assisting NGO some of its more interesting integration programs. Additionally, the responsible NGO, namely PPI, which deals exclusively with recognized refugees now acts as a unique focal point for all integration-related activities and services for recognized refugees in the Czech Republic. Funded principally by UNHCR and the Czech Government, their major program activities include the following: they manage the government-funded housing integration program and all the UNHCR integration-specific programs;⁵⁷ disseminate information and provide orientation sessions on the rights and obligations of refugees for newly recognized refugees; run self-sustaining refugee community centers, which they have founded in several Czech cities; and provide general counseling and assistance on all matters directly affecting this population. Indeed, in relation to the latter, in 1999 PPI received a grant of 195,000 CZK (5,571

⁵⁵ Art. 19(3), Law Concerning Refugees, No. 498/1990, November 16, 1990, entry into force January 1, 1991, as amended by Law No. 317/1993, December 8, 1993, entry into force January 1, 1994, and Law No. 150/1996, April 26, 1996, entry into force August 1, 1996.

⁵⁶ Arts. 68-70 and 79-80, Draft Law on Asylum *supra* note 26.

⁵⁷ These programs include for example the following: promotion of social contacts between refugees and local communities; provision of move-in-allowances and educational grants; general counseling; specific assistance to socially vulnerable persons; and organization of Czech language courses.

USD)⁵⁸ from the Czech Government for the support of socio-legal counseling for recognized refugees.

In 1999, PPI expanded its operations from Prague to include the establishment of self-sustaining refugee community centers in other major cities such as Brno and Usti nad Labem, with the opening of other such centers being planned later in Plzen and Ostrava. In these centers, PPI, together with a team of volunteers, organizes cultural and educational programs for the recognized refugees living in those cities. It is also here that PPI offers its integration counseling services to local refugees.

The establishment of PPI as the chief provider of integration-related assistance to recognized refugees has greatly helped in both enhancing and streamlining integration-related activities in the Czech Republic. Moreover, PPI's government contracts, which include the refugee housing program as well as a program for socio-legal counseling, have helped to strengthen their relationship with government institutions and serves as a test case for future NGO/government joint ventures. With the establishment of PPI in 1998, UNHCR also transferred contracts for the implementation of all integration-related programs to this NGO. PPI's success to date, is reflected by such achievements as securing the government contract (through a process of government tender) for the refugee housing program for two years in a row (1998 and 1999), having identified a record number of flats in the context of this same program, and having secured further government contracts during 1999, including one to help support their socio-legal counseling activities.

3. Hungary

Legal Residence and Related Rights

The current Hungarian Law on Asylum (in force as of March 1, 1998), like the previous law, stipulates that unless an Act or Government Decree provides otherwise, recognized refugees have the same rights and obligations as Hungarian citizens, with the exception of the right to vote, to be conscripted, and to hold positions which the law requires to be filled by Hungarian citizens.⁵⁹

⁵⁸ All figures in the text which were originally provided in local currencies have been converted into USD and rounded. For conversion rates see Appendix No. 2. Readers should be aware that figures for 1998 and 1999 in the original currency are converted into USD using only a 1999 standardized rate of exchange. As such, only the figures in the original currency in this study are exact.

⁵⁹ Art. 17, Act on Asylum, No. 1997: CXXXIX, December 9, 1997, entry into force March 1, 1998. It should be noted that in addition to the rights of nationals, recognized refugees also benefit from special privileges, such as, not being subject to military service, free Hungarian language courses and a reduction of the 8-year domicile requirement for naturalization which is imposed on other aliens.

As a consequence of recognition, refugees also receive permanent residency status and are granted the accompanying identity card/permanent residence permit,⁶⁰ which in accordance with a separate rule, is valid for six to fifteen years⁶¹ depending on the age of the person concerned, with persons under twenty years old receiving it for six years, and those between twenty and fifty years of age receiving it for fifteen years. Persons above the age of fifty years of age obtain an identity card without any time limitation. The same rules regarding the renewal of identification cards also apply to Hungarian citizens, with the difference being the color of the identification card.

Naturalization

With respect to the conditions for naturalization, recognized refugees are granted preferential treatment in that they are relieved of the eight year domicile requirement usually required for naturalization of other aliens, and are eligible to apply for citizenship after only three years of continuous residence.⁶²

Apart from this reduced residency requirement, recognized refugees must fulfill all the other conditions required of ordinary applicants, including having a clean criminal record in Hungary and not being subject to criminal proceedings in a Hungarian court when the application is being decided, proving that their subsistence and residence in Hungary is ensured, and for persons who are of age, successfully completing an examination in the Hungarian language demonstrating a basic knowledge of the Hungarian Constitution. Moreover, the person's naturalization is not to interfere with the interests of the Hungarian state.⁶³

It should be noted, that refugees of Hungarian ethnic origin are treated differently from other refugees and are granted even more favorable treatment. They can apply for citizenship after only one year of residence in Hungary,⁶⁴ although they too must satisfy the remaining requirements in the law. As of September 1998, *circa* 1700 out of a total of 4,582 recognized refugees had received Hungarian citizenship, and although no ethnic breakdown is available, an estimated 95% are thought to be of Hungarian ethnicity. Given the relatively recent adoption of the Hungarian Asylum law and the lifting of the geographic limitation, it is still too early to provide any

⁶⁰ Art. 18, Act on Asylum, No. 1997: CXXXIX, December 9, 1997, entry into force March 1, 1998.

⁶¹ Arts. 2(4) and 4, Government Decree on the Issuing and Registration of Identity Cards, No. 147/1993 (X.26).

⁶² Para. 4 (2)(d), Act LV. of 1993 on Hungarian Citizenship, June 1, 1993, entry into force October 1, 1993.

⁶³ Para. 4 (1), Act LV. of 1993 on Hungarian Citizenship, June 1, 1993, entry into force October 1, 1993.

⁶⁴ Para. 4(3), Act LV. of 1993 on Hungarian Citizenship, June 1, 1993, entry into force October 1, 1993.

comment as to the practice with respect to naturalization in relation to the new groups of refugees who will eventually be recognized under the asylum procedure in Hungary.

The Hungarian Citizenship law recognizes double citizenship.

Assimilation

Several legal provisions in the Asylum Law and related domestic laws explicitly recognize and provide for the general obligation of the state to facilitate the assimilation or integration of recognized refugees in their new society. Most notably, article 48 of the Hungarian Law on Asylum distinguishes between recognized refugees who are entitled to integration and persons with alternative statuses who are only entitled to basic conditions of life.

*A refugee is entitled to his integration, while an applicant, temporarily protected person and a person authorized to stay is entitled for the establishment of his basic conditions for life to the care/maintenance and benefits defined in the Act and in the Government Decree.*⁶⁵

Furthermore, the Government Decree Regulating the Care of Refugees specifically stipulates that the ...promotion of the social integration of refugees are considered state responsibilities.⁶⁶ In the same Decree, the possibility is also provided for the Refugee and Migration Office of the Ministry of Interior to contract out most integration-related activities and services. These may include: accommodation and care and maintenance services; professional and retraining activities; Hungarian language courses; family reunification and the general promotion of the social integration of refugees.⁶⁷ Such contracts could be implemented by a variety of potential service providers such as, social organizations, municipal governments, churches, associations, foundations or other legal entities, on the basis of a public tender.

⁶⁵ Art. 48(1), Act on Asylum, No. 1997: CXXXIX, December 9, 1997, entry into force March 1, 1998.

⁶⁶ Art. 1, Government Decree on the Care/Maintenance and Benefit of Foreigners Coming under the Force of Act No. 1997: CXXXIX on Asylum, No. 25/1998 (II.18), entry into force March 1, 1998 [hereinafter Government Decree Regulating the Care of Refugees]. (Based on the authorization granted in Article 60(1)(b) of Act No. 1997: CXXXIX on Asylum).

⁶⁷ Art. 30, Government Decree Regulating the Care of Refugees, *supra* note 66.

No conclusions can be drawn as of yet on the degree to which the Hungarian Government will implement this integration assistance in practice. However, as of November 1999, the integration program was not yet fully operational, partly due to the lack of resources of ORMA (the state refugee agency), and consisted chiefly of the financial benefits granted to recognized refugees under the Government Decree and language courses, which also suffered from some problems at the implementation stage. As of the same date, the government had also not yet contracted out any integration activities to NGOs.

4. Poland

Legal Residence and Related Rights

Generally speaking, an alien in Poland may be granted either permission to reside for a specified period or permission to settle.⁶⁸

Immediately upon recognition a refugee is granted residence permission for a specified period, for a period of up to two years with the possibility of an extension.⁶⁹ Unlike other aliens holding this residency status however, refugees benefit from additional guarantees attached to their residency status and to the accompanying temporary residence card.⁷⁰ According to information provided by UNHCR, these guarantees include the following: the residency permission of recognized refugees may not be withdrawn without prior withdrawal of their refugee status; the prolongation of this permission may not be refused; and the maximum ten-year period on this type of temporary residence permit applicable to other aliens is not applicable to recognized refugees.⁷¹ Moreover, also unlike other aliens, refugees are issued and extended this residence permission by the Minister of Internal Affairs and Administration, rather than by a voivod.⁷²

⁶⁸ Art. 16, Act on Aliens, Journal of Laws No. 114, item 739, June 25, 1997, entry into force December 1997 (unofficial UNHCR English translation).

⁶⁹ Arts. 18 and 43, Act on Aliens, Journal of Laws No. 114, item 739, June 25, 1997, entry into force December 1997 (unofficial UNHCR English translation).

⁷⁰ Art. 45, Act on Aliens, Journal of Laws No. 114, item 739, June 25, 1997, entry into force December 1997 (unofficial UNHCR English translation).

⁷¹ Arts. 45, 18, Act on Aliens, Journal of Laws No. 114, item 739, June 25, 1997, entry into force December 1997 (unofficial UNHCR English translation).

⁷² Art. 85, sec. 6, of the Act on Aliens, Journal of Laws No. 114, item 739, June 25, 1997, entry into force December 1997 (unofficial UNHCR English translation).

In order to be granted permission to settle and permanent residence cards however, recognized refugees must prove their eligibility for this residency status on the same terms as other aliens. As of October 1999, UNHCR was not aware of any applications for permission to settle by refugees having ever been granted. Indeed, while the first recognized refugees in Poland automatically received permanent residence cards, this practice was subsequently discontinued, and as of 1997 it was confirmed that refugees could only apply for this status under the Aliens regime. Unfortunately, it appears that the present requirements are such that they render it virtually impossible for a refugee to obtain permission to settle, most of the applications to date having been rejected due to the strict conditions regarding housing and proof of self-sufficiency. A criminal record from the country of origin of the applicant is also required. It is hoped that in the future, an amendment to the law will waive this requirement in the case of refugees, and that in the interim, refugees will be granted this waiver in practice.

According to article 19(1) of the Aliens Law, aliens, including refugees, may obtain permission to settle after a minimum of three years stay in Poland, which has taken place immediately before the application and was based on the permission to reside for a specified period.⁷³ In addition, the applicant must demonstrate that he has secured accommodation and maintenance in Poland, as well as the existence of permanent family or economic ties binding him to that country. Once he has obtained permission to settle, the refugee benefits from the same special guarantees against withdrawal of this permission to settle as with his former residency status, such that it cannot be withdrawn prior to the withdrawal of his refugee status.⁷⁴

While they do not receive permission to settle (i.e., permanent residence) automatically, recognized refugees do benefit from many of the rights associated with this residency status including the right to work, social assistance and medical care. However, as analyzed below, they are not eligible for naturalization for which one must first have permission to settle.

⁷³ It should be noted that although refugees have not been able to take advantage of it in practice, there is a temporary exception to article 19 mentioned above. More specifically, article 110(4) of the Aliens Act provides that within the three-year period from the entry into force of this law, the provisions of article 19, sec. 1, para 3, (which refer to the required period of residence in order to obtain permission to settle) is not to be applied. This signifies that during this period it is enough for an alien to simply show documentary evidence of an uninterrupted three-year sojourn in Poland. As such, for the time being, a refugee could use the period of his legal stay in Poland during the processing of his asylum claim to support his application for permission to settle.

⁷⁴ Arts. 19 and 45, Act on Aliens, Journal of Laws No. 114, item 739, June 25, 1997, entry into force December 1997 (unofficial UNHCR English translation).

Naturalization

According to the Polish Citizenship law, a five-year residence period in Poland is necessary in order for a foreigner to be eligible to apply for Polish citizenship.⁷⁵ The Supreme Administrative Court has ruled that residence in this case, refers to permanent residence. This is particularly significant since recognized refugees receive only permission to reside for a specified period, and none have as of yet been granted permission to settle (i.e., permanent residence). Moreover, as noted above, the present requirements for permanent residence are so difficult to meet that it is extremely difficult for a recognized refugee to obtain this status, thus rendering naturalization an even more distant prospect for refugees.

Under such conditions it is, therefore, likely to take considerably longer than the minimum eight years (i.e., a minimum three-year residency to become eligible for permanent residency and a further five years to be eligible for naturalization) for refugees to even become eligible for naturalization.

Furthermore, in addition to the residency requirement, the Citizenship Law requires a criminal record from the country of origin, and stipulates that granting of Polish citizenship may be dependant on submitting evidence of loss or release from a foreign citizenship.⁷⁶ UNHCR has noted that this requirement has in the case of recognized refugees created practical problems which have frequently been difficult to overcome. In fact, although the provision seems to allow room for discretion with regard to this requirement by stating only that it *may* be required, in practice, this condition appears to have been strictly applied.

Indeed, the Polish Citizenship Law provides that in principle a Polish citizen cannot at the same time be recognized as a citizen of another state.⁷⁷ In order to regulate this on a bilateral basis, agreements have been concluded with various countries, whereby citizens with double citizenship have to opt for one or the other.⁷⁸

Children under parental authority are automatically included when their parents acquire Polish citizenship, though the child's consent is required after the age of sixteen.⁷⁹

⁷⁵ Art. 8.1, Law on Polish Citizenship, Journal of Laws No. 10, item 49, February 15, 1962.

⁷⁶ Art. 8.3, Law on Polish Citizenship, Journal of Laws No. 10, item 49, February 15, 1962.

⁷⁷ Art. 2, Law on Polish Citizenship, Journal of Laws No. 10, item 49, February 15, 1962.

⁷⁸ Poland has concluded bilateral conventions on this issue with such countries as Bulgaria, Mongolia and the former Soviet Union and then Czechoslovakia.

⁷⁹ Arts. 8.4-8, 8.6, and 8 *in fine*, Law on Polish Citizenship, Journal of Laws No. 10, item 49, February 15, 1962.

Of special relevance to recognized refugees who have not yet received permanent residence, is the provision in the Citizenship Law which permits some exceptions to this five-year permanent residency requirement, in specially justified instances.⁸⁰ In effect, this amounts to an expedited naturalization procedure. In order to benefit from it, recognized refugees, like other aliens, must demonstrate that their case is indeed a specially justified instance, deserving of an exception to the residency requirement. The single case of naturalization of a recognized refugee in Poland, known to UNHCR to date, was based on the application of this special expedited procedure.

In addition to the mainstream procedure for granting citizenship, special provisions also allow for acquisition of Polish citizenship in cases of statelessness and for persons of Polish origin.⁸¹ With respect to the former, article 9.1 of the Citizenship Law provides for the possibility of acquisition of citizenship through Recognition, a procedure whereby a person with no citizenship or whose citizenship remains undetermined may be recognized as a Polish citizen, on condition that they have resided in Poland for at least five years.

Assimilation

With regard to facilitation of integration by the state, the current Aliens Law dealing with asylum does not include any provision referring to a general obligation on the part of the state to facilitate this process for recognized refugees. However, the Polish Social Assistance Act, as amended in 1996, does provide that integration activities should be supervised by social assistance services, and that one of the tasks of the voivods (i.e., the local government offices) in the field of social assistance is to coordinate integration-related efforts for the integration of recognized refugees.⁸² This provision was intended to create a legal basis for a future integration program. However, as explained in more detail below, in 1999 it was determined that this provision was not sufficient for this purpose.

A special government-funded integration assistance program for recognized refugees was in effect from March 1996 to August 1998. It was not entirely successful however, and thus was terminated after that period.

⁸⁰ Art. 8.2, Law on Polish Citizenship, Journal of Laws No. 10, item 49, February 15, 1962.

⁸¹ Article 109 of the Polish Aliens Law allows for a special fast track procedure for the recognition of Polish citizenship for persons of Polish nationality or Polish origin, provided that they applied under this procedure before 31 December 1998, and are able to meet the remaining set of conditions stipulated in that article. However, UNHCR is not aware of any case involving recognized refugees where this provision has been relevant. (Art. 109 (3)(1), Act on Aliens, Journal of Laws No. 114, item 739, June 25, 1997, entry into force December 1997).

⁸² Art. 12, Law on Social Assistance, November 29, 1990, *as amended* in June 14, 1996.

By March 1999 though, the government was considering a new draft Ordinance on the integration of refugees which would provide mainly for financial assistance, though it also contained other forms of assistance, including legal and psychological counseling, language training, orientation services for dealing with institutions and government offices, as well as assistance with housing and employment.⁸³ The draft Ordinance also allowed administrative districts to entrust refugee integration tasks to a variety of organizations including church groups, foundations, associations, employers and individuals,⁸⁴ and provided that the integration plan, i.e., the actual agreements with individual refugees, could be entrusted to a social assistance center for preparation and execution.

According to more recent information provided in October 1999 by UNHCR however, this draft Ordinance was not endorsed by the Legal Department of the Council of Ministers due to the lack of an adequate enabling legal provision. While, as seen above, the Social Assistance Act does contain a provision relating to integration, namely article 12, it was not considered a sufficient legal basis on which to pass the Ordinance. The government has since recommended an amendment to the Social Assistance Act which would provide a clear basis for government integration assistance to recognized refugees, and a legal foundation for the adoption of a future Ordinance on integration.

At the moment, although refugees are entitled to benefit from the services of the national welfare offices, this assistance is not considered sufficient, particularly given the lack of any housing or language assistance. It is noteworthy nonetheless, that the city of Warsaw has made financial contributions as of 1998 to the Polish Humanitarian Action, a UNHCR implementing partner, for the purposes of housing assistance to recognized refugees. This assistance has been used to help a limited number of refugees with the rental costs of flats on the open housing market in the capital.

⁸³ / 8, Draft of Ordinance of the Council of Ministers concerning the definition of detailed principles of granting benefits and financial resources for social assistance, within the governmental program, in order to protect the level of life of the refugees, version dated January 1999. [hereinafter Draft Ordinance on integration of refugees] (unofficial UNHCR English translation).

⁸⁴ /13(1), Draft Ordinance on integration of refugees *supra* note 83.

5. Romania

Legal Residence and Related Rights

Article 15(a) of the Refugee Law⁸⁵ provides that a refugee has the right to remain in the territory of Romania and to obtain the documents necessary for proving his identity and crossing the border. As such, recognized refugees receive an identification card which serves also as a residence permit and is extendable usually every six months.

Although this provision is not operative in practice, the Refugee Law also provides that during his stay on Romanian territory, a refugee may be granted permission to establish his domicile in Romania, a decision which is taken in accordance with the conditions in the Foreigners Law, and which also depends on the degree of his integration in Romanian society.⁸⁶ In the event that a refugee is granted domicile in Romania his refugee status is withdrawn.⁸⁷ In practice however, a refugee would appear to gain no advantage by applying for domicile since he would have fewer rights as an alien with domicile than by retaining refugee status in Romania. The only situation in which there would be an advantage is if the maximum five-year limit on refugee status prescribed by the current Refugee Law has been reached, in which case obtaining domicile would at least allow the individual concerned to remain legally in Romania.

Moreover, according to the Ministry of Interior no foreign national has been granted domicile in Romania since December 1989, although there are some 4,000 pending applications. The problem appears to be that the Council of State, which is the only body legally empowered to grant domicile, was abolished in December 1989. The draft Aliens Law remedies this problem by providing that the Ministry of Interior will be responsible for considering and approving such applications, although it is uncertain when the law will be adopted.

⁸⁵ Art. 15(a), Law concerning the status and the regime of refugees in Romania, No. 15, Monitorul Oficial (Official Gazette of Romania) No. 59, April 2, 1996 [hereinafter Romanian Refugee Law] (unofficial UNHCR English translation).

⁸⁶ Art. 25, Romanian Refugee Law, *supra* note 85.

⁸⁷ Art. 17(g), Romanian Refugee Law, *supra* note 85.

Time Limit on Refugee Status

The most important limitation to the legal and residency status accorded to recognized refugees in Romania resides in the fact that their refugee status has been made temporary by being prescribed by a three-year time limit, after which they come under the foreigners regime, unless they receive an extension.⁸⁸ Indeed, according to this same provision, this time limit on refugee status may be extended for another two years based on the examination of the case under the same conditions as the original refugee application.

It appears that in practice to date, those cases where the three-year time period has expired have in fact been accorded the two-year extension upon review by the Decisions Commission. Furthermore, though no legal provision explicitly provides for any further extensions, in practice the Decisions Commission has extended the validity of refugee status beyond the five-year period on the basis of the 1951 Convention upon request from the refugee concerned. As such, to date UNHCR has not been approached by any refugee because he received a negative reply to this request.

However, in spite of these positive cases to date,⁸⁹ in principle, this time limit imposed on refugee status has considerable implications not only with regard to the rights and effective protection granted to recognized refugees, which are discussed below, but also with respect to their eligibility to apply for naturalization and ultimately, their integration process. It is hoped therefore that amendments to the Refugee Law, which are expected to be drafted in the future, will include a provision repealing this time limitation on refugee status.

Legal Analysis

As argued by UNHCR in the past in the case of a similar provision in Czech law,⁹⁰ this Romanian provision has the effect of stripping the recognized refugee of his status without providing him with an alternative status ensuring his safety, protection and continuity of residence as foreseen by the international instruments. Indeed, this concept of a refugee status which expires automatically is entirely foreign to the 1951 Convention, and amounts to a mixed cessation/cancellation clause

⁸⁸ Art. 22, Romanian Refugee Law, *supra* note 85.

⁸⁹ It should be recalled that while Romanian authorities have indeed issued extensions in practice, these have not been automatic but have rather been granted upon a review of the case based on the 1951 Convention.

⁹⁰ Please see the Individual Country Profile section, for the Czech Republic in this Chapter.

contrary to international law. Once the refugee has lost his refugee status by operation of such a clause, he is referred to the Foreigners regime, under which he may be entitled to remain in Romania under some type of alien resident status on the condition that he is able to satisfy all the special requirements attached to such a residence permit, such as demonstrating adequate financial capacity, secured accommodation, travel documents, and a clean criminal record. In addition to imposing conditions on the refugee's stay in the country, conditions which are irrelevant to the fear of persecution he may still have and the protection he may still require, residency under the foreigners regime, cannot in fact provide the aspects of protection and the continuity of residence provided by refugee status.⁹¹ Placing refugees in such a position is inconsistent with their rights under the 1951 Convention, as is the time limit on refugee status.

Indeed, under the 1951 Convention, once recognized, the refugee maintains his refugee status unless his case falls under the terms of one of the cessation clauses contained in article 1(c), which constitute a restrictive and exhaustive enumeration of the grounds for withdrawal of refugee status. The criteria for cessation are based on a change in the refugee's situation whereby he is no longer in need of international protection. These criteria are limited to the following: voluntary re-availment of the protection of the refugee's country of nationality; voluntary re-acquisition of his nationality, after having first lost it; acquisition of a new nationality; voluntary re-establishment in the country which he fled for fear of persecution; and finally, fundamental changes in the country where persecution was feared such that international protection is no longer necessary nor justified.

No other grounds may be invoked to withdraw refugee status, although it may be cancelled if it is subsequently discovered that refugee status was granted based on the misrepresentation of material facts or if one of the exclusion clauses stipulated in the 1951 Convention would have applied had all the relevant facts been known at the time that refugee status was being determined. The fact that the grounds for cessation are exhaustive is underlined in article 42 of the Convention, which provides that no reservations are permitted to article 1. Moreover, in order to apply one of these clauses, an individual examination of the case is required to ensure that the conditions of the clause in question are met before the protection extended to a refugee can be withdrawn.⁹² At present, the Romanian provision providing for the automatic expiration of refugee status does not satisfy any of these conditions, and as such, is in clear breach of the 1951 Convention standards.

⁹¹ Aide-Memoire, *supra* note 38, at 2.

⁹² Aide-Memoire, *supra* note 38, at 2.

Naturalization

Applications for Romanian citizenship are governed by the Law on Romanian Citizenship⁹³ which provides that citizenship may be granted to a foreign citizen or a person without citizenship who, *inter alia*, has resided in Romania for at least five years (or three years if they are married to a Romanian citizen), has a lawful means of subsistence, speaks Romanian, has a clean criminal record, and has shown an attachment to Romania. A child under the age of eighteen also acquires Romanian citizenship at the same time as his parents.⁹⁴ No special provisions provide for the facilitation of the naturalization procedure for recognized refugees. And although article 9 *in fine*, of the Romanian Citizenship Law has potential in this regard since it provides for the possibility of the residency requirement being reduced in well justified cases, this has not as of yet ever been applied to refugees. Article 9 of the Citizenship Law reads as follows:

Romanian citizenship can be granted, on request, to a foreign citizen, or to a person without citizenship who:

- a) at the date of the application was born or resides in the territory of Romania, or, although not born on this territory, has been residing in the Romanian territory for at least five years, or, in case that person is married to a Romanian citizen, for at least three years;
- b) proves by his or her behavior and attitude an attachment to the Romanian State and people;
- c) has reached the age of eighteen years;
- d) is provided with lawful means of subsistence;
- e) is known to have a good behavior, and has not been sentenced within the country or abroad for an offense which makes him unworthy of being a Romanian citizen;
- f) has a sufficient command of the Romanian language to integrate himself in the social life. (*sic*)

In well justified cases, the terms provided under paragraph (1) sub-paragraph (a) can be reduced.

⁹³ Art. 9, Law on Romanian Citizenship, No. 21/1991, Monitorul Oficial (Official Gazette of Romania), Part I, No. 44, March 1, 1991, entry into force April 6, 1991.

⁹⁴ Art. 10, Law on Romanian Citizenship, No. 21/1991, Monitorul Oficial (Official Gazette of Romania), Part I, No. 44, March 1, 1991, entry into force April 6, 1991.

To UNHCR's knowledge, since December 1989 only two recognized refugees had been granted Romanian citizenship as of October 1999, though several applications have been pending for several years.⁹⁵ In practice, since 1996, the Romanian Citizenship Commission has waived the requirement of proof of clean criminal record from the country of origin in the case of refugee applicants who had not been able to produce one, so that this would not constitute a bar to being considered for naturalization.⁹⁶

In addition to delays in the procedure and other obstacles which may impede the acquisition of Romanian citizenship by recognized refugees, the most serious barrier currently lies in the three-year (maximum five-year) time limit placed on refugee status, since the present Citizenship Law requires a minimum five-year residency period in Romania in order to be eligible for naturalization. As we saw above, those who are married to Romanian citizens or who are able, upon review of their case, to at least obtain the two-year extension, are not necessarily adversely affected by this time limit on refugee status. However, recognized refugees not falling into these categories are treated according to the legal regime applicable to foreigners once their refugee status has ceased. This regime, as stated previously, may place requirements on refugees which they are not able to fulfill, thus making them unable to maintain legal residency in the host country and become eligible for naturalization. As such, if they are unable to extend their refugee status for a minimum of another two years or otherwise adjust their legal status in the country, this time limitation on refugee status has a direct impact on their stay in Romania, and their eventual integration through naturalization.

In this connection, the Draft Citizenship Law⁹⁷ may, if adopted, further aggravate this problem by extending the residency (i.e., legal stay) requirement for naturalization from five to seven years (and five years for those married to a Romanian citizen). This change would further augment the discrepancy between the current duration of refugee status in the Refugee Law and the period of residency required to be eligible for citizenship. It is hoped that the Refugee Office and other relevant Ministries will seek to harmonize the laws with respect to naturalization in favor of recognized refugees, and to provide enduring protection to persons whose refugee status has already or is expected to expire.

⁹⁵ As of December 1996, UNHCR was informed by the Citizenship Commission of the Ministry of Justice that there were five pending applications for citizenship from refugees at that time, all of whom were married to Romanian citizens. By 1999 however, only 3 applications could be confirmed by UNHCR.

⁹⁶ Art. 9(e), Law on Romanian Citizenship, No. 21/1991, *Monitorul Oficial* (Official Gazette of Romania), Part I, No. 44, March 1, 1991, entry into force April 6, 1991.

⁹⁷ Draft of the Citizenship law, version valid as of May 1998, still under consideration as of July 1999.

Assimilation

No provisions in any related laws or Decrees state a general obligation on the part of the state to facilitate the integration of recognized refugees, despite the fact that the requirements regarding the acquisition of citizenship and domicile include evidence of the person's integration in Romanian society, their attachment to the Romanian state and people, and knowledge of the Romanian language.⁹⁸ Moreover, as discussed above, the provision providing for the automatic expiration of refugee status remains a serious objective as well as subjective barrier to the integration process.

6. Slovakia

Legal Residence and Related Rights

Upon being granted refugee status, refugees in Slovakia automatically receive permanent residency,⁹⁹ and acquire the same status as a citizen of the Slovak Republic if special provisions do not provide otherwise.¹⁰⁰ Thus, unless the legislation specifically stipulates otherwise, article 18 of the Refugee Act, acting as a default provision, accords refugees the same rights as nationals for all purposes. Exceptions to equal rights with nationals include the right to vote and an exemption from obligatory military service. Other special provisions or regulations applicable to recognized refugees, relate to obligatory school attendance, employment and entitlement to social welfare, although these regulations effectively grant refugees the same standard of treatment as citizens.¹⁰¹

While recognized refugees receive permanent residency automatically, in the past some refugees have had difficulty proving this residency status due to administrative problems in obtaining an identification card, which serves as proof of their permanent residence permit. Recognized refugees are subject to the same reporting requirement as Slovaks, so that they must register and be able to show, *inter alia*, that they have a permanent domicile or place of residence¹⁰² in Slovakia before

⁹⁸ Art. 9, Law on Romanian Citizenship, No. 21/1991, Monitorul Oficial (Official Gazette of Romania), Part I, No. 44, March 1, 1991, entry into force April 6, 1991.

⁹⁹ Art. 17(1), Refugee Act, No. 283/1995, November 14, 1995, entry into force January 1, 1996 (unofficial UNHCR English translation).

¹⁰⁰ Art. 18(1), Refugee Act, No. 283/1995, November 14, 1995, entry into force January 1, 1996 (Unofficial UNHCR English translation).

¹⁰¹ Arts. 18, 19 and 20, Refugee Act, No. 283/1995, November 14, 1995, entry into force January 1, 1996 (unofficial UNHCR English translation).

¹⁰² Indeed, both citizenship and permanent residency ID cards contain a column entitled domicile (where one lives permanently, i.e., more than one year) which must be filled in.

they are issued an identification card. In the past, the failure to provide proof of a domicile address, and consequently obtain this identification card which proved their legal residency status, meant that it was impossible for some recognized refugees to obtain legal employment, social benefits, or exercise other basic rights to which they were entitled. This problem appears in large part to be successfully managed now, chiefly due to the assistance provided in obtaining ID cards by NGOs and the state housing assistance program. For further details on this issue, please refer to Chapter III on Housing, and Chapter VII on Identity Papers and Convention Travel Documents.

Naturalization

Section 7 of the Slovak Citizenship Law¹⁰³ provides that aliens may be granted citizenship if they have completed at least five years of continuous permanent stay in the Slovak Republic, speak Slovak, and have not been prosecuted for an intentional crime. On an exceptional basis, citizenship may also be granted irrelevant of whether the above conditions are met, such as in the case of an applicant who is married to a Slovak citizen or persons who have rendered great services to the country. In addition to the above-mentioned conditions, the second paragraph of this same provision further stipulates that it is to be considered, in favor of a person requesting the grant of citizenship of the Slovak Republic, if he is not a citizen of any other country or can prove that he has lawfully renounced his other citizenship. Slovakia does nonetheless recognize double citizenship.

Minor children mentioned in the parent s application form are granted Slovak citizenship together with their parents. No special provisions in any related laws provide for special facilitation of the naturalization procedure or a reduction of the costs involved, in the case of recognized refugees.

According to the Slovak Migration Office, as of October 1999, a total of forty-one recognized refugees had received Slovak citizenship, nine of whom received it in 1999, twenty-one in 1998, eight in 1997, and three in 1996.

¹⁰³ Art 7, Law of the Slovak National Council regarding Citizenship of the Slovak Republic, January 19, 1993, entry into force February 15, 1993.

Assimilation

No provision in the Slovak Asylum Law specifically refers to the general obligation of the state to facilitate the integration process of refugees. Nonetheless, the Slovak Government has implicitly recognized its obligations in this respect in other government documents including Government Decision No. 105 of February 1996, which adopted the *Complex Solution for the Integration of Foreigners Granted Refugee Status into Society*. This document provides that the government should approve a budget for integration on an annual basis, as part of the total budget of the Ministry of Interior. It also states that in cooperation with other ministries, municipalities, UNHCR and non-governmental organizations, the Ministry of Interior is to address the following issues with regard to recognized refugees: identification of job opportunities; social housing; Slovak language training; the organization of educational and re-qualification courses; social security and health care; and the creation of conditions for the reception of refugees in communities and selected localities. The activities to be undertaken under each of these headings and other integration measures are described in detail in this document, as well as in a later document issued by the Migration Office in September 1996 and entitled *Conception of Integration of Refugees in Society*.

7. Slovenia

Legal Residence and Related Rights

Situation until August 13, 1999

In Slovenia, recognized refugee status is valid as permanent residence according to article 3 of the Order on Implementation of Rights of Foreigners to Whom Refugee Status has been Recognized.¹⁰⁴ This permanent residence permit does not need to be renewed, unless the refugee status itself ceases. Permanent residents have substantially the same rights as nationals. To date, no obstacles have been experienced in obtaining permanent residence, which is automatic upon recognition of refugee status. By comparison, according to an amendment to the Foreigners Act, other aliens are now required an increased residency period of eight years instead of the previous three-year stay in order to obtain a permanent residence permit.¹⁰⁵

¹⁰⁴ Government of the Republic of Slovenia Order on Implementation of Rights of Foreigners to whom Refugee Status has been Recognized, No. 260-03/96-4/1-8, July 25, 1996 [hereinafter 1996 Order on the rights of recognized refugees]; and art. 2, Law on Government of the Republic of Slovenia, Official Gazette of the Republic of Slovenia, No. 4/93 and No. 23/96.

¹⁰⁵ Foreigners Act, Official Gazette of the Republic of Slovenia, No. 1/91-I, entry into force June 25, 1991, *as amended* in July 1997.

New Law on Asylum Effective as of 14 August 1999

Under the new Law on Asylum, recognized refugees continue to have the right to permanent residence in Slovenia, which they acquire based on the final decision granting them refugee status.¹⁰⁶

Naturalization

As per the Citizenship Act, a ten-year residency period is required to apply for citizenship for all foreigners. There are no provisions for shortening the naturalization procedures, reducing the costs or otherwise facilitating naturalization for Convention refugees, as required by article 34 of the 1951 Convention.

Although a provision reducing the residency requirement from ten to five years for recognized refugees and exempting them from certain other requirements was considered in the context of the adoption of the new Asylum Law, it was not retained in the end.

Given the lengthy residency period required for naturalization, no recognized refugees have applied for Slovene citizenship to date as none are yet eligible. Moreover, there is a considerable backlog of applications for naturalizations at the moment, which means that the processing of such applications may take as long as four years.

In addition to the residency requirement, the Citizenship Act also stipulates other conditions for naturalization, including that the applicant: guarantee his material and social security; has some knowledge of the Slovene language; has not been sentenced to imprisonment for a period longer than a year in the country whose citizen he was previously for a penal act which is punishable in both his country of citizenship and in Slovenia; has not been denied residency in Slovenia; does not pose a threat to the public order or security of the country; and finally, has been dismissed or is certain to be dismissed from previous citizenship.¹⁰⁷ Slovenia does not recognize dual citizenship.

¹⁰⁶ Arts. 47 and 49, Law on Asylum, Official Gazette of the Republic of Slovenia No. 61/1999, July 30 1999, entry into force August 14, 1999 (unofficial UNHCR English translation).

¹⁰⁷ Art. 10, Citizenship of Republic of Slovenia Act, Official Gazette of the Republic of Slovenia, No. 1-8/91, entry into force June 25, 1991.

This last condition, is particularly noteworthy given the difficulties it may pose for those refugees unable to obtain dismissal of their former citizenship, as has been the case with persons with other statuses from certain countries of the former Yugoslavia or countries of the Commonwealth of Independent States (hereinafter CIS). Moreover, refugees may not be willing and should not be required to contact the authorities of their country of origin for such services; a situation which is also applicable to the requirement for proof of a clean criminal record from their country of origin.

Article 9 of the Citizenship Law also provides for the possibility of acquiring Slovene citizenship by *jus soli* for children born on Slovene soil whose parents are of unknown citizenship or stateless.

Assimilation

Situation until 13 August 1999

Despite the obligation imposed on national governments to facilitate the integration process which is stipulated in article 34 of the 1951 Convention, Slovene legislation contains no provision or statement explicitly recognizing this general obligation or granting refugees special integration assistance.

New Law on Asylum Effective as of 14 August 1999

However, this situation is much improved in the new Law on Asylum, which grants special attention to the issue of integration and provides that recognized refugees are to have the right to assistance to integrate.¹⁰⁸ The particulars regarding this assistance are further elaborated in article 19 of the same law which states the following:

The Republic of Slovenia shall establish conditions for the integration of refugees into the cultural, economic and social life of the Republic of Slovenia. In doing so, it shall pay special attention to:

- organizing Slovenian language courses for refugees;
- organizing courses and other forms of further education and vocational training for refugees; and
- informing refugees about the Slovenian history, culture and constitution.

¹⁰⁸ Art. 47, Law on Asylum, Official Gazette of the Republic of Slovenia No. 61/1999, July 30 1999, entry into force August 14, 1999 (unofficial UNHCR English translation).

MAIN INTERNATIONAL STANDARDS

Convention Relating to the Status of Refugees of 28 July 1951

Article 17

Wage-earning employment

1. *The Contracting State shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.*
2. *In any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfils one of the following conditions:*
 - (a) *He has completed three years residence in the country,*
 - (b) *He has a spouse possessing the nationality of the country of residence. A refugee may not invoke the benefits of this provision if he has abandoned his spouse,*
 - (c) *He has one or more children possessing the nationality of the country of residence.*
3. *The Contracting States shall give sympathetic consideration to assimilating the rights of all refugees with regard to wage-earning employment to those of nationals, and in particular of those refugees who have entered their territory pursuant to programmes of labour recruitment or under immigration schemes.*

Article 18

Self-employment

The Contracting states shall accord to a refugee lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.

Article 19

Liberal professions

1. *Each Contracting State shall accord to refugees lawfully staying in their territory who hold diplomas recognized by the competent authorities of that State, and who are desirous of practising a liberal profession, treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.*
2. *The Contracting States shall use their best endeavours consistently with their laws and constitutions to secure the settlement of such refugees in the territories, other than the metropolitan territory, for whose international relations they are responsible.*

International Covenant on Economic, Social and Cultural Rights of 16 December 1966

Article 6

1. *The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.*
2. *The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.*

Universal Declaration of Human Rights of 10 December 1948

Article 23

1. *Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.*
2. *Everyone, without any discrimination, has the right to equal pay for equal work.*
3. *Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented if necessary, by other means of social protection.*
4. *Everyone has the right to form and to join trade unions for the protection of his interests.*

EMPLOYMENT

PART I:
WAGE-EARNING EMPLOYMENT, SELF-EMPLOYMENT,
LIBERAL PROFESSIONS

1. International Standards

Wage-Earning Employment

1. *The Contracting States shall accord to refugees lawfully staying in their territory the most favorable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.*

2. *In any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labor market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfils one of the following conditions:*

a) *He has completed three years residence in the country;*

b) *He has a spouse possessing the nationality of the country of residence. A refugee may not invoke the benefits of this provision if he has abandoned his spouse;*

c) *He has one or more children possessing the nationality of the country of residence.*

3. *The Contracting States shall give sympathetic consideration to assimilating the rights of all refugees with regard to wage-earning employment to those of nationals, and in particular of those refugees who have entered their territory pursuant to programs of labor recruitment or under immigration schemes.*

1951 Convention, Article 17, Wage-earning employment

The 1951 Convention contains three provisions relating to the right to work, and more specifically, with regard to the right to wage earning employment, self-employment and liberal professions.¹⁰⁹

¹⁰⁹ Arts. 7, 18 and 19, Convention relating to the Status of Refugees, UNTS No. 2545, July 28, 1951, entry into force April 22, 1954, and Protocol relating to the Status of Refugees, UNTS No. 8791, January 31, 1967, entry into force October 4, 1967.

Of these, article 17 on wage earning employment offers refugees the highest standard of treatment. A definition of wage-earning employment is not provided in the 1951 Convention, but it should be taken in its broadest sense, so as to include all forms of legal employment which cannot be categorized as either self-employment or a liberal profession.¹¹⁰ This mandatory provision to grant refugees the most favorable, rather than simply the same treatment accorded to other aliens in the same circumstances, is justified by the fact that refugees cannot rely on their governments to obtain exceptions or favorable conditions for them by means of a convention.¹¹¹ Thus, they are to benefit from the best treatment granted to nationals of any other country, whether by treaty or by practice.¹¹² This includes the preferential treatment granted to aliens by virtue of arrangements the host country negotiated with favored states.¹¹³ Any restrictions imposed on refugees will have to meet this test. This is especially significant at the European level, since Member States of the European Union (hereinafter EU) must therefore, grant recognized refugees the same treatment as nationals of other EU states.¹¹⁴

The term in the same circumstances, refers to the fact that a refugee must fulfill any requirements, such as length and conditions of residence, which another individual who is not a refugee would have to fulfill in order to enjoy this right. Naturally, an exception must be made with regard to those requirements which, by their nature, a refugee is incapable of fulfilling.

Paragraph 2 provides for a more favorable treatment for refugees who have a special tie to the receiving country, including refugees who have lived for three years in the host country, are married to a national or have a child who is a national. Such persons are exempt from the restrictive measures which may normally be imposed on aliens in order to protect the national labor market. Restrictions which are not related to the protection of the national labor force, such as those reserving civil service jobs for nationals for reasons of national security, are not affected by this provision.¹¹⁵

¹⁰⁹ Arts. 7, 18 and 19, Convention relating to the Status of Refugees, UNTS No. 2545, July 28, 1951, entry into force April 22, 1954, and Protocol relating to the Status of Refugees, UNTS No. 8791, January 31, 1967, entry into force October 4, 1967.

¹¹⁰ N. ROBINSON, *supra* note 11, at 96.

¹¹¹ A. GRAHL-MADSEN, *supra* note 8, at 70.

¹¹² Please note that article 17 does not deal with conditions of work, which is covered in article 24 on labor legislation and social security, in the 1951 Convention..

¹¹³ J. A. Dent, Research paper on the social and economic rights of non-nationals in Europe at 49 (November 1998) (European Council on Refugee and Exiles).

¹¹⁴ J. A. Dent, *supra* note 111, at 49.

¹¹⁵ J. A. Dent, *supra* note 111, at 50.

In the context of this paragraph, it is suggested that the term residence be interpreted as liberally as possible, so that it may include physical presence in the country regardless of whether the person was there as a refugee or in another capacity, and even regardless of whether the presence was lawful. It should also be interpreted so that the period of residence is not deemed interrupted by relatively short periods of travel abroad.¹¹⁶

Similarly, the exception stipulated in subsection 2(b) should be interpreted liberally as well, so that a refugee who is married to a national of the host country may benefit from it even if they live apart, or, under certain circumstances, even if they are separated. However, after they are divorced or after the refugee has abandoned his or her spouse, the refugee may no longer enjoy this privilege.¹¹⁷

With regard to subsection 2(c), the delegates of the Ad Hoc Committee felt that such an exception was appropriate, because it was in the national interest that the refugee-parent be able to work in order to support his family. The provision applies regardless of whether the child was born in or out of wedlock.¹¹⁸ Nonetheless, it appears that in order to benefit from the exceptions under subsections 2(b) and 2(c), the refugee may in certain situations have to show a genuine tie with his spouse or child. These exceptions cannot simply be invoked regardless of circumstances, and the failure of a refugee-parent to demonstrate any interest in or support for his child, for example, will be taken into consideration. It has been suggested that these provisions should be interpreted such that a refugee who once enjoyed the benefits of these should continue to do so, with the exception of a person who has abandoned his/her spouse.¹¹⁹

Beyond the standards of treatment stipulated in the first two paragraphs, paragraph 3 of this provision requires that Contracting States give sympathetic consideration to granting all refugees equal treatment with nationals with regard to wage-earning employment. The term sympathetic consideration used in this paragraph is analogous to the term favorable consideration, which though clearly of a discretionary nature, nonetheless implies an obligation on States Parties to address this request and provide reasons in case of refusal.¹²⁰

¹¹⁶ A. GRAHL-MADSEN, *supra* note 8, at 72.

¹¹⁷ A. GRAHL-MADSEN, *supra* note 8, at 72-73. In case of legal or factual separation, it is suggested by the author that in order to invoke the provision, the refugee must show that there is still a certain community of interests between them, such as would be the case for example, if the refugee continues to support his or her spouse.

¹¹⁸ A. GRAHL-MADSEN, *supra* note 8, at 73.

¹¹⁹ A. GRAHL-MADSEN, *supra* note 8, at 74.

¹²⁰ N. ROBINSON, *supra* note 11, at 83.

Other International Instruments

The Universal Declaration of Human Rights as well as the International Covenant on Economic, Social and Cultural Rights (hereinafter ICESCR) also include the right of everyone, without distinction, to work and to free choice of employment.¹²¹ This right is further protected in relation to non-nationals, by the non-discrimination provisions in both of these instruments. In practice however, we know that governments traditionally restrict free access to the labor market to non-nationals. Moreover, these restrictions are not limited to developing countries, which benefit from a special dispensation in the ICESCR allowing them to impose restrictions on the economic rights of non-nationals in order to protect their national economy.¹²² Yet, the Covenant's Monitoring Committee has failed to take a conclusive stand with regard to this principle of non-discrimination. Likewise, the Human Rights Commission (hereinafter HRC), has not as of yet explicitly addressed this issue under article 26 (prohibition of discrimination) of the International Covenant on Civil and Political Rights either.¹²³

It has been suggested that such restrictions may be based on article 4 of the ICESCR, which requires that restrictions with regard to the rights in the Covenant be entrenched in law, and be solely for the purpose of promoting the general welfare in a democratic society.¹²⁴ Thus, while in principle the ICESCR offers all persons, including foreigners and refugees, a higher standard of treatment with respect to the right to work than the 1951 Convention, in practice, states appear to have implicitly been given considerable latitude to differentiate in favor of their citizens.

International Labor Organization (hereinafter ILO) Conventions relating to employment and migration, such as the 1949 and 1975 Conventions¹²⁵ which apply to refugees who fit the definition of a migrant worker¹²⁶ (even if their primary objective is protection), also establish the principle of equal treatment with nationals with respect to employment and working conditions, after a certain period of work and residence in that country.¹²⁷

¹²¹ Art. 23, Universal Declaration of Human Rights, G.A. Res. 217 A (III), December 10, 1948; art. 6, International Covenant on Economic, Social and Cultural Rights, G.A. Res. 2200 A (XXI), December 16, 1966.

¹²² Art. 2(3), International Covenant on Economic, Social and Cultural Rights, G.A. Res. 2200 A (XXI), December 16, 1966.

¹²³ J. A. Dent, *supra* note 111, at 46.

¹²⁴ J. A. Dent, *supra* note 111, at 46-47.

¹²⁵ See ILO Convention concerning Migration for Employment, No. 97, 1949, entry into force January 22, 1952; and ILO Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, No. 143, 1975, entry into force December 9, 1978.

¹²⁶ Article 11 of the 1949 Convention (No. 97) concerning Migration for Employment, defines migrant worker as a person who migrates from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant for employment.

¹²⁷ J. A. Dent, *supra* note 111, at 56.

Refugee women also benefit from the provisions in the Convention on the Elimination of All Forms of Discrimination Against Women, which accord all women special protection against discrimination in the area of employment and working conditions, and particularly in order to prevent discrimination on grounds of marital status or maternity.¹²⁸

Regional Instruments

Other provisions pertaining to the right to work are also contained in the European Social Charter (hereinafter ESC) and the European Convention on the Legal Status of Migrant Workers (hereinafter EMW). These grant non-nationals equal work and employment conditions as nationals,¹²⁹ and impose an obligation on State Parties to improve opportunities for work for nationals as well as foreign workers.¹³⁰

However, these two instruments are generally only applicable to nationals of Contracting States, and as very few refugees are likely to come from these states, the relevance of these instruments to them is likely to be very marginal.¹³¹ This is also true of European Union Law, which establishes the principle of free movement of labor and the abolition of any discrimination based on nationality between workers of Member States with regard to employment, but is extremely unlikely to be applicable to refugees, who must be nationals of Member Countries.¹³²

While the provisions in the main body of the ESC may not be relevant to most refugees, the Charter nonetheless has a special significance for refugee rights. Indeed, by virtue of an Appendix to the Charter, the rights of recognized refugees contained in the 1951 Convention including their rights with regard to employment, are explicitly incorporated in the Charter, thereby enabling refugees to use its supervisory and complaint mechanism to enforce their rights under the 1951 Convention.¹³³

¹²⁸ Art. 11(1), Convention on the Elimination of All Forms of Discrimination Against Women, UNTS No. 20378, December 18, 1979, entry into force September 3, 1981.

¹²⁹ Arts. 2, 3, and 19, European Social Charter, ETS No. 35, October 18, 1961, entry into force February 26, 1965; and Art. 16(1), European Convention on the Legal Status of Migrant Workers, ETS No. 93, November 24, 1977, entry into force May 1, 1983.

¹³⁰ Arts. 1 and 18, European Social Charter, ETS No. 35, October 18, 1961, entry into force February 26, 1965.

¹³¹ J. A. Dent, *supra* note 111, at 59.

¹³² J. A. Dent, *supra* note 111, at 61.

¹³³ Appendix to the Social Charter, European Social Charter, ETS No. 35, October 18, 1961, entry into force February 26, 1965.

Finally, while we deal with the topic of working conditions more properly in the section on Social Security and Labor Legislation in Chapter V, it should be noted that numerous instruments, some of which have already been mentioned above, also provide for negative rights regarding work, such as the right not to work under abusive conditions, and the prohibitions of servitude, recruitment into forced labor, discrimination with regard to employment.

Self-Employment

The Contracting States shall accord to a refugee lawfully in their territory treatment as favorable as possible and, in any event, not less favorable than that accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.

1951 Convention, Article 18, Self-employment

The treatment accorded to refugees with regard to self-employment in the 1951 Convention is less generous than in the case of wage-earning employment. Indeed, instead of the most favorable treatment granted to foreigners, article 18 only provides for the standard of treatment for refugees which is granted to aliens generally in the same circumstances. However, beyond this legal obligation, this provision also recommends that States Parties accord refugees treatment as favorable as possible. This implies a positive effort on the part of the state to facilitate self-employment and lift restrictions for refugees in particular. It also implies that refugees are to benefit from those rights routinely granted to aliens, though this does not include the special treatment granted to preferred aliens.¹³⁴

Article 18 requires that the refugee be lawfully present in the country in order to benefit from this provision. In the event that he is residing outside the country where his self-employment activities take place, the applicable provision is article 7(1), which grants him the same treatment as is accorded to aliens generally. In practice this would simply mean that the refugee would no longer be entitled to any favorable treatment, but would only be able to engage in self-employment if the law applicable to aliens in general authorizes those residing abroad to do so.¹³⁵

The enumeration of the areas of self-employment which is contained in article 18 must be interpreted in the widest possible sense.¹³⁶

¹³⁴ J. A. Dent, *supra* note 111, at 51.

¹³⁵ N. ROBINSON, *supra* note 11, at 98.

¹³⁶ A. GRAHL-MADSEN, *supra* note 8, at 76.

Liberal Professions

1. *Each Contracting State shall accord to refugees lawfully staying in their territory who hold diplomas recognized by the competent authorities of that State, and who are desirous of practicing a liberal profession, treatment as favorable as possible and, in any event, not less favorable than that accorded to aliens generally in the same circumstances.*

2. *The Contracting States shall use their best endeavors consistently with their laws and constitutions to secure the settlement of such refugees in the territories, other than the metropolitan territory, for whose international relations they are responsible.*

1951 Convention, Article 19, Liberal Professions

The treatment accorded to refugees in this provision is the same as that applicable to self-employment, with the additional requirement that a diploma may be required and must, in that case, be recognized by the receiving state. Thus, while at a minimum refugees are to receive at least the same treatment as aliens generally in the same circumstances, they also benefit from the obligation that Contracting States have undertaken to grant refugees treatment as favorable as possible. The latter is to be understood as an obligation for states to make a positive effort to minimize the restrictions imposed on refugees wishing to practice their profession or open their own business. In this sense, refugees may be accorded greater rights and facility in exercising their liberal professions than other aliens.

While the term liberal profession has not been specifically defined, commentators on the 1951 Convention have suggested that it is usually understood as referring to lawyers, physicians, architects, dentists, pharmacists, architects, engineers, veterinarians, artists, and probably other professions such as accountants, interpreters, scientists *et cetera*. While profession denotes the possession of certain qualifications, such as a diploma or license for example, the term liberal suggests that this professional works on his own rather than as a salaried employee or state agent.¹³⁷

In practice, it may sometimes be difficult to make the distinction between some liberal professions and self-employment or even wage-earners, and this categorization will ultimately depend on the nature of the profession and activity as well as the decision of the authorities. On a practical level however, it may not be of much significance whether a person is classified as a professional or as self-employed, since these two categories are granted the same standard of treatment. By contrast, given the more liberal treatment offered to wage-earners, the distinction between this category and that of a professional gains considerable importance.¹³⁸

¹³⁷ A. GRAHL-MADSEN, *supra* note 8, at 78.

¹³⁸ N. ROBINSON, *supra* note 11, at 99-100.

The term diploma should not be given a narrow interpretation, but should be understood to mean any degree, examination, admission, authorization, or completion of a course which is required for the exercise of a profession.¹³⁹ If the diploma is obtained outside the receiving country, then the diploma is to be considered as recognized if the relevant authorities have either made a general ruling about diplomas from specific universities, or a special ruling recognizing the equivalency of a particular diploma for the exercise of that liberal profession in their country.¹⁴⁰

Given the difficulties usually faced by refugees in gaining access to the liberal professions in their country of asylum, this provision is not considered particularly helpful, not least because it sets a low minimum standard of treatment and leaves the recognition of their qualifications at the discretion of the state concerned.

2. Comparative Analysis

In addition to the relevant legislation on the employment of recognized refugees, in this Chapter we will also offer an overview of the most common barriers, as well as the various employment assistance programs, both governmental and non-governmental, which have been implemented in the countries under consideration to date. Due to the importance of language training to the employment prospects of refugees, this issue will also be addressed. Given the abundance of employment assistance programs and the valuable implementation experience already gathered by some of the organizations involved, it is impossible to do these programs justice in this section, so that readers are encouraged to read the Individual Country Profiles section in this Chapter for further details.

Short History of Refugee Employment in the Region

Despite the importance of employment in achieving integration and the quite generous employment provisions currently in force in the countries under study¹⁴¹, in a number of these countries an effective right to work has only, in practice, been available to recognized refugees fairly recently.

¹³⁹ A. GRAHL-MADSEN, *supra* note 8, at 77-78.

¹⁴⁰ A. GRAHL-MADSEN, *supra* note 8, at 78.

¹⁴¹ The exception is the Czech Republic, although the draft Refugee Law which brings Czech legislation into line with regional practice regarding employment rights, is expected to enter into force in early 2000.

In Romania for example, refugees have only had a right to work since 1997 when the previous requirement for work permits was lifted, as refugees were unable to actually obtain work permits during the period these were required. Similarly, in Bulgaria the first recognized refugees (1996) did not have effective access to legal employment also until 1997, when they received social security numbers enabling them to do so. And in Hungary and Slovenia, there is as of yet very little experience with respect to the employment needs and patterns of recognized refugees, and, more specifically, of non-European refugees in the case of Hungary. Indeed, mandate refugees¹⁴² were not allowed to work in Hungary until their status was converted to Convention refugee status after the coming into force in 1998 of the new Hungarian Refugee Law, which lifted the previous geographic limitation to European refugees. As such, while Hungary certainly has experience with the latter, (and with refugees from the former Yugoslavia who have temporary protection), these refugees were chiefly of Hungarian ethnicity, and presented a very different profile from the non-European refugees now likely to be granted asylum in Hungary. As for Slovenia, recognized refugees have had the right to work but their number is of course much too small to draw any conclusions or experience.¹⁴³

At a more general level it must also be borne in mind that the selected countries in the region only began recognizing refugees under the 1951 Convention status in the last ten years, indeed, in Bulgaria and Slovenia, only as recently as the last five years. As such, in the majority of the countries under study, recognized refugees have only had a short time to establish themselves in their countries of asylum, to work towards self-sufficiency and to develop patterns of employment and supporting networks.

Employment Rights and Restrictions

Wage Earning Employment

Right of Access to Employment

As of the end of August 1999, six out of the seven countries under study grant recognized refugees access to employment on essentially the same terms as their nationals. At present the only exception is the Czech Republic, though this is soon expected to change with the adoption of the new draft Asylum Law, which grants recognized refugees permanent residence, a status granting essentially the same rights as citizens, including with regard to employment. In this connection, it must be noted

¹⁴² Mandate refugees were non-European refugees who were recognized by UNHCR.

¹⁴³ Persons with temporary protection in Slovenia have only had a very limited right to work in that country. Because they could only undertake temporary and occasional employment, their situation and experience with access to employment is not necessarily analogous to that of recognized refugees.

that an amendment to the Czech Law on Employment became effective on October 1, 1999, just before the completion of this study, granting asylum-seekers and recognized refugees the right to employment without a work permit, and thus improving the employment situation of refugees even before the adoption of the new draft Asylum Law.¹⁴⁴

With regard to Romania, it should be mentioned that the vague wording of the legal provision on employment might be interpreted as allowing authorities to adopt restrictive provisions with regard to the employment rights of refugees. A provision in the Slovak Refugee Law also stipulates that special regulations can apply to the employment of recognized refugees, although in this case such provisions have been favorable rather than restrictive towards refugees, as they have dispensed with the requirement to obtain a work permit.

Priority in the Allocation of Jobs

Granting refugees the same employment rights as nationals means that they are not subject to the restrictions normally imposed on foreigners in order to protect the national economy. Such restrictions include giving priority to nationals in the allocation of jobs, which signifies that a position must first be made available to citizens before being granted to a foreigner.

Slovenia has only recently stopped applying such restrictions to refugees, with the adoption of the new Asylum Law, which grants them the same rights to employment as nationals.¹⁴⁵ Under the current Czech Refugee Law, nationals still have priority over all non-nationals, including recognized refugees,¹⁴⁶ a situation which is expected to change with the adoption of the new draft Asylum Law.

Restrictions Specific to Certain Positions and the Public Sector

Despite the fact that all the selected countries either already grant or are soon expected to grant national treatment to refugees in the area of employment, some restrictions specific to certain jobs remain. These restrictions are generally applicable to foreigners and include the following: positions in the state administration or public sector; jobs or professions for which citizenship or special government permission is

¹⁴⁴ Art. 2 (d)(a), Law on Employment, No. 1/1991, December 12, 1990, entry into force February 1, 1991, *as amended by* Law No. 167/1999, July 13, 1999, entry into force October 1, 1999.

¹⁴⁵ Under the previous law, Slovenian nationals had priority over refugees and refugees over other aliens.

¹⁴⁶ However, in practice, labor offices have sometimes exercised flexibility in this regard.

required in the case of foreigners (in addition to the professional qualifications demanded by law); holding public office; and positions in the army or otherwise relating to state security and public order. While some of these restrictions are common practice globally, the state sector still continues to play a particularly large role in the economies of many of the countries in the region. Thus, in some of the selected countries, such as Romania and Poland, these restrictions can be quite broad, extending to a large array of jobs in the public sector, including to teachers, nurses, midwives, and professions in the medical and legal domains.

Work Permits

As of October 1999, only Slovenia requires recognized refugees to obtain a work permit before taking up legal employment. In the other six countries under study no work permit is necessary and once recognized, refugees are free to take up employment immediately.

In contrast to the state practice in the region, the newly adopted Slovenian Law on Asylum continues to specify that refugees are to be granted personal working permits (presumably automatically, as it is to be based on the final decision granting them refugee status), even though it also specifies that they are to be accorded the same rights to employment as citizens.

In the case of the Czech Republic, the very recent amendment to the Law on Employment already mentioned above grants recognized refugees and asylum-seekers the right to work in the Czech Republic without a work permit as of October 1, 1999.

Self-Employment and Liberal Professions

In all the countries under study, refugees have the right to engage in self-employment activities, as well as the liberal professions. Often, they are granted the same standard of treatment with regard to these categories of employment as they are to wage-earning employment. This is the case of Slovenia, Romania, Hungary, and Bulgaria, where refugees have the same rights with regard to all categories of employment.

The standard of treatment is different, however, in the Czech Republic and Slovakia, where refugees have the same rights as permanent residents¹⁴⁷ with regard to these two categories of employment. The exception is with regard to liberal professions in the Czech Republic, where at present refugees are treated as aliens

¹⁴⁷ In effect, recognized refugees actually have the same rights as nationals, since the relevant legislation makes no distinction between aliens and nationals.

generally. However, it should be noted that this standard of treated for liberal professions may have been affected by the recent amendment to the Czech Law on Employment abolishing the need for work permits for recognized refugees, and further changes are expected with the adoption of the Czech draft Asylum Law, which grants recognized refugees the rights of permanent residents with regard to all categories of employment.

In Poland, the provisions regarding self-employment have been interpreted more liberally as of 1998 in order to allow refugees access to this type of employment, whereas they are granted the same standard of treatment as permanent residents with respect to liberal professions.

Practical limitations do exist nonetheless, the most common in the category of self-employment being differing treatment for refugees (and indeed aliens in general) in the establishment of legal associations and corporations, and the lack of the documentary proof of qualifications necessary for certain types of activities and professions.

Gaining access to the liberal professions, at least with regard to certain types of professions, can be particularly difficult due to a variety of factors, including: the lack of documentary proof of qualifications or when these are available, the lack of recognition of foreign diplomas by the competent authorities; the stringent national requirements attached to professional permits especially in the classical professions; and the requirement of national citizenship for certain professions, the list of which can be quite extensive in countries where the public sector still plays a large role in the economy. Beyond the requirement of citizenship for certain legal professions, doctors, and positions relating to security such as the police and military, in some countries citizenship is required even for nurses, midwives, and teachers. In other cases, while citizenship may not be required, aliens must obtain special permission from the relevant Ministry, in addition to satisfying the professional qualifications demanded by law. Moreover, in countries with high unemployment, even qualified refugees who are able to meet all the relevant conditions are generally unable to practice their profession.

General Obstacles to Employment

Some difficulties experienced by refugees in accessing employment are clearly particular to specific countries, and to the domestic laws or regulations to which they are subject. One such situation is that created by short-term identity/residency cards which are issued in a number of countries, such as Slovakia and Romania, and which potentially place refugees at a disadvantage in the labor market due to the fact that the duration of their employment contracts cannot in principle exceed the validity period of their identity/residency cards. This affects not only their employment security, but also their ability to secure jobs requiring a longer term commitment as some

employers may not be able to grant short-term contracts to refugees having only a few months remaining on their residency cards.

Other obstacles to the employment of recognized refugees however, are common to many of the countries in the region and are not due to bureaucratic or legislative barriers. Such common obstacles include: limited skills in the language of the host country; generally high rates of unemployment, and more specifically, the problem of securing housing compatible with employment; and a lack of appropriate qualifications for the current labor market.

Certain conditions also encourage employment in the informal economy, a situation which leaves refugees vulnerable to possible exploitation and which renders them ineligible for many state benefits. In the past, these conditions have included objective barriers to work which persisted even after refugees were recognized, such as complicated bureaucratic procedures and the inability to secure the relevant paperwork (i.e., identity/residency cards, work permits) which was necessary for legal employment, a situation which existed in several of the selected countries until relatively recently. Other circumstances exist prior to the issuance of refugee status, and push refugees to pursue employment in the informal economy in the first place. In countries where asylum-seekers face both a prohibition of legal employment and long asylum determination procedures, during which they are granted inadequate or no state assistance, some asylum-seekers will inevitably engage in areas of the informal economy, in which they tend to remain for some time even after receiving refugee status. This particular situation continues to be especially acute in Romania and Bulgaria, for example.

Moreover, in many of the countries under study, the wish of local businesses to have access to cheap labor and avoid high taxes are other reasons for large informal economies. Indeed, in many instances, employers in the informal economy will only employ refugees on the condition that they are agreeable to work under less favorable terms which is often the case —given that refugees generally have less negotiating power with regard to employment. Therefore, whenever possible, conditions likely to push refugees towards the informal labor market, as well as objective obstacles to legal employment, should be minimized and counseling regarding alternative types of legal employment, which often have different tax consequences, should be provided.

Employment Assistance Programs

Government Assistance

Access to State Vocational and Re-qualification Programs, and Job Placement Services

The right of refugees to benefit from national employment assistance programs (usually offered to unemployed persons), such as placement services and vocational

or re-qualification courses is generally derivative of their more general rights to employment. On this basis, in principle, recognized refugees have access to these state programs on the same terms as nationals in all the selected countries.¹⁴⁸ As seen below however, this statement must be qualified by the fact that no practice exists in Slovenia to date, and that in Romania refugees have not yet been able to participate in state vocational programs.

Indeed, in the case of Slovenia, although refugees appear in theory to have the right to participate in national employment programs both under the old law, and the new Asylum Law effective August 14, 1999, this cannot as yet be supported by the existence of any practice. The indications under the new law are more positive however, as it grants refugees the same rights to employment as nationals including inclusion in programs for active search of work.¹⁴⁹

In Romania, recognized refugees have not had access to these state programs as they have not been able to fulfill the requisite conditions (described in the Individual Country Profile section in this Chapter), which are strictly enforced. Unfortunately, negotiations undertaken in 1996-97 between UNHCR Bucharest and the Ministry of Labor and Social Protection, whereby certain courses would be made available to recognized refugees on the condition that UNHCR pay for them, were unsuccessful.

Hence, despite the fact that the selected countries do grant recognized refugees access to state vocational and re-qualification courses on the same terms as nationals, several problems impede both the participation of refugees in these programs as well as their success. In some cases, the conditions for participation in these training courses cannot by their nature be met by newly recognized refugees, such as requirements regarding a previous minimum work period in the country. In other cases, refugees are unable to take advantage of state programs due to the lack of sufficient language skills, the failure to possess the requisite educational qualifications or previous training, or the lack of certifying documents.

Moreover, even when authorities exercise flexibility in applying these rules to refugees, they are nonetheless often unable to obtain proper certification papers upon successful completion of the course because they were unable to satisfy its educational or training prerequisites or provide proof thereof, such as a secondary school diploma.

¹⁴⁸ In the Czech Republic, refugees, who under the current Refugee Law, do not have the same employment rights as nationals are nonetheless granted the same status as citizens under a general provision in that same law, and are granted the right to participate in state employment programs. This right is maintained in the draft Refugee Law.

¹⁴⁹ Art. 47, Law on Asylum, Official Gazette of the Republic of Slovenia No. 61/99, July 30, 1999, entry into force August 14, 1999 (unofficial UNHCR English translation).

Other important problems with these national programs relate to their lack of publicity, which results in few people even knowing about them, and the fact that they are often underfunded and hence, inadequate, in the face of the needs of the marketplace and the country's workforce.

Despite the above-mentioned problems however, UNHCR and refugee-assisting NGOs in many of the selected countries have opted to end or significantly reduce the refugee-specific vocational and re-qualification programs offered to recognized refugees in the past, in order to have them take advantage of these national programs, and in some cases, also training courses offered in the private sector. This is due in part to the perceived lack of success of these refugee-specific programs, as well as a desire on the part of some refugee-assisting organizations to encourage the participation of refugees in mainstream private and state programs. The UNHCR offices and many of their implementing partners in the Czech Republic, Hungary, Bulgaria, and Romania for example, appear to be favoring this new approach.¹⁵⁰

At the same time, another trend seems to be emerging whereby governments in many of the selected countries in this region are increasingly assuming responsibility for offering vocational training, language courses and other employment assistance to refugees in the context of their broader integration responsibilities.

Increased State Responsibility for Special Employment Assistance Programs and Language Courses for Refugees

In addition to granting refugees access to national job placement services and vocational/re-qualification courses, many of the governments of the countries under study are increasingly assuming responsibility for offering recognized refugees special employment assistance, and state-sponsored language courses, the latter also being essential to increasing the employment potential of refugees.

In the newly adopted Slovenian Refugee Law, the government undertakes not only to facilitate the access of recognized refugees to employment but also to offer refugees language courses, further education and vocational training, as well as general assistance in integrating into, *inter alia*, the economic life of Slovenia.

¹⁵⁰ In the case of the Czech Republic, both PPI and UNHCR have decided to adopt this policy. Some of the staff at Menedek, a UNHCR implementing partner in Hungary, have also endorsed this philosophy. In Bulgaria, UNHCR has stopped funding vocational training programs (with the exception of the programs offered in the context of the women's integration centers) in order to incorporate refugees into the existing state training courses. And in Romania, UNHCR has attempted to negotiate an agreement with the Romanian Government whereby the former would pay for the state vocational courses taken by refugees in return for permission to enroll in them, although the negotiations were unsuccessful in the end.

In the case of Hungary, state-funded language courses are provided for in the Refugee Law, and the 1998 Government Decree on Social Care allows for the possibility of the state to subcontract integration-related activities such as professional and vocational training courses to a variety of organizations and associations. However, as of November 1999, no such activities had yet been contracted out to NGOs, and the implementation of the language courses which was contracted out to Hungarian language schools, did not appear to be satisfactory, partly due to the lack of follow-up on the results of the courses. Alternative language programs are therefore currently being considered. Of concern is also the fact that no systematic language training is offered to asylum-seekers during the RSD procedure in Hungary, thus placing those refugees who are eventually recognized at a distinct disadvantage on the job market.

In Bulgaria, the Agency for Refugees has contributed significantly in the past few years to the implementation of integration and employment assistance programs, especially in the context of the Integration Center (funded by UNHCR), by assuming operational costs such as the venue and staff members to help run these programs. As a UNHCR implementing partner, the Agency for Refugees assisted in providing language courses, vocational training and apprenticeships, as well as job placement services, whereby their social workers liaised with employment bureaux. As of 1999 however, these vocational training programs were reduced such that at the moment only those under the Women's Integration Center project are still available.

Under the new Bulgarian Refugee Law which became effective August 1, 1999, the role of both the Agency for Refugees as well as the integration center in facilitating integration for both asylum-seekers and refugees is officially recognized. Interestingly however, the more specific provisions relating to language and vocational training, as well as auxiliary economic and labor activities, are mentioned with regard to asylum-seekers in particular, rather than recognized refugees. The details of the integration assistance which the state is to provide to refugees therefore remains vague and undefined in the law for the time being. Indeed, language courses for example, are only specifically guaranteed to asylum-seekers in this new law.

With regard to the Czech Republic, while the government does not explicitly undertake special responsibilities or programs with regard to employment assistance to refugees either in the current or in the draft Refugee Law, it does guarantee access to Czech language courses in both. Moreover, both the government social workers at the integration centers and the social workers at PPI, an NGO implementing government contracts, offer employment-related counseling services. Similarly, under the Slovak Refugee Law, the government is also to provide Slovak language courses to recognized refugees, but no special employment assistance beyond that available under the national employment and assistance scheme, appears to be provided for refugees.

In contrast to the above, there is no provision in either Romanian or Polish legislation for any special state employment programs or language courses for refugees. With respect to Poland, a draft Ordinance on refugee integration which was considered by the government this year (1999), but subsequently failed to be endorsed due to a technical point (measures are being taken to ratify it), did include state-sponsored Polish language courses and assistance for refugees in acquiring employment, though no further details were provided.

Non-Governmental Employment Assistance Programs

A variety of UNHCR —and NGO-sponsored employment programs for refugees have been established in most of the countries under consideration. These programs include some of the following activities: employment counseling services; refugee-specific vocational training courses; small business grants or micro-credit schemes; apprenticeship and job-placement assistance programs, some of which offer employers incentives for hiring or training refugees; and special business courses relating to management or the legalities of establishing legal corporations. Other programs in the region which assist directly or indirectly with employment also include: language courses; designating focal points for refugee women and employment; refugee community development projects; financial assistance for registration fees, material and transportation costs related to training courses; and the Women's Integration Center in Bulgaria.

As exemplified by the vocational training courses and some of the small business programs, not all of these programs have met with success, and while UNHCR still continues to offer an array of employment assistance activities in some countries, in others they have been significantly reduced. Moreover, the number of beneficiaries are quite low in countries such as Poland and Slovakia.

In the Czech Republic, it was decided that the special vocational training courses and business grant programs offered by UNHCR implementing NGOs were not successful and had a very low number of beneficiaries, so UNHCR funding for these was terminated as of 1998.

In Slovakia, UNHCR still funds a variety of assistance programs in this area and is trying to link particular job opportunities, which should in principal be identified first, with appropriate training. They cover the costs of apprenticeships by refugees in companies which are prospective employers, as well as the costs of courses intended to provide skills which specific employers have required (for example driving courses, foreign language courses, and basic computer skills). While the number of beneficiaries of these programs is relatively small, and no comprehensive assessment has been conducted on the impact of the employment assistance programs offered by UNHCR, the figures for 1998 with respect to vocational training courses were encouraging.

UNHCR Warsaw also funds a number of employment assistance projects, but like Slovakia, the number of beneficiaries is low and no impact assessments have been conducted to date. Their micro-credit and job-placement programs for example, are just completing their initial pilot phase. A new strategy initiated by the UNHCR office has been to approach Embassies in order to request that they actively encourage their local chambers of commerce to promote the employment of recognized refugees.

In the case of Slovenia, the two recognized refugees currently living in the country receive some general assistance from UNHCR though no specific programs have been established.

In Romania, UNHCR-funded activities include assisting refugees with job placements, which involves NGO social workers liaising with both state employment offices and potential private sector employers directly, and providing incentives to employers in the form of salary subsidies, equipment and other advantages in return for hiring or providing on-the-job training to refugees. An NGO social worker was also designated as a focal point for refugee women in the area of employment, in order to address the particular needs of this group. To date, the refugee start-up business grant program has not proved successful in Romania, and despite changes made to the program in 1998 the results continue to be disappointing given the failure of many of the businesses. It is expected that this program will be discontinued in the year 2000. The low success rate of these business projects has been attributed in large part to the difficulties inherent to the small business sector in Romania, and in particular, the high taxation rates, and complex laws and reporting requirements which most small businesses do not have the capacity to cope with. Instead of these grants, in the future UNHCR is therefore considering focusing more on the alternative strategy of offering incentives to employers for hiring and training refugees, a program which has shown more promise.

UNHCR initiatives through which a network of recognized refugees has been created to provide counseling and general assistance to asylum-seekers and recognized refugees (and for which they are remunerated with a monthly stipend) may have some indirect employment benefits. These include the employment, albeit on a limited basis, of refugees themselves, and its aspect of refugee community support from which develop informal networks, one of the primary sources of employment opportunities, particularly among immigrant and refugee communities.

Since the coming into force in March 1998 of the Hungarian Refugee Law which lifted the geographic limitation, UNHCR implementing partners have offered recognized refugees¹⁵¹ general employment and business counseling services,

¹⁵¹ This includes mandate refugees whose status was converted to Convention refugee status, with the adoption of the new law.

assistance with securing vocational and entrepreneurial training, and a small business grant scheme. The latter was modified in 1998 in order to take into account the lessons learned from previous experience with mandate and temporary refugees. Some of the programs, and most notably the small business loans scheme and the vocational training offered to temporary and mandate refugees in the past, are particularly noteworthy and deserve special attention, as does the Hungarian experience with funding agricultural and other projects in the countryside. Indeed, despite the fact that these programs were tailored to the special circumstances and needs of these two particular categories of refugees, readers may wish to consult the Hungarian country profile in this chapter, especially in view of the insights and program guidelines which the Hungarian experience can bring to similar types of projects in other countries.

In Bulgaria, employment assistance programs for refugees have included counseling services, Bulgarian language courses, a small business loans project which functions on the basis of a revolving fund, vocational training courses,¹⁵² and a more recent focus on facilitating job-placement as a follow up mechanism for beneficiaries of these training programs. In addition, the Women's Integration Center, which offers a number of integration-related activities, is primarily aimed at providing vocational training and income-generating activities for women. Furthermore, over the last few years UNHCR has focused on assisting and encouraging refugees to live outside Sofia by granting small business loans to these persons and assisting them with higher education. A new strategy whereby a more advantageous financial assistance package would be granted to persons who have elected to reside outside the capital and in the countryside is also being discussed for possible implementation in the year 2000.

If implemented, it may be a year or two before any concrete conclusions may be drawn from this program. However, due to the high unemployment rates outside Sofia and the duration of this assistance package, (namely, two years for those living in the countryside), the danger of creating a pattern of dependency (even if the UNHCR benefits will not be sufficient to live on) and of attracting unsuitable applicants should not be underestimated. Such a program should therefore be accompanied both by a screening process whereby applicants are considered for the program depending on their suitability (for example persons with rural backgrounds or particular ties or contacts to a specific town or village) and an active employment assistance program which would help these refugees acquire skills or start businesses also suitable to their location (for instance farming). Another type of beneficiary which has been suggested for such a program would be vulnerable refugees who would be unlikely or incapable of taking up regular employment, as the low cost of living in the countryside would perhaps offer them better chances of subsistence.

¹⁵² Funding by UNHCR for vocational training courses offered outside of the framework of the Women's Integration Centers has been terminated as of 1999 however, so that refugees are now referred to the mainstream state courses.

Some of the Bulgarian employment programs mentioned above are worthy of further attention. In particular, readers may benefit from learning more about the organization and activities of the Women's Integration Center, which despite some problems with a lack of interest in certain vocational courses, provides an integrated employment assistance environment by offering language, vocational training, apprenticeships, employment counseling, income-generating activities, and day care activities for children all under the same roof. The small business loans program is also of interest, though unfortunately, like its Romanian counterpart¹⁵³, the success rate of these business projects has been low. Finally, the manner in which the government refugee agency, has contributed, participated and implemented many of the UNHCR programs in Bulgaria, thus acquiring considerable experience in the area of the integration of refugees is also of note. This may become especially significant, as the Bulgarian Government, like other governments in the region, takes on an increased share of the responsibility in the area of refugee integration in the future (as indeed is suggested by the new Bulgarian Refugee Law), since the authorities will no doubt benefit from having already acquired valuable experience in this area.

¹⁵³ The distinction nevertheless remains that in Romanian the program was based on a grant while in Bulgaria it is a loan.

Table 3:
Right to Employment of Recognized Refugees¹⁵⁴

	Right to Wage – Earning employment on same terms as nationals*	Requirement of work permit	Right to self-employment on same terms as nationals*	Right to liberal professions on same terms as nationals ^①
Bulgaria	Yes	No	Yes	Yes
Czech Republic	Current RefLaw: No Draft RefLaw: Yes Note: see Employment Law, as of Oct. 1, 1999	No, as of Oct. 1, 1999 (Employment Law)	Current RefLaw: Yes Draft RefLaw: Yes	Current RefLaw: No, treated as aliens generally Draft RefLaw: Yes
Hungary	Yes	No	Yes	Yes
Poland	Yes	No	No, though improved as of 1998	Yes
Romania	Yes	No	Yes Note: with qualification	Yes Note: with qualification
Slovakia	Yes	No	Yes	
Slovenia	Yes	Yes	Yes	

^① Please note that in many cases, domestic provisions state that refugees have the same rights as permanent residents, rather than nationals. As permanent residents in the selected countries in the region have essentially the same rights as citizens however, we have for the sake of simplicity (given the variety of legal formulations) referred to this standard as that of nationals in the Chart.

¹⁵⁴ Chart reflects situation as of October 1999, and includes therefore, the new Slovene and Bulgarian Asylum Laws, the amendment effective October 1, 1999 to the Czech Law on Employment and the Czech draft Refugee Law.

3. Recommendations

The ability to achieve economic self-sufficiency is undoubtedly one of the cornerstones of the successful integration of recognized refugees in their host country. Beyond the purely financial benefits, employment plays a key role in furthering the social integration process of refugees by improving their language skills, encouraging the formation of friendships and professional contacts with the host population, and generally helping them gain acceptance by their local communities. Yet, as discussed above, recognized refugees face important obstacles in entering the domestic labor markets, principally due to factors which are common to most or all of the selected countries, rather than specific domestic legal restrictions. As seen in the Individual Country Profiles section, these factors include: a language barrier; socio-cultural differences which are often significant with regard to the sphere of employment; the difficulty of securing housing compatible with employment opportunities; and domestic economies suffering from particularly high unemployment rates.

The following are some general guidelines based on emerging trends and common problems relating to the employment of recognized refugees which have been noted in the region.

Lifting Objective Barriers

Legal Barriers

As a first order of priority, all objective barriers and restrictions to the employment of recognized refugees should be lifted. These typically include legislative and regulatory restrictions such as the requirement of a work permit and other onerous bureaucratic procedures, as well as provisions granting priority to nationals over aliens and refugees in the allocation of employment opportunities. While some countries imposed such conditions on the employment of refugees in the past, as noted these formal legal restrictions are generally no longer a problem in the countries under study,¹⁵⁵ especially in view of the new Slovenian legislation and Czech Law on Employment and draft Refugee Law. We expect the Slovenian requirement for a work permit, the only country to continue imposing this requirement, to be implemented in a liberal manner.

¹⁵⁵ In this connection, please see the recommendation below pertaining to the relevant provisions in the Romanian Refugee Law, *supra* note 85.

Other Barriers

Nonetheless, other objective restrictions presenting problems with regard to access to employment for refugees remain. They include the following: certain conditions rendering refugees ineligible to participate in state re-qualification and vocational courses; the issuance of identity/residency cards (which are necessary in order to take up legal employment) with relatively short-term validity periods which place refugees at a disadvantage in the labor market and are an obstacle to job security; and the requirement of national citizenship or special permission for public service positions and professions which do not concern national security or the public order, and could perhaps be waived in the case of recognized refugees.

Importance of Securing Identity/Residency Cards

Difficulties in securing identity/residency cards in this region, which have been due most notably to the inability to provide a formal address of domicile in the host country, also pose a serious problem for refugees, who cannot take on legal employment without these cards. While the situation in Slovakia in the past is illustrative of this potential problem, due to the chronic shortage of affordable housing in the region, and the similar requirements regarding proof of a domicile address for the issuance of residency cards, it is a potential problem in other selected countries as well and should be monitored. Comprehensive solutions to this problem, which include housing programs for refugees, identity cards with longer periods of validity, and the acceptance of a *de facto* address of domicile rather than a formal lease and authorization from the landlord, are discussed in Chapter VII on Identification and Convention Travel Documents.

Lack of Documentary Proof of Educational and Professional Qualifications

Another objective barrier to the employment of refugees is the lack of documentary proof of educational or professional qualifications. Translation of these documents, when they are available, should be provided and assistance should be offered to refugees in the process of gaining national recognition or equivalency for degrees either by the state whenever possible, or by other organizations. When such documents are not available at all, detailed information about the person's educational or professional background should be gathered, and where examinations or supplementary training or schooling are necessary to fulfill national criteria, assistance should be granted to refugees undertaking these. Where the refugee feels comfortable contacting educational institutions or former employers in his country of origin (or other countries where he may have studied or worked) in order to request documentary evidence, financial or logistical assistance should also be provided for this purpose, if needed. However, such contact with the refugee's country of origin must of course never be expected or required.

In some instances, granting recognized refugees equal employment opportunities with nationals may mean that certain requirements which are imposed on nationals should be waived in the case of refugees (especially newly recognized refugees), such as when by virtue of their special situation or status refugees cannot fulfill particular conditions. Such is the case when there is a minimum period of work required in the host country in order to benefit from state vocational courses, or when the prerequisite for participation in these is proof of a previous degree, conditions which refugees can often not meet.

Removing objective barriers to employment not only allows refugees free access to the labor market and to state employment assistance programs, but also offers them simultaneously increased job mobility and greater chances to achieve job security, two important assets in economies suffering from high unemployment rates. Promoting the most equitable and open conditions for the employment of refugees is of course also essential in order to avoid entry into the informal labor market. In a region where many domestic economies are still undergoing major restructuralization and therefore, suffer not only from high unemployment rates but also from the lack of a social safety net capable of offering a basic standard of living, refugees, who are often one of the most vulnerable social groups in the country, must be given an equal opportunity with nationals to secure their livelihood.

Offering Language Courses

Language is cited in all the countries under study as one of the greatest barriers to the employment potential of refugees. Refugees should be offered every opportunity possible to achieve a degree of command of the local language sufficient for their every day needs, but also for their employment needs, which can of course vary significantly depending on the person's educational and professional background.

Ideally, state-funded language courses should be offered both to asylum-seekers during their RSD procedure (since in certain cases this procedure can last several years, during which they generally have more availability as they are usually not permitted to work) and to recognized refugees, and include at least one beginner, intermediary and advanced level course. Where the governments do not possess the organizational resources to implement these themselves, they should sponsor the refugee to take these courses at other institutions, either public or private, or contract NGOs to implement language programs. Proper follow-up in order to assess the success and suitability of the courses should be provided in all cases. The participation of the Ministry of Education, and the Ministry of Labor and Social Affairs could also be enlisted, as they may have additional resources and programs to offer. For example, in the case of the latter, they could offer language courses as part of the state re-qualification and vocational training programs.

In addition to state language programs it may be necessary, and indeed frequently has been, to offer supplementary language courses for asylum-seekers and refugees. These supplementary language courses, which may be funded by UNHCR and NGOs fill possible gaps in state-funded programs and help satisfy the specific language needs of individual refugees.

To the extent possible, language training programs for refugees should be intensive (for a period of six months for example, as on-going evening courses have tended to have a high drop out rate) but also flexible enough to take into consideration both the financial needs and time constraints of participants during the period of the training. In particular, the loss of wages during that period should be taken into account. Therefore, a schedule allowing refugees to work part-time, and an offer of additional financial assistance during that period might represent a more attractive and realistic strategy.

Whenever feasible, day care should also be built into these language programs as should other special needs of women refugees, such as, general schedule and cultural considerations, which may mean offering classes during their children's school hours and offering women only classes in which they may feel more comfortable.

Housing Compatible with Employment Opportunities

Housing and employment are two of the most basic needs of refugees, which nonetheless pose the most pressing problems in the region, both for refugees themselves as well as the organizations mandated to assist them. They are each individually problematic, but together also represent a challenge which if met, addresses simultaneously the two most urgent and daily concerns of refugees. In other words, housing and employment programs should be integrated as much as possible. The failure to do this renders refugees vulnerable to further stigmatization and marginalization, as living in high unemployment areas or being unemployed may reinforce already negative perceptions of them as foreigners or assimilate them to already marginalized groups within the society. It may also encourage the development of dependency syndrome and isolation, due to the lack of social contacts which are typically made in the workplace.

State authorities, refugee-assisting organizations and donor agencies, including UNHCR, should therefore promote housing programs for refugees which consider employment possibilities and strategies, a condition which could become a prerequisite for support. In particular, incentives to recognized refugees to reside in low cost areas such as the countryside (an idea which may work with refugees who have come from a rural background) should ideally only be offered if reasonable employment prospects exist or strategies have been elaborated in this regard.

Accent on Promoting Individual Refugee Initiatives and Participation

The notion that a higher level of refugee participation will ensure that refugees receive appropriate and desired assistance from the relevant organizations, rather than types of employment assistance which they do not want, was confirmed in a 1998 survey by PPI, a Czech NGO specializing in the integration of recognized refugees. In this survey, they found that only 11% of respondents reported being helped by various organizations, including NGOs, in finding employment. Moreover, this perception was present even when assistance had clearly been provided, indicating that the assistance given had not been what the refugee had wished for or that he had not participated sufficiently in the process. Below are suggested ways in which recognized refugees could be empowered to participate more fully in the employment assistance process and in mainstream programs.

Promoting More Mainstream Educational, as well as Vocational and Re-Qualification Training Opportunities for Refugees

As noted in the Comparative Analysis section, there appears to be a growing trend in the region to refer refugees to state vocational and re-qualification courses, instead of continuing special UNHCR-and NGO-sponsored training programs specifically for refugees.

In countries where refugees are easily able to participate in such courses, this may indeed be the most effective approach to vocational training, as it also has the advantage of providing refugees with a training certificate from a recognized institution rather than an unknown NGO program. In most of the selected countries, this solution appears to be preferable to the courses offered to refugees through UNHCR and its implementing NGOs in the past, the results of which have either been deemed unsuccessful or have not yet been assessed.

Moreover, despite the fact that the national programs in some countries in this region are under-funded and inadequate to the needs of the workforce, having refugees take advantage of the mainstream courses that are offered by the state may still be the most effective course of action for three other principal reasons. Firstly, it provides national governments the opportunity to implement their responsibilities in this respect, i.e., grant effective access to these programs to refugees. Refugee-assisting NGOs have an important role to play in this respect by providing training and negotiating solutions with the relevant government offices.

Discussions should also be held at the appropriate time, i.e., prior to enrollment, with relevant state authorities regarding whether the refugee will be able to obtain a certificate upon completion of the training course. If this is a problem, assistance by NGOs or other actors may be necessary in order to come to the most favorable

arrangement possible, so that refugees may obtain credit for their successful completion of the course. Secondly, by participating in mainstream courses refugees also participate and interact more fully with society at large, thus making contacts and practicing the local language rather than being isolated in refugee-specific programs. And finally, funds originally allocated to NGOs implementing unsuccessful refugee-specific programs can be redirected to support individual refugee initiatives related to employment.

Where state courses are not available, not free of charge, or when they are too intensive to allow the person to work at the same time, financial assistance should be considered in order to enable the person to pursue his training nonetheless, including at private institutions. However, it is suggested that participation by the refugee, financial or otherwise, be an essential condition to this assistance. In addition to some financial contribution, which could be a percentage of the total cost based on his financial capacity, a refugee should be required to demonstrate the seriousness of his intent by researching appropriate institutions and programs (including state programs), presenting the costs and the contact details of the relevant institutions, providing a justification of which institution is preferable, and when appropriate, putting together a curriculum vitae. A standard curriculum vitae form with the relevant categories should be provided to refugees who have no prior experience drafting these.

Similar conditions should also be applicable to studies at the university level, though these suggested requirements should of course be adapted to different situations and also allow for exceptions when warranted. In some cases, private institutions may also be lobbied by NGOs, UNHCR or the host country to offer places for refugees free of charge or at a reduced rate.

As mentioned above, state and non-governmental organizations should assist refugees with the process of getting their degrees and professional experience recognized, an alternative that if available is of course preferable to re-qualification courses.

The emphasis should therefore be on assisting refugees to take advantage of mainstream training courses and on supporting individual initiatives formulated by refugees themselves, rather than on offering too many pre-existing refugee-specific training programs.

In certain circumstances however, special vocational and re-qualification programs for refugees may of course be a better, and indeed, the only alternative, particularly if refugees do not have effective access to free state vocational courses and NGO-run programs offer a more cost-effective alternative to private institutions. Better strategies for securing more regular attendance, linking vocational training to the needs of the labor market and refugee interests, and also linking training more closely with specific job opportunities, must continue to be elaborated. Some

guidelines regarding these issues have already been implemented by NGOs in some of the selected countries in the region, examples of which may be found in the Individual Country Profiles. A special effort should also be made to provide vocational training to refugee women. Please see below for further details.

Other Employment Assistance Programs, Including Small Business Programs

As suggested above, the emphasis should be placed on individual initiative and refugee participation in the assistance process. Certainly, some refugees will look to the social workers as their principal source of information and guidance in this new environment. It should be made clear though, that individual initiatives and proposals are welcomed, and that assistance is more effective when it is to help implement a plan already proposed by the refugee himself. Small start-up business grants or loans are programs requiring this type of individual initiative. Moreover, they often offer the added benefit of a multiplier effect since refugees may hire other refugees or family members, and, at the very least, usually help support their families.

Small Business Grants and Loans

A variety of such business programs have already been undertaken in most of the countries in this study, and despite carefully drafted guidelines and conditions they have not always been successful. The following are some suggestions which have emerged from the valuable experience already acquired with such programs by NGOs and UNHCR offices in the region: a curriculum vitae or detailed account of the person's educational and work background should be provided, as well as a realistic business proposal, complete with costs and expected returns, though the forms for this should be in a simple, easy to complete format. The loan or grant provided should not meet all the business costs but should also require an investment on the part of the refugee, which should nonetheless take his individual financial capacity into consideration. Each financial installment of the grant or the loan should, in principle, be conditional on the satisfactory completion of previous objectives or conditions. And financial assistance should to the extent possible, be disbursed in the form of direct payments to suppliers, landlords, and for purchase of equipment, the details of which should be provided by the refugee, thereby indicating that he has done research and is committed to his business venture.

In addition, organizations providing financial assistance for these business projects should keep track of the types of business proposals which have in the past proven unsuccessful or problematic. While differing from country to country, problematic businesses in the past have included outdoor market activities and money exchange services. The relatively small amounts of financial assistance which are generally granted means that only small business ventures, of which market activities

are an example, are possible. As such, solutions which render such businesses more viable may be preferable to excluding them altogether from grant programs. For refugees who have come from rural areas and have experience in farming, consideration should be given to offering grants in this sector, a field in which the experience acquired by UNHCR in Hungary may be helpful.

In an effort to help professionalize some of these business activities, the establishment of a business club where members could meet once a month to receive counseling on such practical matters as business management and relevant legal issues, as well as a business courses per se, have also been suggested.

Perhaps most important of all however, UNHCR and other organizations interested in starting such a program should first conduct an evaluation of the domestic conditions for the small business sector in their country, (including with regard to taxes, laws and reporting requirements) in order to assess its chances of success. Screening prospective candidates by providing counseling regarding their expectations and the needs of the current labour and consumer market would also be beneficial. For further information on these points please see the Individual Country Profiles section, and particularly Hungary, Romania and Bulgaria.

Incentives for Prospective Employers

The incentive programs that are already offered to prospective employers for training or hiring refugees in some of the countries in this study provide another example of where individual initiative on the part of the refugee may improve the level of success. Refugees should be encouraged as much as possible to suggest a desired employer themselves, and to approach him first. Assistance could then be provided at that stage to negotiate a possible agreement.

Facilitating Informal Networks

A common reality of the process of identifying and securing jobs is that informal networks of friends, acquaintances, as well as family and community members, are often vastly more effective than institutional procedures and contacts. This was also confirmed in the PPI survey, which reported that two thirds of the respondents had reported finding employment on their own or with the help of friends, rather than through the assistance of organizations (11%) and labor offices (3%). Hence, efforts should be concentrated on supporting the development of such networks. This may be achieved in a number of ways, including, promoting opportunities for contact amongst refugees, immigrant communities and the host population, and supporting the establishment of refugee and immigrant organizations and community structures, including community assistance centers.

Promoting Preventive Measures to Discourage Participation in the Informal Economy

As described in the Comparative Analysis section, some conditions leading refugees to work in informal sectors of the economy include: insufficient or no state financial assistance during the RSD procedure, during which asylum-seekers are also generally prohibited from working; insufficient language skills to compete effectively on the labor market; eagerness by some employers to hire refugees off the books in order to avoid paying their share of contributions and enjoy cheap labor; and the low level of profits remaining after taxes.

Some of the recommendations above already address some of these issues, particularly with regard to language and inadequate assistance during the RSD procedure. In addition to these, counseling should be provided to refugees regarding the legal, social and financial consequences (in terms of their eligibility for certain types of state assistance, such as health care) of working in the informal labor market, and alternative modes of employment, some of which carry lower rates of taxation than wage-earning employment, should be discussed and assistance provided in this regard.

Assistance and Support to Governments Undertaking Integration-Related Responsibilities

In the context of the increased responsibility undertaken by the state with regard to integration in many of the countries under study, either as stated in their domestic legislation or in programs already in existence, UNHCR and other refugee organizations should share their findings, assessments and needs analyses with regard to their experience in employment assistance to refugees. This should be done especially in the case of vocational and re-qualification training courses, which several governments in the region have included as a component of their integration assistance in their legislation, and with which NGOs and UNHCR already have considerable experience. Training, exchanges, and assistance with the establishment of such programs, should be offered to state authorities, who in some instances have little or no experience in the realm of integration.

Partnerships between UNHCR and state authorities in implementing integration and more specifically employment-related assistance is another way to transmit experience and maximize resources, as are government contracts to NGOs for the implementation of such programs —two strategies which already have precedents in the region. Naturally, assessments should be conducted regarding the additional assistance which might be required by UNHCR, NGOs and other actors to supplement government employment programs.

Focal Point for Women Refugees and Employment

Because refugee women are often still the primary caregivers in many families, and may have special needs with regard to employment assistance, it is advisable that employment programs include a focal point for refugee women. The focal point can undertake a needs analysis and ensure that measures are taken whenever possible to eliminate obstacles for women who wish to take up employment, apprenticeships, vocational training or language courses. As mentioned above, such measures could include taking their family duties into consideration by offering courses during children's school hours or providing day care. Women may also need assistance in formulating business proposals or undertaking job searches if they have little experience in the labor market.

Beyond responding to the special needs of refugee women, the focal point can also help identify and develop the income-generating opportunities which stem from the particular interests and skills demonstrated by refugee women themselves. Some of these areas of interest, which amongst non-professional women have traditionally included seamstressing, hairdressing, handicrafts and beauty-care, lend themselves well to future small business ventures, and other independent low cost work possibilities. The practice of naming a focal point, and providing special assistance and learning environments for refugee women has already been initiated in some countries, including Romania and Bulgaria.

Discrimination of Refugees in Employment

While the issue of discriminatory employment practices against refugees is beyond the scope of our present study, we nevertheless recommend that interested actors in the refugee field lobby (through public information campaigns and active negotiations) both governmental and non-governmental human rights organizations in the host country to include combating discrimination against refugees as part of their mandate. They should include such cases as an integral aspect of their human rights work. Refugees who have been victims of discrimination should be granted the same assistance, legal and otherwise, as that accorded to nationals. Refugee-assisting organizations must therefore sensitize human rights groups and institutions to the problems and rights of refugees in the host country. A similar process should be undertaken with relevant ministries, particularly the ministries in charge of employment and social affairs, as well as government employment offices, so that their personnel also understand the rights and special needs of refugees.

Amendment to the Romanian Refugee Law

The provision on employment, namely, article 15(c) of the Romanian Refugee Law, should be amended in order to stipulate more clearly the standard of treatment

applicable to the employment of recognized refugees. As it stands, this provision simply states that recognized refugees have the right to exercise different categories of employment under the conditions of the law, without further specifying what law is referred to. Of concern is that the vague wording of this provision may lead to a restrictive interpretation, which could be avoided if it were amended to specify for example, that recognized refugees have the same rights with regard to employment as permanent residents or Romanian nationals.

**PART II:
INDIVIDUAL COUNTRY PROFILES**

1. Bulgaria

Wage-Earning Employment, Self-Employment and Liberal Professions

Situation until July 31, 1999

Recognized refugees have the right to work essentially on the same terms as Bulgarian nationals, and have the same rights as nationals with respect to labor relations and contracts. Indeed, according to the Ordinance on Refugees (in effect until the end of July 1999), recognized refugees have at minimum the same status as permanent residents, while the Law on Protection in Cases of Unemployment of 1997 confirms that they are indeed exempt from any requirement of a work permit.¹⁵⁶

New Refugee Law as of August 1, 1999

Under the new Refugee Law, recognized refugees have the same rights and obligations as Bulgarian nationals, and therefore continue to be granted the same right to work as nationals without being required to obtain a work permit. The only relevant exceptions to this standard are with respect to the right to take positions in the state administration for which Bulgarian citizenship is required, and to serve in the Bulgarian army.¹⁵⁷ On this basis therefore, refugees have the right to engage in all categories of employment, i.e., salaried employment, self-employment and liberal professions, on the same terms as nationals.

Recognized refugees also have access to the national vocational training programs on the same terms as Bulgarian citizens. In addition to these, the government, together with other organizations, also offers some refugee-specific training and labor programs. In fact, the new Refugee Law now officially recognizes the role of the integration center and the government Agency for Refugees, as providers and organizers of language and vocational training, as well as auxiliary economic and labor activities. Though many of these specific activities are mentioned

¹⁵⁶ Art. 98, para. 2, Law on Protection in Cases of Unemployment, December 1997.

¹⁵⁷ Art. 28(1), Law on Refugees (unofficial UNHCR English translation), XXXVIII National Assembly of the Republic of Bulgaria, May 27, 1999, entry into force August 1, 1999. The other two exceptions, which are not directly relevant to employment include the right to vote and be elected and other restrictions which are provided for by the law.

in relation to asylum-seekers in the new law, they may also be provided to recognized refugees, who benefit from legal provisions on government integration assistance of a more general nature.¹⁵⁸ Please see the section on Employment Assistance Programs below for further details.

Employment Issues Specific to Recognized Refugees

Despite the existence of generous legislative provisions, the first refugees to be recognized in Bulgaria in 1996 effectively had no access to legal employment as they did not receive their social security numbers until 1997. Since legal employment is impossible without valid social security numbers in Bulgaria, refugees were unable to work legally or receive social security benefits before that time.

As refugees and asylum-seekers have lacked the means to sustain themselves in their host country, they have commonly turned to the informal labor market. This phenomenon is explained by the combination of long RSD procedures lasting several years, the inadequacy of financial assistance offered during that procedure, as well as the delay in distributing the social security numbers to recognized refugees. While those groups with well-established communities in Bulgaria have greater access to jobs both in the formal and informal economy, refugees lack such networks and jobs in the informal economy are often easier to obtain as employers do not have to contribute to social security schemes and can offer very low wages.

These factors, as well as the high rate of unemployment in Bulgaria, explain why it continues to be difficult for refugees to gain employment in the formal labor market and have access to related social security benefits. Once refugees are driven to the informal labor market (either during their RSD procedure or due to practical obstacles in exercising their right to work) there is a natural tendency to remain there even once they acquire refugee status or are granted effective access to the labor market. This is especially true in the difficult context of the Bulgarian economy, where high unemployment rates are a general obstacle to employment mobility. Furthermore, many refugees do not possess the appropriate qualifications for the current labor market. In some cases, this may be because they are unskilled but in other cases, they may be overqualified for the jobs which are available.

¹⁵⁸ Arts. 25(6), 36(6), and 39, Law on Refugees (unofficial UNHCR English translation), XXXVIII National Assembly of the Republic of Bulgaria, May 27, 1999, entry into force August 1, 1999. The law also recognizes the role of other Ministries, international organizations and NGOs in cooperating and assisting the Agency for Refugees with these activities.

Different groups of recognized refugees, even from the same country of origin, also display different integration and employment patterns. For example, the group of Afghans who initially came to Bulgaria in the 1980 s as students or business men and who later requested and received refugee status, are generally well adapted to Bulgarian society, speak the language, have established support networks, and are fairly skilled or educated.

By contrast, Afghans who have arrived more recently, i.e., during the 1990 s, do not of course have the benefit of previous residence and studies in the country, are a mix of skilled and unskilled persons, are encumbered by the language barrier and generally face greater difficulties in their initial integration. From amongst this group women with large families experience an especially difficult time in adapting to their new environment, and often rely on the traditional family structure, electing to stay at home and thus not interacting significantly with Bulgarians or learning the language.

Refugee-Specific Employment Programs and Activities

Since 1996, when Bulgaria first accommodated a significant number of refugees, UNHCR has funded several programs which it implements through its NGO partners or through the government Agency for Refugees who also provide staff and the venues for some of these activities. In order to better develop an appropriate integration program, UNHCR conducted several surveys, needs analysis, and studies such as a survey of labor market trends, refugees vocational preferences, an empirical sociological survey of refugees in Bulgaria, and a report on women-refugees from Afghanistan.

Some specific programs which were subsequently developed and implemented include: vocational training courses; a small business loans project; an integration center primarily aimed at providing vocational training and income-generating activities for refugee women; general employment and social counseling; and Bulgarian language courses. In 1999, UNHCR put renewed emphasis on job-placement assistance by NGO implementing partners, and especially the development of follow-up mechanisms for beneficiaries of vocational training programs.

All of the above-mentioned activities are still running, with the exception of vocational training courses, of which only those that are part of the Women s Integration Center project are still being implemented. Government participation and contribution to some of these programs is noteworthy, especially with regard to those activities taking place at the Women s integration center in Sofia and in the area of counseling services, for which the government provides ample staff (mostly social workers) and operating costs.

Over the last couple of years, UNHCR has made an effort to both encourage refugees to move outside Sofia and to assist those refugees and asylum-seekers already present in other parts of the country with employment. In this connection, UNHCR has been discussing the possibility of beginning a new program of assistance as of the year 2000, which would favor refugees living outside Sofia, where the cost of living is much lower but where employment opportunities are also fewer. In comparison to other refugees who would be granted a housing allowance only for three months, after which the sliding scale program would begin, refugees in the countryside would receive a housing allowance for a full two years. For further details please refer to Chapter III on Housing.

Vocational Training Activities

While UNHCR has financed vocational training activities, implemented through the Agency for Refugees, since 1996,¹⁵⁹ these activities have gradually been reduced since 1998. As such, while before 1998 vocational training courses were open in practice to both asylum-seekers and recognized refugees, after this date they were only made available to the latter. Then in 1999 funding for these activities was stopped (with the exception of those provided in the context of the Women's Integration Center) so as to incorporate recognized refugees into the general state vocational training programs offered by the government. At present, only the courses offered in the context of the Women's Integration Center, (which come under a special program) continue to be partly financed by UNHCR, which covers costs related to materials, equipment and trainers, while the Agency for Refugees covers operational costs.

The termination of funding for the other refugee-specific vocational training programs by UNHCR is due in large part to the fact that these did not appear to be very successful, especially with respect to their primary objective, which was to create job opportunities for recognized refugees. It was felt that they were generally too superficial and too short, and that the mainstream state-run programs would be a suitable and more cost effective alternative. Other common problems encountered in the vocational training program were the lack of regular attendance and language skills, which particularly affected the driving and computer courses. No formal assessment of the impact or success of vocational training programs has been conducted to date however.

¹⁵⁹ The training courses in 1996 included mostly courses in tailoring, computers, accountancy, apprenticeships in hairdressing and sessions aimed at securing special drivers licenses, with a total of 86 beneficiaries. In 1997, courses and apprenticeships directed at the acquisition of skills in cosmetics, small business management and electrician training were added to the above, for 120 beneficiaries. And by August 1998, 151 beneficiaries participated in vocational training and apprenticeships.

Women s Integration Center

In 1997, a project for the specific integration of refugee women, aiming primarily at offering activities that would lead to income-generation and self-reliance, was initiated through the opening of two integration centers. We will only discuss the Center which is run by the Agency for Refugees in Sofia, as the second center in Plovdiv never really became operational.¹⁶⁰ A variety of training and apprenticeships are offered such as for hairdressers and beauticians, and courses in sewing, knitting and weaving.

Furthermore, this integrated center includes a children s club and day-care where women may leave their children, a crafts center, employment counseling services, and health services. The professional workshops are well equipped with modern equipment, and qualified trainers from technical institutes or in some cases, even refugees with professional experience in the area, who offer quality training and apprenticeships.

Moreover, the activities at this center have expanded to include Bulgarian language courses, as well as special tutoring for children. While in principal, only recognized refugees are offered the vocational training courses available at the center now (upon request), asylum-seekers can nonetheless take advantage of all the other facilities and services offered by the center.¹⁶¹ Of interest is also that government responsibility for Integration Centers has now officially been recognized under the new Refugee Law.¹⁶²

In 1997 alone, twenty-four women, mostly Afghanis, Palestinians and refugees from the Republic of Congo, completed vocational training courses in order to become professional tailors. Following this training, they had the opportunity to further practice their trade at the Women s Integration Center and some were able to obtain some small jobs. A total of seventeen other women completed training as hairdressers and beauticians; four completed computer courses and another four professional driving courses. Two single refugee women also received small business loans during 1997/98.

As mentioned above however, UNHCR has found that the vocational training programs have not always succeeded in attracting sufficient numbers of participants, and that regular attendance has also been a problem, so that now these courses are only offered upon request.

¹⁶⁰ The Center in Plovdiv, was administered by the Help the Needy Foundation, a UNHCR implementing NGO whose contract was later terminated.

¹⁶¹ The integration center in Sofia, which is situated in the same building as the Agency for Refugees, is especially convenient for use by asylum-seekers who live in the Agency for Refugees facility.

¹⁶² Art. 36(6), Law on Refugees (unofficial UNHCR English translation), XXXVIII National Assembly of the Republic of Bulgaria, May 27, 1999, entry into force August 1, 1999.

Linking Vocational Training and Income-Generating Activities

Despite some of these problems, increased efforts towards linking vocational training and income-generating activities in the integration center have shown some promise. The cosmetician and hairdressing trainings have been especially successful among the refugee women, as they see them as offering future career prospects for which they might subsequently apply for small business loans. The tailoring or seamstress training also offer good prospects for income-generation, especially as the machines are of professional quality and some are even portable, so that women may take them home to make clothes for their families or for future sale at the market. Moreover, in 1998 five recognized refugees were already in charge of professional departments at the center and received remuneration by the Agency for Refugees. Increasingly, therefore, the integration center has become a source of employment and alternative income-generation for refugees.

Under the new Refugee Law, the Agency for Refugees has official authority to organize auxiliary economic and labor activities in addition to vocational training programs. While the organization of these auxiliary economic and labor activities is only specifically mentioned with regard to asylum-seekers, the opportunity to remain active and acquire new skills during the RSD procedure will no doubt enhance the employment and general integration prospects of those who will eventually be granted refugee status. Simultaneously, the Agency for Refugees could continue employing qualified refugees to offer these trainings, apprenticeships and other services.

Small Business Loans Program

This project uniquely benefits recognized refugees, and especially those with previous business experience (particularly in Bulgaria) and who have advanced solid and realistic proposals. From the beginning of 1997, refugees have shown a keen interest in this program, especially after the sliding scale scheme (for UNHCR benefits) was introduced. The applications and business plans are considered by a Business Committee made up of representatives of all the implementing partners, including the Agency for Refugees, who also interview the applicant personally. The maximum that is granted for such loans is 2,000 USD, although the size of the average loan is 1,000 USD. The interest free loans come out of a revolving fund,¹⁶³ and the money is generally transferred directly from the UNHCR account to the designated landlords and suppliers. Each of the different loan installments is conditional on the successful accomplishment of the conditions for the preceding installment.

¹⁶³ The individual business projects begin as soon as the proposal is approved and the loan agreement is signed. The beneficiary is granted a three-month grace period before the loan repayments begin.

During the course of 1998, loans were granted to twenty-one beneficiaries, mostly in Sofia, and two loans were paid back in full. The loans have tended to be used to support small business and trade activities at markets (trading in detergents, cosmetics, clothes and baked goods), and one has been invested in an agricultural project.

One of the benefits of the small business loan scheme is its potential multiplier effect, since refugees often tend to hire other refugees, and these businesses are often capable of sustaining an entire family rather than the single person who received the loan. The small business management courses offered by the Agency for Refugees are also beneficial, especially for the loan beneficiaries.

Unfortunately however, according to more recent information provided by UNHCR in October 1999, the small business loan program has not been entirely successful, particularly given the low percentage of loans which have been repaid to date. Some refugees have misused the loan to leave the country, while others had more valid reasons for defaulting on their loans. As a consequence, one of the issues being discussed is whether in the context of Bulgaria it might not be more realistic and cost-effective to base the small business program on grants rather than loans.

Bulgarian Language Courses

Bulgarian language courses are offered to asylum-seekers and refugees. The refugee service of the Bulgarian Red Cross, in coordination with the Agency for Refugees, organize Bulgarian language courses for beginners and advanced levels. These include two-year language courses for students in secondary school and refugees who wish to go on to higher education, as well as for refugees attending vocational training. Many of the courses take place at the Women's Integration Center, where child care is provided in order to enable parents to participate in the trainings.

Employment Counseling Activities

In addition to the employment counseling provided by NGOs, the social workers at the Agency for Refugees also assist by liaising on a weekly basis with employment bureaux for job placements.

2. Czech Republic

Wage-Earning Employment

Situation until September 30, 1999

For most purposes, recognized refugees are to be considered as having either the same legal status as a citizen of the Czech Republic or as permanent residents.¹⁶⁴ With regard to wage-earning employment however, they are only accorded treatment on the same terms as foreigners with long-term stay permits (renewable yearly), which means that they are required to obtain a work permit in order to be legally employed. Article 19(1)(c) of the Refugee Law, provides that refugees may engage in gainful activity only under conditions set by special rules applying to aliens which are specified by the 1991 Law on Employment.¹⁶⁵

The work permit is not automatic but must be requested, and is tied to a specific job, employer and region. Furthermore, in principle, nationals have employment priority over non-nationals, so that before aliens are granted a work permit for a particular job, the position must be advertised for three weeks and remain unclaimed by a Czech citizen. While these requirements do not appear to constitute an actual barrier to employment and some degree of flexibility has been demonstrated by Czech labor offices with respect to the priority which is to be accorded nationals, they do cause considerable delays for potential employers and refugees, and impose burdensome bureaucratic procedures on recognized refugees who must apply for a new work permit every time they change employers.

An exception to the above requirements exists for those refugees fulfilling Article 17(2)(a, b, c) of the 1951 Geneva Convention (i.e., those who have completed three years of residence in the country, are married to a national or have a child who is a national), who are thereby granted the right to work without a work permit and are no longer subject to rules protecting the national labor force.

Situation as of October 1, 1999 and Under the Czech Draft Refugee Law

An amendment to the Law on Employment, which became effective on October 1, 1999, just before the completion of this study, abolishes the requirement for a work

¹⁶⁴ Art. 19(1), Law Concerning Refugees, No. 498/1990, November 16, 1990, entry into force January 1, 1991, as amended by Law No. 317/1993, December 8, 1993, entry into force January 1, 1994, and Law No. 150/1996, April 26, 1996, entry into force August 1, 1996.

¹⁶⁵ Art. 3(a), Law on Employment, No. 1/1991, December 12, 1990, entry into force February 1, 1991.

permit for asylum-seekers and recognized refugees even before the adoption of the draft Refugee Law.¹⁶⁶

The draft Refugee Law promises a welcomed improvement in the employment rights of recognized refugees by granting them the general status and rights of permanent residents.¹⁶⁷ As permanent residents, they will have access to wage-earning employment on essentially the same conditions and terms as nationals, and will, in keeping with the recent amendment to the Law on Employment, no longer require a work permit or be subject to the other restrictions imposed on other foreigners. This proposed Refugee Law is also expected to continue providing for state-sponsored Czech language courses for recognized refugees.¹⁶⁸

Self-Employment and Liberal Professions

Recognized refugees wishing to be self-employed are accorded the same treatment as Czech citizens.¹⁶⁹ They must apply for a trade certificate (*Zivnostensky list*) which certifies their particular qualifications, experience, and field of work. For the liberal professions, they are granted the same treatment as aliens generally, though as of October 1, 1999 they no longer require a work permit.

As mentioned above, their status as a permanent resident under the draft Refugee Law is applicable to these employment categories also, though certain liberal professions are of course subject to other conditions by law.

Employment Assistance Programs

In addition to the counseling services offered by the government social workers in the integration centers¹⁷⁰ and by PPI (an NGO) refugees in the Czech Republic benefit from the same state programs available to nationals with respect to employment-generating assistance. Once recognized, refugees must report to the aliens police and register with the labor office. If the labor office is unable to match the refugee with an appropriate job, they will register them for social welfare benefits.

¹⁶⁶ Art. 2(d)(a), Law on Employment, No. 1/1991, December 12, 1990, entry into force February 1, 1991, *as amended by* amendment No. 167/1999, entry into force October 1, 1999.

¹⁶⁷ Arts. 50 and 76, Draft Law on Asylum *supra* note 26.

¹⁶⁸ Arts. 68 and 70, Draft Law on Asylum *supra* note 26.

¹⁶⁹ Art. 5 (4), Law on Trade, No. 455/ 1991, October 2, 1991, entry into force January 1, 1992.

¹⁷⁰ Integration centers, in the Czech context, refer to transitional housing centers for newly recognized refugees. Please refer to the Chapter III on Housing, the Czech country profile, for a more detailed description.

It is rare that a refugee will immediately receive a job offer for anything other than manual labor. One of the principle impediments to their job search is their lack of sufficient language training. Pending regular employment, refugees receive social assistance benefits, are able to take Czech language courses offered at the integration centers, and benefit from the advice provided by social counselors from PPI who help familiarize them with the different categories of employment, the procedures for accessing state funds for the translation of their diplomas, and provide information on available re-qualification courses.

State Employment Assistance Programs

While refugees are entitled to participate in state re-qualification or vocational training courses on the same terms as nationals, these programs appear to be difficult even for Czechs to access because of poor publicity. Moreover, access to these programs is further inhibited for refugees who cannot demonstrate proof of having completed secondary schooling, a common criteria for eligibility. The field in which the most courses are offered is computer training, though the range of courses that are offered, as well as their quality and availability varies across municipalities.

Though these state courses are generally recognized as inadequate, given the disappointing results from the initial UNHCR-funded programs for refugees (see below, for further details) some NGO counselors hold that state courses are nevertheless preferable. This is reinforced by the fact that under the comprehensive mandate of municipal job offices, the state courses are linked to job placement services and unemployment benefits. Some professionals in the field also point out that while access to the state employment programs provides no guarantee of employment, recognized refugees nonetheless benefit from an increased familiarity and ease in negotiating their rights within state structures.

Non-Governmental Employment Programs for Refugees

Vocational Training

Before 1998, UNHCR-sponsored vocational training programs specifically for recognized refugees were also available.¹⁷¹ One weakness attributed to these programs which were implemented by NGO partners, was their lack of connection to networks offering direct opportunities for future employment, such as those provided by the municipal job offices. These programs were therefore not perceived as

¹⁷¹ Such courses included: desktop publishing; PC accounting; management; waitressing; electrical training; driving courses; and handicrafts.

successfully resulting in employment. Another criticism of the implementation of these programs was that too often participants were refugees who were already employed and simply seeking to gain additional skills, which were frequently unrelated to their jobs, such as driving courses.

As a result of the lack of success with vocational and re-qualification courses, as of 1998 UNHCR decided to cut such programs and allow refugees, with the assistance of PPI, to take advantage of mainstream state-sponsored courses.

Small Business Grant Program

UNHCR's brief experiment with small business grants in 1997, also met with unsatisfactory results, both in the number and content of applications submitted. The NGO implementing partners received fewer than five applications. Furthermore, those projects which were submitted were often directed towards expanding already successful commercial activities, rather than to finance initial start-up expenses for new business initiatives, which was the program's stated objective. Social workers have attributed the lack of interest in the program to an unduly complex application form, and the lack of awareness of the program by refugees. Thus, no UNHCR small business grants program has existed since 1997.

Statistics with Regard to Employment of Recognized Refugees

Employment, together with housing, is cited by professionals in the field, as one of the most pressing problems for refugees in the Czech Republic. In a comprehensive integration survey of recognized refugees by PPI and published in December 1998, it was found that 42% of the respondents were employed, 16.5% were entrepreneurs and businesspersons, 11% were housewives, 4% students and 4% retired. Thus, overall, approximately 58-60% of recognized refugees were found to be gainfully employed, while it was estimated that approximately 35% experienced serious difficulties in finding employment. Of the 60% employed, 81% expressed satisfaction with their employment despite the fact that 44% stated that their employment did not correspond to their level of qualifications, indicating that most refugees were simply glad to be employed. On the other hand, being employed does not always imply a satisfactory financial situation. Of the refugees who were employed, only 31% were content with their financial situation.¹⁷²

¹⁷² Refugees in the Czech Republic: Research Questionnaire Report, at 14-16 and 32 (December 1998) (PPI study) (unofficial UNHCR English translation).

In terms of assistance in finding employment, two thirds of the respondents stated they managed to find employment on their own or with the help of friends, whereas only 11% were helped by various organizations (including NGOs) and 3% by Labor Offices.¹⁷³ Thus, informal networks appear to be vastly more effective than the efforts of either government or NGOs, which are perceived as being of only minimal assistance in the search for employment. Indeed, it was noted that this perception was present even in cases where assistance was clearly provided, indicating that perhaps the refugee had not participated sufficiently in that process or had received a type of assistance that had not been desired.¹⁷⁴

Recommendations by PPI in Response to the Survey Findings

Two recommendations were made by PPI in response to these findings. Firstly, employment offices should not only register refugees but should consider them as persons requiring special attention, thus providing them with active assistance in the identification of a suitable job. Secondly, refugee organizations should require a higher level of participation by refugees themselves in the process of providing assistance so as to ensure that they receive appropriate assistance, as opposed to help which they do not want.¹⁷⁵

3. Hungary

Wage Earning Employment

Recognized refugees have the right to work on the same terms as nationals and are thus, not required to obtain a work permit. Article 17 of the Refugee Law, which grants refugees the rights and obligations of Hungarian citizens, and article 7(2)¹⁷⁶ of the Labor Code which specifically grants refugees the right to work without requiring any special permission, are the relevant legal provisions. The exception to this standard of treatment is that recognized refugees may not hold an office or position which is required by law to be filled by a Hungarian citizen.¹⁷⁷

¹⁷³ A further 21% did not respond to this question: Refugees in the Czech Republic, *supra* note 172, at 14.

¹⁷⁴ Refugees in the Czech Republic, *supra* note 172, at 32.

¹⁷⁵ Refugees in the Czech Republic, *supra* note 172, at 32.

¹⁷⁶ Art. 7(2), Act No. 1991: IV, February 23, 1991, entry into force March 1, 1991 and amended by Art. 2 of Act No. 1997: CXX, November 29, 1997, entry into force January 1, 1998.

¹⁷⁷ Art. 17(2), Act on Asylum, No. 1997:CXXXIX, December 9, 1997, entry into force March 1, 1998.

A provision in the Refugee Law grants free Hungarian language lessons to recognized refugees, a necessary step to improving the employment prospects of refugees. In addition to the language barrier however, the fact that approximately 40% of an employee's salary (if in full time legal employment) goes towards social security contributions in Hungary may also be a reason why some recognized refugees will likely continue to work in the informal labor market or as consultants, which means that in most cases they will not be eligible for social security benefits.

Self-Employment and Liberal Professions

The same standard of treatment applies with regard to self-employment and the liberal professions, so that refugees are granted the same rights and are subject to the same requirements as nationals.

Employment Assistance Programs

State Employment Assistance Programs

Recognized refugees benefit, like nationals, from whatever programs are offered through the state employment agencies, such as job placement services, vocational or re-qualification training. There are no separate employment programs offered by the Hungarian Government which are specifically designed for recognized refugees. This may change in the future though, given that article 30 of the Government Decree on Social Care of 1998 allows for the possibility of the state to subcontract integration-related activities, such as professional and vocational training, to both municipal governments and NGOs, including charity groups, foundations, associations, and churches. As of November 1999, no such activities had yet been contracted out by the state however.

Moreover, according to the 1998 Government Decree on the Care of Refugees, recognized refugees interested in pursuing mainstream vocational studies and skilled workers training school may be granted a special school-enrollment benefit, as well as a related travel benefit.¹⁷⁸

Essential to employment assistance is language training, which as mentioned above, is provided free of charge by the Hungarian Government.¹⁷⁹ Unfortunately, the implementation of the language courses which were contracted to Hungarian

¹⁷⁸ Art. 18, Government Decree Regulating the Care of Refugees, *supra* note 66.

¹⁷⁹ Art. 16, Government Decree Regulating the Care of Refugees, *supra* note 66.

language schools by the government did not appear to be satisfactory, partly due to the lack of follow-up on their results, and by November 1999 alternative language programs were already being considered. Of concern is also the fact that no systematic language training is offered to asylum-seekers during the RSD procedure in Hungary, thus placing those refugees who are eventually recognized at a distinct disadvantage on the job market.

Non-Governmental Employment Assistance Programs

UNHCR on the other hand, is attempting, through its implementing partners, to adapt programs and lessons learnt in the past with temporary and mandate refugees¹⁸⁰, to the needs of the population of refugees to be recognized under the new Refugee Law which in March 1998 eliminated the previous geographic limitation to European refugees. With the support of UNHCR, the Menedek Hungarian Association for Migrants (hereinafter referred to as Menedek) offers employment and business counseling services, as well as assistance with vocational and entrepreneurial training programs.

The UNHCR-sponsored small business grant scheme has also been modified in light of the lessons learnt from its implementation for mandate refugees, as well as its success with regard to temporary refugees, and as of the autumn of 1998 was made available to all recognized refugees. With regard to this program, Menedek offers counseling to each prospective applicant, during which their expectations and the situation in the labor market is discussed, thereby increasing the chances that only realistic and sound business proposals will be submitted.

Overview and Analysis of Past Employment Assistance Programs

In the past, there were virtually no employment assistance programs in place for recognized refugees, either by the government or by UNHCR. This was largely due to the fact that given the geographic limitation to European refugees in place in Hungary until 1998, most recognized refugees were not only European but of Hungarian ethnicity, and faced relatively few barriers in employment and other integration aspects. As such, for the purposes of this section, we will consider the programs which provided assistance, mostly in the form of small business grants and vocational training, to persons with temporary protection status from the former Yugoslavia (hereinafter TPs) and to UNHCR mandate refugees who were permitted to stay in Hungary on a yearly basis but who were denied most other rights, including the right to work.

¹⁸⁰ The term used by UNHCR Budapest for persons with temporary refugee status was displaced persons, however, for the purposes of this study we will use the former.

*Small Business Grant Scheme*¹⁸¹

From 1995 to 1997, UNHCR implemented a small business grant scheme which merits analysis here due to its large scope, well-defined procedures, and ability to flexibly respond to a variety of local factors. Though the beneficiaries of the program were TPs from ex-Yugoslavia, and particular local conditions may have contributed to the success of the program, an examination of the Hungarian scheme may offer insights for emerging small business schemes throughout the region.

UNHCR introduced the program in 1995 in an effort to promote self-sufficiency within the large population of TPs from ex-Yugoslavia who had been subject to an insecure legal and economic position in Hungary, often for as long as four years. Two-thirds of the TPs were privately accommodated, and as they were barred from employment under their temporary protection status, they were dependent upon very limited financial assistance offered by the government (33% of the minimum income set by law). Upon introduction of the self-sufficiency program, UNHCR halted (except to particularly vulnerable groups) the rental and utility subsidies it had originally offered to complement the government assistance. Instead, UNHCR made available small business grants, which were awarded to projects which seemed likely to ensure self-sustaining incomes, i.e., a return equivalent to an average yearly income.

Guidelines of the Program

Thus, applications were generally rejected if the proposal's calculations of gross return were under the yearly average income as well as under the amount of the grant plus 35%, the interest rate normally charged by banks on loans. A ceiling on the grant was established for internal purposes at 210,000 HUF (equivalent to 2,000 USD in 1995, but only 1,200 USD in 1997), though this ceiling amount was not made public, so as to avoid requests for the maximum grant size irrespective of the needs of the project. Finally, UNHCR made many of the grants conditional upon arrangements by temporary refugees to obtain licenses for independent work, which UNHCR facilitated by providing lawyers.

A carefully formulated application form has been viewed as critical to the scheme's success. The forms, derived from standard loan applications, were simplified and modified to allow for consideration of the applicant's previous work experience. The latest version of the form included a section in which the applicant

¹⁸¹ The information below is drawn from P. Labreux: *Self-Sufficiency through Self-Employment: The Business Grant Project in Hungary (1995-1997)*, in UNHCR Regional Bureau for Europe, *3rd International Symposium on the Protection of Refugees in Central Europe, 23-25 April 1997, Budapest*, Vol. 3, No. 2 (1997) at 173.

could list the equipment he was requesting UNHCR to purchase on his behalf, complete with specifications including price, trade-mark and name of seller. Requiring attention to such details was viewed as a means of rating reliability, and of ensuring that the applicant had made a serious inquiry, while also enabling UNHCR to purchase equipment when necessary. Furthermore, the provision of new equipment not only enhanced the ability of beneficiaries to create a profit in Hungary, but ensured that upon repatriation, TPs would have the means to earn a living, thus facilitating reintegration into their old communities.

The individual profiles of the applicants were considered when evaluating the proposals. Individuals with previous experience in the proposed line of work often received their grants, while TPs who were already considered self-sufficient were denied grants regardless of the quality of their business plan. Applicants deemed vulnerable, such as families of five or more or single parents were accorded the benefit of the doubt regarding the viability of their projects. Young TPs were channeled into apprenticeships, which might lead to partnerships or joint ventures.

Two fundamental aspects of the program's design reflected UNHCR's sensitivity to the particular vulnerability of those under temporary protection. First, UNHCR decided to implement the project directly rather than enlisting the assistance of a partner, in order to avoid delays in start-up, and develop experience in managing the project first-hand. Social workers in the region were relied upon to collect economic and social information on all applicants, which was used in the evaluation of the proposals, and to offer assistance to applicants at each stage of the negotiations. Secondly, grants rather than loans were preferred, partly in order to minimize the administrative requirements that would otherwise result if a financial institution were an implementing partner. Although loans undoubtedly offer certain advantages by imposing economic discipline upon the beneficiaries, in the absence of a tradition of market credit, both the market (35%+ interest rates) and even preferential (20% to 25%) rates were considered to be too onerous for refugees.

Type of Business Activities Undertaken

The program was particularly successful in the areas of agriculture and animal breeding, areas suited to many of the TPs who had come from a rural setting. By the end of March 1997, 263 of the 559 grants distributed had been directed at these fields. Especially favorable conditions such as the availability of land and space for rent ensured the viability of these types of projects. In addition, production in these sectors had dropped since 1989 so the demand surpassed the market supply. Furthermore, small producers in this sector were generally not subject to much or any state control or taxation. Ultimately these projects proved to be quite profitable, such that the gross return on the investment of the grant reached at least 100% and on average 150%.

Small service activities by independent semi-skilled or skilled workers in a variety of activities comprised the remainder of the grants awarded. Services ranged from construction, metallurgy and tailoring to cleaning. The only activity formally excluded was trading. It was these service-sector beneficiaries who often requested and were granted new equipment, which were valuable assets for TPs returning to their homes. Finally, UNHCR offered sewing machines to housewives even though they lacked business plans. By initially working for themselves and their family, it was hoped that they would gradually expand into the market.

The business grants scheme continued beyond the Dayton Accords, assuming new importance in the context of repatriation. Providing TPs with means to generate sufficient capital to pay for the costs involved in returning to and rebuilding their homes in former Yugoslavia supplanted the original objective of promoting self-sufficiency of TPs in Hungary. Only 6% of the 76,000 arrivals reported in official statistics remained in Hungary.

Lack of Success with Refugees with a Different Profile

Though the program met with considerable success when applied to TPs, UNHCR experienced difficulty applying the same model to mandate refugees living in Budapest, whose profile presented a very different geographic, economic and social context for the project. The few proposals which were submitted were almost exclusively directed towards trading, despite the fact that the applicants often lacked experience in the field. The economic aspirations of the applicants were also considerably more ambitious than those of the ex-Yugoslavs, a fact which can be explained to some degree by the higher cost of living in the capital.

UNHCR has also noted that the business plans were often unrealistic, unrelated to the applicant's education and experience or to the employment opportunities available in Hungary. Hence, while the small business scheme became the dominant and most successful form of assistance offered by UNHCR to persons with temporary protection status, it was not considered successful in the case of mandate refugees. In this connection, it must be noted, that a large proportion of the ex-Yugoslav TPs, (unlike the non-European mandate refugees) were of Hungarian ethnicity and thus already spoke Hungarian. As stated above, the small business grant scheme was modified in light of the experience gained with both groups and made available for all recognized refugees starting in the autumn of 1998.

Vocational Training Courses

Vocational training for both TPs and mandate refugees was offered on a request basis, and was funded principally by UNHCR, with occasional contributions by the

International Organization for Migration (hereinafter referred to as IOM). TPs, especially those in camps, were generally interested in attending vocational training programs, while mandate refugees expressed no interest in these courses, partly due to the fact that many already worked in the informal labor market or had unrealistic work expectations, and were subject to a deep insecurity regarding their precarious legal status in the country.

Types of vocational training courses attended by TPs were in the following areas: welding, computer sciences, construction machine operation, hairdressing, electrician course, auto-mechanics, business management, banking, shop assistant course, sewing, carpentry, cooking, and lorry driving. The majority of the courses were for skills which were thought to be needed for reconstruction when TPs returned home. Vocational training courses for TPs were successful in that the drop-out rate was very low and most of the participants successfully completed the courses. Part of the reason for the success can be attributed to the fact that participation in the courses was voluntary, and that the courses offered were based on the refugees' fields of interest.

Mandate refugees were obliged (with the exception of computer courses) to undergo some sort of vocational training. This element of forced attendance appears to have had the opposite effect and resulted in unsatisfactory levels of attendance. Language was another problem with respect to such courses, since some of the mandate refugees, unlike the TPs, could not understand either English or Hungarian very well, the languages in which the courses were generally held.

No studies have been conducted to measure the impact of the vocational training programs, and although the social counselors of the Hungarian Maltese Charity Service assisted TPs to find work, there were no follow-up programs geared towards job placement for the beneficiaries of vocational training. In particular, it is difficult to measure the extent to which vocational training succeeded in creating employment opportunities for mandate refugees as they were not allowed to work. TPs in Hungary were in principle also not allowed to work until 1 January 1998, except in the area of agriculture. Moreover, many of the TPs who had attended vocational training courses left Hungary in order to repatriate or departed to a third country. As mandate refugees have been successfully converted into recognized refugees under the new Refugee Law, and now have the right to work, a vocational training program is expected to be offered to them again in the future.

4. Poland

Wage-Earning Employment

Recognized refugees have the right, which is granted automatically upon recognition, to engage in wage-earning employment without obtaining a work permit.

Generally this right may be exercised on the same terms as nationals with the exception of certain professions mentioned below.

The 1994 Law on Employment and Countering Unemployment¹⁸² stipulates that the employer may employ or entrust other gainful occupation to a foreign national holding a card of permanent residence or enjoying refugee status in Poland. The law does not elaborate further on the right to employment accorded to these persons or impose additional conditions on their employment. Thus, permanent residents and recognized refugees benefit from access to the labor market on the same terms as nationals, and according to labor and social welfare laws, have access to related benefits similar to nationals.

However, the language barrier and lack of professional qualifications, amongst other factors, have rendered it difficult in practice for many refugees to find employment.

Self-Employment

In 1998, UNHCR and the government reached an agreement to interpret more liberally the provision which regulates self-employment. The Ministry of Interior now permits recognized refugees to engage in self-employment regulated by the register of economic activities in the communal office, which is provided for in the 1988 Law on Conducting Economic Activities. As a result, the Ministry of Interior's policies have become more consistent with the standard required by the 1951 Convention.

Recognized refugees are nonetheless limited with regard to forming a corporate entity, since in principal, the liberal provisions of the Law on Conducting Economic Activities are only applicable to nationals and permanent residents. As such, refugees may only establish limited liability companies and joint stock companies, as permitted under the Act on Companies with Foreign Participation (i.e., the Joint Venture Act).

Liberal Professions

The applicable provision is the same as that regarding wage-earning employment. Hence, according to the 1994 Law on Employment and Countering Unemployment, refugees are treated on equal terms with aliens with permanent residence in Poland. Aliens, including refugees, are subject to restrictions with regard

¹⁸² Art. 1, para. 2, /2, Law on Employment, No. 387/1996, December 11, 1996, entry into force January 1, 1997.

to certain professions however, most notably because of their additional requirement of Polish citizenship. Such is the case with regard to nurses, midwives, teachers, and positions relating to security and the public order, such as, that of judge, public prosecutor, police and military.

Other professions, while not requiring Polish citizenship, are nonetheless subject to certain limitations with regard to access by aliens. This category includes medical doctors, dentists, and pharmacists. In addition to the professional qualifications required by law, these professionals must also obtain a permit issued by the Minister of Health and Social Welfare in the case of doctors and pharmacists, a special exemption in the case of foreign dentists, and proven fluency in Polish.

Employment Assistance Programs

State Employment Assistance Programs

While searching for work, refugees may approach the local labor office and register with them. Indeed, this registration was a requirement in the context of the government Program for Individual Adaptation (hereinafter PIA) which ran from 1996 to 1998, and was foreseen again as a condition for receiving financial assistance in the version of the draft Integration program dated 8 January 1999.¹⁸³

Based on the principle of equality, labor offices are to assist refugees in the search for employment opportunities on the same terms as nationals. Other general services provided by these offices and which refugees may take advantage of include: training allowances for the purpose of upgrading professional skills and qualifications; earning credits in order to start individual economic enterprises; and possible employment opportunities in public works.

The Report on the PIA acknowledged that recognized refugees could not rely solely on the support from local employment offices, and envisioned potentially incorporating a special employment assistance facet to its program for refugees in the future.¹⁸⁴ In this connection, the draft integration project mentioned above provided that the integration plan was to also cover special assistance for recognized refugees in acquiring employment, though no further details were provided, and as more recently, the program failed to be endorsed due to a legal technicality.¹⁸⁵

¹⁸³ See / 10, Draft Ordinance on integration of refugees *supra* note 83.

¹⁸⁴ Report on Realization of the Program of Individual Adaptation of Refugees in Poland in the period of 15 March — 28 February 1998 (March 1998, Warsaw) (Central Reception Center for Refugees in Podkowa Leśna — Debak) [hereinafter PIA Report] at 16.

¹⁸⁵ / 8, Draft Ordinance on integration of refugees *supra* note 83.

Non-Governmental Employment Assistance Programs

In addition to the services offered by labor offices in the context of the national employment assistance program, UNHCR also funds some employment programs specific to refugees. Through its implementing partners, UNHCR assists refugees in accessing existing centers of vocational training, provides funds for a pilot micro-credit program which is to benefit a small number of business initiatives, funds a pilot job placement program in Warsaw, and offers some vocational training programs specifically tailored to refugees. One such vocational training program offers special computer courses to a small number of refugee women. As of yet, no substantive evaluations have been conducted with regard to the success of the state vocational training courses or the UNHCR-funded vocational program for refugees, which is still at the pilot phase.

Pilot Micro-Credit Program

The first pilot micro-credit program aimed at financing viable small business plans of recognized refugees was launched during the summer of 1998, and is implemented by Polish Humanitarian Action (hereinafter PAH), UNHCR Warsaw's largest implementing partner. Conditions for participation in this scheme include a positive assessment of the viability of the business proposal (by UNHCR and PAH) and the reliability of the applicant. Initial loans have been limited to a period of five to six months, and to a maximum amount of 500 USD. Participants are required to reimburse an agreed portion of this loan by a set date. If these terms are met, the remaining portion of the loan is then forgiven. On the condition that this initial project is successful, further financial and material assistance to the participants in the pilot project may be considered. The activities undertaken under this scheme depend on the specific skills of participants, and have included an African artifacts kiosk and a translation business.

Lack of Language Skills

As stated above, language barriers pose considerable obstacles to the employment potential of refugees. At present there are no legal provisions granting refugees free language courses.

Small Number of Beneficiaries/New Initiative in Cooperation with Embassies

Despite attempts to initiate several new pilot projects which aim to provide employment assistance to recognized refugees, the number of beneficiaries of such programs continue to be minimal. In an effort to try out new strategies with regard to

employment, UNHCR recently began to approach a number of Embassies, requesting that they actively encourage their local chambers of commerce to discuss the possibility of employing recognized refugees. To date, the US Embassy has given a positive reply.

5. Romania

Wage Earning Employment

According to article 15(c) of the 1996 Refugee Law, a recognized refugee has the right to be employed by physical or juridical persons, to exercise liberal professions, to engage in trade and other juridical acts, under the conditions of the law. As of June 1997, a work permit is no longer required.¹⁸⁶ It should be noted however, that the expression under the conditions of the law in this provision does not specify a particular law. Hence, it may be interpreted as allowing the State leeway to adopt different standards of treatment for citizens and recognized refugees, though in principal they are held to the standards in the 1951 Convention which were incorporated into Romanian law in 1991.¹⁸⁷

Obstacles to Employment

As foreigners, refugees are not permitted to hold public office, i.e., work within the public administration and state sector, with the exception of those granted a special permission to work with the former. The scope of the term public office contained in article 16 of the Constitution has not been defined yet, but in an economy where the state sector still plays a large role, this limitation may be fairly extensive, including teachers, doctors and other professions. Another factor inhibiting the employment prospects of refugees is the difficulty in convincing employers of their skills and intent of prolonged residence in the country, the latter being aggravated by the short validity periods (i.e., six months) indicated in their identity/residency cards.

¹⁸⁶ This requirement was lifted by article 2 of the Government Decision 207 issued on 19 May 1997. As a follow-up to this decision to abolish the requirement for work permits for recognized refugees, the Ministry of Labor and Social Affairs also issued a letter to their labor offices informing them of this change and requesting them to assist refugees with job placement. It should be noted however, that previous to this change, in practice no refugee managed to obtain a work permit during the time it was required, as the procedure was highly inefficient and centralized.

¹⁸⁷ Law No. 46/1991.

It appears that few refugees work with an official contract, and those who do can generally only access jobs such as car washing, security, and assembly line work. Unfortunately, according to UNHCR, the insecurity inherent in the informal employment sector often means that refugees who have lost their jobs have no alternative but to keep returning to UNHCR for assistance.

It is estimated by UNHCR and refugee-assisting NGOs that, while the average monthly wage in Romania is 100 USD, the average wage for a recognized refugee may be only about half that amount.

Self-Employment

Article 15(c) of the Refugee Law referred to above, is also the applicable provision regarding the right to self-employment of refugees. As explained above, this provision, which provides for the right to engage in trade activities and other juridical acts under the conditions of law does not specify what law is applicable and therefore appears to allow for the possibility of a differing standard of treatment for refugees.

In 1998, the legislation regarding the establishment of commercial societies, which in the past imposed a higher registration fee on aliens, including refugees, was amended so that aliens and nationals are now subject to the same registration fees.

Liberal Professions

Once again, article 15(c) of the Refugee Law is the applicable provision, and the aforementioned comments regarding the lack of reference to the applicable law also applies here.

In practice, even qualified recognized refugees appear to have difficulty finding suitable employment or exercising their profession, due to such factors as high unemployment, a weak economy offering few employers and opportunities, and the requirement of Romanian citizenship attached to many professions, such as for doctors and teachers.

Employment Assistance Programs

State Employment Assistance Programs

There is no government program facilitating the general integration of recognized refugees or providing language courses or employment assistance to them. State-sponsored national vocational training programs are not available to recognized

refugees either. In principal, these state vocational courses are only provided to persons who are receiving unemployment insurance benefits, and who have already made contributions to the Unemployment Fund for this purpose. Moreover, the conditions for eligibility for these benefits and vocational training are strict, so that persons deemed responsible for becoming unemployed for example, are also not eligible.

In an effort to overcome the strict enforcement of the state's criteria for participation in these programs, which most recognized refugees could not meet (as they do not have a work history in Romania), in 1996-1997 UNHCR undertook negotiations with the Ministry of Labor and Social Protection, whereby UNHCR would pay for the right of refugees to attend these courses. However, the negotiations were not successful.¹⁸⁸

Non-Governmental Employment Assistance Programs

Hence, as an alternative to these state courses, UNHCR negotiated with private companies to provide vocational training to refugees in fields such as accounting, driving, secretarial skills, and toy manufacturing.

Through its implementing partners, UNHCR also provides a variety of other employment assistance programs for refugees, including job placement services, small business grants, Romanian language classes, and courses at the Chamber of Commerce for beneficiaries of the business grants.

Job Placement, Apprenticeships, and Focal Point for Refugee Women

On the basis of a form which refugees fill out describing their qualifications and employment history, a counselor from the NGO, the Romanian National Council for Refugees (hereinafter RNCR),¹⁸⁹ liaises with State Employment offices as well as potential employers. In particular, incentives for prospective employers in the form of salary subsidies, equipment or other advantages are offered in return for hiring or for providing on-the-job training to recognized refugees. In 1998, a social worker with the RNCR was designated as a focal point for refugee women in the area of employment, in order to better respond to the particular training and employment needs of women.

¹⁸⁸ Moreover, failure to possess either the requisite qualifications or documents certifying their previous training may also mean that even if refugees are permitted to take state vocational courses in the future, it will be difficult or impossible for refugee to obtain proper certification papers upon completion of the course.

¹⁸⁹ The name changed in 1999. They were formerly known as the Refugee Social Advice Center.

Start-Up Business Grant Program

The start-up business grant program was another initiative by UNHCR to facilitate employment for refugees. Following disappointing results with its first business grant program, UNHCR made some changes to the program and implemented a new business grant project in 1998. Fairly strict criteria were adopted to govern the disbursements, which ranged from 1,000 to 2,000 USD, such that proposals involving street merchants for example were deemed ineligible.

Yet, the results of this new grant project have not been satisfactory either given the failure of many of the businesses and it is expected that this program will be discontinued in 2000.¹⁹⁰ The low success rate of these business projects has been attributed in large part to the difficulties inherent to the small business sector in Romania, and in particular, the high taxation rates, complex laws and reporting requirements which most small businesses do not have the capacity to cope with.

Instead of these grants, in the future UNHCR is therefore considering focusing more on the alternative strategy of offering incentives to employers for hiring and training refugees, a program which has shown more promise. At the same time, the organization is also discussing beginning a small-scale program which would seek to integrate recognized refugees interested in farming into rural areas.

Recognized Refugees as Counselors

In addition to these employment assistance programs, UNHCR has also funded the establishment of a community development project, which provides some work opportunities for refugees. Through this project, a network of recognized refugees in Bucharest have been recruited in order to provide assistance to asylum-seekers and recognized refugees. Working primarily from the refugee camps, these community workers provide counseling, interpretation, and assist amongst other things with the various procedures a refugee follows and types of paperwork he completes to exercise his rights. They are given a monthly stipend by UNHCR for this work.

¹⁹⁰ The results referred to are those available as of June 1999.

6. Slovakia

Wage-Earning Employment

As an exception to the general standard of treatment under the Slovak Refugee Act, which grants recognized refugees essentially the same rights as nationals,¹⁹¹ article 19 provides that special regulations govern the employment of refugees. The applicable regulation in this case however, simply provides that recognized refugees do not need to obtain a work permit and may take up employment on the same terms as nationals.¹⁹² The right to employment also includes, the right to access state employment assistance such as job placement services, re-qualification and vocational training courses, as well as unemployment benefits.

Self-Employment

As permanent residents, recognized refugees are granted at least the same treatment with regard to self-employment and liberal professions as that granted other aliens with permanent residence, which for most purposes means that they have essentially the same rights as nationals. Moreover, legal provisions regulating the right to self-employment do not differentiate between nationals and aliens. For example, according to the Act Regulating Trade, trade may be conducted by a person or legal entity provided the requirements stipulated in the Act are satisfied.¹⁹³ The general requirements imposed by law include, being 18 years of age, having legal capacity and integrity, and in case of professionals the requisite qualifications.

Liberal Professions

Based on the same reasoning as above, recognized refugees have essentially the same right as nationals to exercise most liberal professions, on the condition that their professional qualifications are accepted.¹⁹⁴ There are some occupations for which Slovak citizenship is required however, including that of judge and prosecutor.

¹⁹¹ Art. 18, Refugee Act, No. 283/1995, November 14, 1995, entry into force January 1, 1996 (unofficial UNHCR English translation).

¹⁹² Art. 116, Act on Employment, No. 387/1996.

¹⁹³ Art. 5(1), Act on Trade, No. 455/1991.

¹⁹⁴ Act on Advocates, No. 182/1990; The Copyright Act; and Act on Inventorship, No. 527/1990.

Employment Assistance Programs

State Employment Assistance Programs

There are no refugee-specific employment assistance programs funded by the Slovak Government, though as mentioned above, refugees have the same access to the national employment assistance services provided by the state as nationals.

Non-Governmental Employment Programs for Refugees

Refugee-specific employment assistance is provided by UNHCR, however. This is implemented by partner NGOs and includes, counseling refugees (especially on accessing state employment assistance and job-seeking procedures), and assistance in accessing vocational training programs through the local job centers or private companies. In many cases, refugees are able to undergo a period of apprenticeship with a company offering them a job possibility. UNHCR covers the costs of the period of apprenticeship in such cases, as well as the costs for courses intended to provide skills which employers have required, such as a driving license, foreign language courses, and basic computer skills. Vocational training courses run by labor offices which are not free of charge, are also covered by UNHCR s implementing NGOs.

Despite the variety of employment assistance programs, the number of beneficiaries has been relatively small. While it was expected that approximately eighty beneficiaries, the majority of whom are recognized refugees, were to participate in vocational training programs funded by UNHCR and the Labor Office in 1998, in fact by the end of that year , UNHCR reported that only a total of thirty beneficiaries had actually received vocational training. Of this number though, twenty-three refugees were able to either obtain or retain employment as a result. These persons were also provided with a lump sum covering such costs as registration fees, local transportation, job-placement assistance, and training material or equipment, by UNHCR s implementing partners. Indeed, in addition to the courses already mentioned above, other vocational courses and training have included bricklaying, and job-seeking techniques and procedures in Slovakia.

The courses are developed with regard to the refugees existing skills, the needs of the job market and requirements for new job opportunities. In principle, social workers are to try to link particular job opportunities, which should be identified first, with the appropriate training.

To the best of our knowledge, no assessment has been conducted to date, on the impact or success of the various vocational training programs offered by either UNHCR or the government.

Finally, the state provides Slovak language courses free of charge to refugees and asylum applicants while they remain in the refugee center. For newly recognized refugees, this simply means that they may continue taking state-funded Slovak language courses, which are provided for in the Refugee Law, for the fifteen days that they are permitted to remain in the center following their recognition. UNHCR covers the costs of language courses subsequent to that. Refugees may therefore attend more Slovak language courses at the Integration Center in Zvolen. UNHCR reported that in 1998 thirty-eight refugees had benefited from their language program.

Barriers to Employment

In addition to the high national unemployment rate, estimated at 18.63% as of October 1999, and the initial language barrier, several other factors including the location of refugee housing programs, render the employment situation of recognized refugees difficult in Slovakia. Despite the efforts of both governmental and non-governmental actors to help house refugees in districts with lower rates of unemployment, in practice the Migration Office housing programs have continued to be concentrated in areas of high unemployment. Further information is provided on this matter in chapter III on Housing.

Additionally, the limited validity period of the identity/residency cards issued to recognized refugees, which are usually subject to yearly renewal, places them at a disadvantage in the labor market. Firstly, as employment contracts are in principal limited to the proscribed validity period of these cards, refugees suffer from an absence of job security which they might otherwise enjoy under a longer-term or indefinite employment contract. As it is, employers have no reason to expect that the refugee will be able to remain in the country beyond the proscribed period. Secondly, if refugees only have a short time remaining on these cards when seeking a new job, they may be excluded from certain jobs altogether since some employers may not be able to grant initial short-term contracts of only a few months. Indeed, such cases were reported to UNHCR in 1999.

Also related to these identity/residency cards, the inability of some recognized refugees in the past to obtain these cards (due to the fact that they could not provide a formal address of domicile), affected some of their most basic rights, including their right to employment as they could not be legally employed without such residency cards. This problem is further aggravated by the fact that it may in theory reoccur on a yearly basis, when the residency cards must be renewed. It would appear that at present, this problem is being successfully managed on a practical level through the assistance of NGO social workers and the refugee housing program, though continued attention must be paid to this issue so as to avoid it becoming a problem again in the future.

7. Slovenia

Situation until August 13, 1999

Recognized refugees are automatically entitled to a one-year renewable work permit without any restrictions, and to register with the Slovene Labor Office in order to seek employment. However, Slovene citizens have employment priority over recognized refugees, and the latter over other foreigners.¹⁹⁵ Despite the lack of experience with such programs, it would appear that recognized refugees are in principal, eligible for the re-qualification and vocational training courses offered by law to unemployed persons.

No specific domestic provisions exist with regard to self-employment, or liberal professions. The same standards and work permits governing wage-earning employment also cover self-employment, while liberal professions require additional conditions. The requirements for setting up a private business appear to be potentially difficult to meet for recognized refugees, since knowledge of the Slovene language and relevant diplomas in the given field are required.

Given the very small number of recognized refugees in Slovenia to date,¹⁹⁶ there is insufficient experience from which to draw conclusions with regard to the practice in relation to employment issues. UNHCR and relevant NGOs provide general integration assistance to these recognized refugees, though no specific employment assistance programs exist at present.

New Law on Asylum: Situation as of August 14, 1999

The situation of refugees with regard to employment is much improved in the recently adopted Law on Asylum, which provides that recognized refugees and their close family members are accorded the same rights to employment as Slovenian citizens. This includes the right to access national employment assistance programs. One exception to this standard of treatment is that, unlike nationals, refugees continue to be required to have a work permit. According to the law however, they are to be issued personal working permits *ex officio* based on the final decision granting them refugee status.¹⁹⁷

¹⁹⁵ Arts. 6 and 12, Law on the Employment of Foreigners.

¹⁹⁶ There were a total of two recognized refugees in Slovenia as of November 1998, though the country was host to 15,000 refugees and other persons of concern, which include asylum-seekers, persons under temporary protection, and persons without legal status. The latter categories of persons however, have either no right or only a very limited right to employment.

¹⁹⁷ Arts. 54(1), 47 and 54 (2) respectively, Law on Asylum, Official Gazette of the Republic of Slovenia No. 61/99, July 30, 1999, entry into force August 14, 1999 (unofficial UNHCR English translation).

In the context of the government's new integration responsibilities in this new law, recognized refugees are also to be offered the opportunity for courses and other forms of further education and vocational training, language courses and general assistance in integrating into the cultural, economic and social life of Slovenia.¹⁹⁸

¹⁹⁸ Art.19, Law on Asylum, Official Gazette of the Republic of Slovenia No. 61/99, July 30, 1999, entry into force August 14, 1999 (unofficial UNHCR English translation).

MAIN INTERNATIONAL STANDARDS**Convention Relating to the Status of Refugees of 28 July 1951****Article 21***Housing*

As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favorable as possible and, in any event, not less favorable than that accorded to aliens generally in the same circumstances.

International Covenant on Economic, Social and Cultural Rights of 16 December 1966**Article 11(1)**

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

Universal Declaration of Human Rights of 10 December 1948**Article 25(1)**

Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

HOUSING

PART I: HOUSING

1. International Standards

As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favorable as possible and, in any event, not less favorable than that accorded to aliens generally in the same circumstances.

1951 Convention, Article 21, Housing

This article in the 1951 Convention is intended to deal with the question of rent control and assignment of apartments and premises, as well as participation in home financing schemes. The obligation to respect this standard of treatment with regard to housing is imposed on the state, as well as on all other relevant public authorities, such as municipalities. According to one interpretation of article 21, if housing functions entirely on the basis of private enterprise, the state does not have any obligation to pass laws specifically ensuring suitable housing for refugees. However, if housing is subject to regulations and the control of administrative authorities, it must ensure that these laws or regulations accord refugees the most favorable treatment possible, which should never fall below that granted to aliens generally. This provision therefore imposes a standard which goes beyond the negative duty not to discriminate against refugees.¹⁹⁹

In the event that this subject is dealt with by both this Convention and another applicable international agreement to which the same state is a party, the refugee should receive the treatment which is the most favorable.²⁰⁰ The ILO Convention concerning Migration for Employment (No. 97) of 1949, for example, contains a more generous standard²⁰¹ and grants legal migrant workers (which may include

¹⁹⁹ A.GRAHL-MADSEN, *supra* note 8, at 84.

²⁰⁰ N. ROBINSON, *supra* note 11, at 102.

²⁰¹ Art. 6, ILO Convention concerning Migration for Employment, No. 97, 1949, entry into force January 22, 1952.

refugees who beyond seeking protection also fit the definition of a migrant worker) treatment equal to that of nationals with regard to accommodation.²⁰² This does not include equal treatment in access to home ownership and public financing schemes that may exist to facilitate it, however.²⁰³ This provision is to be implemented without discrimination as to nationality, race, religion or sex, and like article 21 above is applicable to the extent that housing is subject to the control of administrative authorities or is regulated by law.²⁰⁴

A further discrepancy between the 1949 ILO Convention and the 1951 Convention is that the latter uses the broader term housing instead of accommodation, which can be interpreted as including participation in housing programs or schemes of various types (e.g., home financing schemes for actual construction) beyond simply access to a dwelling place.²⁰⁵

Both the Universal Declaration on Human Rights and the International Covenant on Economic, Social, and Cultural Rights include a very similar provision, which specifically mentions the right of everyone, without discrimination, to an adequate standard of living, including adequate housing.²⁰⁶ The Covenant's monitoring Committee and the HRC may however permit states a certain amount of discretion to differentiate in favor of their own nationals, unless such differentiations are unreasonable.²⁰⁷

Interestingly, the right to housing is the only right in the ICESCR on which the monitoring Committee has issued a General Comment. In General Comment 4, the Committee stressed that this right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one's head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity.²⁰⁸ Some aspects of the right to housing which the Committee has focused on include, *inter alia*, the rights of tenants, the need to construct low-income housing, the lack of domestic remedies for housing rights violations and protection from discrimination.

²⁰² For further details on the scope of this Convention see J. A. Dent, *supra* note 111, at 112; and the section on International Standards in Chapter II.

²⁰³ J. A. Dent, *supra* note 111, at 112.

²⁰⁴ A.GRAHL-MADSEN, *supra* note 8, at 83.

²⁰⁵ A.GRAHL-MADSEN, *supra* note 8, at 84.

²⁰⁶ Arts. 2 and 25(1), Universal Declaration of Human Rights, G.A. Res. 217 A (III), December 10, 1948; Arts. 2(2) and 11(1), International Covenant on Economic, Social and Cultural Rights, G.A. Res. 2200 A (XXI), December 16, 1966, entry into force January 3, 1976.

²⁰⁷ J. A. Dent, *supra* note 111, at 108.

²⁰⁸ J. A. Dent, *supra* note 111, at 108, quoting from the Committee on Economic, Social, and Cultural Rights, General Comment 4, para. 7.

Further, the Committee considered the following actions as justifiable at the domestic level: legal appeal against and compensation for illegal evictions; complaints against landlords regarding rent levels; maintenance of housing and adequate living conditions; and discrimination in access to housing.²⁰⁹

The Covenant on the Elimination of All Forms of Discrimination Against Women (hereinafter CEDAW), which extends to all women, including recognized refugees, contains a provision, namely, article 14, which grants rural women the right to adequate housing in the wider context of the right to adequate living conditions. In the case of children, article 27 of the Convention on the Rights of the Child (hereinafter CRC) requires the state to also provide adequate housing to children in need of material assistance.

At the European level, while the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter ECHR) does not contain a right to housing, both the Commission and the Court have considered the issue of housing in several cases.²¹⁰ The Commission has held that public authorities are required to ensure that they do not impose intolerable living conditions on a person, and the Court has held that article 1 of Protocol 1, regarding the peaceful enjoyment of possessions, does not preclude measures such as rent controls, which are intended to promote greater social justice. The Commission has also declared, however, that states do not have a legal duty to provide housing to their citizens.²¹¹

The European Social Charter, as seen in the previous chapter, incorporates through an Appendix the standards contained in the 1951 Convention as well as other international instrument applicable to refugees, and further states that Contracting States are to generally accord refugees treatment as favorable as possible.²¹² In case of need, refugees can therefore use the supervisory and complaint mechanisms of the Charter to enforce their rights under the 1951 Convention.

Besides the rights incorporated through the Appendix, the main body of the Charter also contains article 13 on the right to social assistance, which although it is not explicitly mentioned may be assumed to include housing, and article 19(4)(c) requiring equal treatment with respect to accommodation between citizens and migrant workers who are nationals of States Parties. However, as discussed in

²⁰⁹ J. A. Dent, *supra* note 111, at 109-110.

²¹⁰ See also J. A. Dent, *supra* note 111, at 114, footnote 439 (*Gillow v. UK*, Series A, No. 109, March 16, 1987; *Buckley v. UK*, Series A, 1271/96; and *Akhdivar and others v. Turkey*, Series A, 1192/96).

²¹¹ J. A. Dent, *supra* note 111, at 114.

²¹² Paragraph 2, Appendix, Scope of the Social Charter in terms of persons protected, European Social Charter, ETS No. 35, October 18, 1961, entry into force February 26, 1965.

Chapter II, the rights in the body of the Charter itself only extend to refugees who are nationals of a Contracting State and are lawfully resident or working in that state. Since such cases are rare, these provisions are not likely to be relevant to most refugees.²¹³ A similar situation exists with regard to the European Convention on the Legal Status of Migrant Workers, which in principle also only applies to nationals of Contracting States, which recognized refugees are not likely to be.

2. Comparative Analysis

Beyond the question of whether the standard of treatment accorded to refugees by virtue of the above international instruments is respected in the selected countries in the region, we will also address other aspects of the housing issue in this Chapter. These include, a discussion of any legal provisions or refugee-specific state assistance designed to help refugees secure both temporary and permanent accommodation in their host country, as well as an examination of the general problems related to housing in this region and how these have affected recognized refugees.

In response to the difficulties inherent in accessing affordable housing in the countries under consideration, some special housing programs for refugees have been undertaken, including some joint government-UNHCR projects. Some of these projects will also be analyzed in this Chapter, including with regard to their implementation in practice, their method of operation, and some of their strengths and weaknesses. Persons interested in obtaining detailed information on these housing programs should refer to the Individual Country Profiles section.

Legal Standard of Treatment with Regard to Housing

All seven selected countries in this study grant recognized refugees access to housing on the same terms as nationals²¹⁴, a standard of treatment which surpasses the minimum requirement contained in article 21 of the 1951 Convention. Indeed, with the exception of refugee-specific housing assistance and programs offered by some governments, no domestic legislation provides for differing treatment between nationals and refugees with regard to housing. Hence, in principle, recognized refugees are eligible to apply for state-regulated housing and low-income housing projects on the same conditions as citizens.

²¹³ J. A. Dent, *supra* note 111, at 114.

²¹⁴ While most countries under consideration grant refugees the residency status and rights of permanent residents, rather than nationals, permanent residents essentially do have all the rights of citizens (with the common exceptions of the right to vote, be elected and military duty). This is also true of the right to housing.

In practice however, the shortage of such housing, a situation which prevails throughout the entire region, means that refugees actually have little chance to secure affordable housing on their own. Complicated procedures and long waiting periods, as well as other persons deemed to be in greater need, have also been cited as additional reasons limiting the access by refugees to state-regulated or other affordable housing schemes.

Legal Provisions Granting Special Housing Assistance to Recognized Refugees

In acknowledgement of the difficult housing situation, and particularly the chronic shortage of flats available under affordable housing frameworks, some governments in the region have specifically provided for special housing assistance to refugees in their legislation. Legal provisions to this effect have been adopted in the Hungarian, Slovenian and the draft Czech Asylum law. Governments in these asylum countries have, therefore, committed themselves to guarantee permanent housing assistance to recognized refugees. This is provided in addition to the provisional accommodation at refugee centers, a temporary solution granted to refugees immediately upon their recognition by most of the countries under consideration.

More specifically, the new Slovenian Asylum Law provides that recognized refugees are to have the right to be allocated basic housing, though they lose this right to housing assistance if they refuse the accommodation which is offered. In the Czech Republic, the draft Refugee Law officially incorporates the existing refugee housing program into law, which also consists of a one-time accommodation offer by the government. As seen below however, despite a similar legal provision, the actual programs are not analogous in any other way. In Hungary, both the Asylum Law and the Decree on Care and Maintenance provide for special assistance programs for refugees, many of which are specific to housing. Benefits related to the housing needs of refugees include: contributions to the cost of living; an installation grant; as well as a home-creation, and residential assistance benefits for refugees meeting stipulated conditions.

By contrast, the Slovak and Polish legislation only provides for temporary accommodation immediately upon the recognition of refugee status. The legal provision in the Slovak Refugee Law provides for continued accommodation in the Refugee Center only for the necessary period of time, during which if employed, the refugee must cover his expenses. And the Polish Aliens Law contains a similar provision stipulating that in exceptional cases, refugees may be granted the basic necessities of life for up to three months, including accommodation in the refugee center.

The Romanian and Bulgarian legislation contains no specific provisions on either temporary or permanent housing assistance for recognized refugees.

Practical Obstacles in Securing Housing

While recognized refugees may have the same legal rights to housing as nationals, including state-regulated housing, and in a few of the selected countries they may even benefit from legal provisions granting them special assistance, housing still represents one of their most pressing problems.

In addition to the scarcity of state-regulated and alternative types of affordable housing, other problems related to housing include the following: a shortage of housing in general, resulting in high rents and purchasing costs, particularly in large cities; a lack of affordable housing compatible with employment opportunities; the absence of effective protection and rent control in the private market; the demand by landlords for large deposits; and the reluctance or refusal by some landlords to grant tenants an official lease or to register rentals with the local government office. The first two problems in particular affect refugees across the region, so that those living in large cities where they have the most chances to find work often find that their income is simply insufficient to meet their basic needs due to high rents, and those residing in smaller towns and rural areas may have a lower cost of living but have few or no employment opportunities.

The demographic patterns of refugees in the region vary considerably between countries. In Bulgaria and Hungary for example, it appears that the vast majority of recognized refugees live in the capital, whereas in Slovakia only an estimated 15% reside in Bratislava, and in the Czech Republic approximately 30% of recognized refugees are believed to be living in three of the largest cities in the country. As we shall see below, many factors, including refugee housing assistance programs, affect this pattern.

Invariably, the high rents which are characteristic of the private housing market in the region, especially in urban areas, are extremely disproportionate to salaries or state social benefits. For example, in Poland the lowest monthly rent for a studio apartment on the free market in Warsaw is approximately 400 USD, while the average monthly salary is approximately 300 to 350 USD, in the Czech Republic, a one-bedroom flat in Prague is approximately 260 USD while the average salary is 400 USD, and in Romania, an equivalent apartment is approximately 100 USD, while the average wage is approximately 92 USD. Unlike nationals, who often either continue to benefit from state flats that they have been living in for many years (indeed, these are frequently transmitted from generation to generation), or who have the advantage of a network of family and friends on whom they can rely for assistance in case of need, refugees have no such pre-existing housing arrangements or support systems. Thus, even for refugees who are employed, achieving economic self-sufficiency continues to present a nearly impossible challenge, if they cannot also secure affordable housing.

The difficulty in securing official leases and in having landlords register one's place of residence with local authorities, a difficulty which is often due to a desire by some landlords to avoid both taxation and granting tenants full rights under the law,²¹⁵ also presents particular problems for refugees. Indeed, as aliens, refugees are frequently subject to tighter regulations regarding registration of domicile, and to the issuance and regular renewal of identity/residency cards for which evidence of an official address of domicile is necessary. Without an official place of domicile, they may be unable to secure an identity/residency card, and thus be effectively unable to exercise many of their most basic rights (such as the right to employment or social assistance benefits) since the identity cards are proof of their legal status in the host country.

While nationals are often also subject to similar requirements, unlike refugees they have the advantage of being able to rely on a former place of domicile/permanent residence, even if they have changed addresses. While this problem has been of special note in Poland and Slovakia in the past, it poses a potential difficulty for refugees who must secure accommodation in the private market in most countries in the region since they have essentially the same procedures regarding registration of domicile and identity cards. Beyond the issue of securing accommodation *per se*, this is therefore another reason for giving priority to the development of refugee housing assistance programs in the selected countries in the region.

State Practice and Programs

Although housing, and especially housing compatible with employment opportunities, is one of the most chronic problems plaguing the integration of refugees in this region, there is relatively little state assistance provided by governments in this field.

No state-funded permanent housing programs for refugees currently exist in Bulgaria, Poland or Romania. The only housing assistance provided to recognized refugees, is the possibility of continued temporary accommodation in refugee centers for asylum-seekers after recognition in Poland, a possibility which also existed in practice in Romania until the beginning of 1999 when the Gociu camp for asylum-seekers was closed.

²¹⁵ One of the requirements imposed on landlords in both Slovakia and the Czech Republic, for example, demands that they find a flat of equivalent quality, size and rent for a tenant with whom they wish to terminate a lease. In practice, this represents a difficult condition for landlords to meet, and is one of the primary reasons for their refusal to grant some tenants a formal lease or authorization to reside in the flat.

In the latter two countries however, plans for refugee-specific housing assistance to be provided in the future are underway or in the process of being elaborated. In Romania, a joint project between UNHCR and the government to renovate a state building in Bucharest is expected to provide accommodation for 350 persons with state-regulated rents. Half of the units are to be offered to asylum-seekers and the other half to recognized refugees, with priority being given to vulnerable refugees. At present, UNHCR envisions this arrangement as suitable principally for the temporary accommodation of recognized refugees and would like to encourage its use as such, rather than as a permanent housing solution. The renovation of the building is expected to be completed sometime during the year 2000.

The discussions regarding housing assistance in Poland have included as alternatives to the open market the following: the use of sojourn centers run by social care organizations which could be used for the first twelve months; accommodation centers for recognized refugees where Polish language courses, counseling and other services could be provided; and the renovation of municipal properties which would then be offered as affordable housing for refugees. However, no conclusions or concrete plans appear to have been reached as of yet.

To our knowledge, there are no immediate plans for state housing assistance to refugees under consideration in Bulgaria either. In fact, the only indirect assistance which refugees may benefit from is that of being able to stay on after recognition in the accommodation which the Bulgarian Government may have provided them while they were asylum-seekers, on the condition that they assume the rental costs.²¹⁶ Preparations for the submission of a Phare project proposal intended to finance an affordable housing project for recognized refugees and vulnerable Bulgarian families have been underway with the assistance of UNHCR for some time, though it is uncertain when this application process might be completed.

In Slovenia, despite the fact that the new Asylum Law provides for the right to basic accommodation for recognized refugees, no new developments have taken place on the program front, and are perhaps unlikely to take place given that the very small number of recognized refugees in the country to date. In the past, recognized refugees have simply been offered a room in a home for migrant workers situated outside the capital, where no other integration assistance is available. Thus far this offer was not accepted by the refugees, who were granted a housing allowance of approximately

²¹⁶ The Bulgarian Government implements a housing program through which they identify and provide affordable housing to asylum-seekers. However, this program does not possess the necessary resources to actually meet the demand for such housing.

35 USD per month instead, and with some additional financial assistance from UNHCR, were able to secure alternative accommodation in Ljubljana. As such, given the very limited experience with refugee housing assistance to date, Slovenia cannot be considered to have a definable practice or housing program yet.

Indeed, the Czech Republic, Slovakia and Hungary are the only countries to date which have functioning housing assistance programs for refugees, out of which, the state program in the Czech Republic appears to be the most effective and long-standing practice in the region. The governments of these three countries provide both temporary and permanent housing assistance in a variety of forms. Below are some of the highlights of these state-assistance programs.

Czech Republic

The Czech Republic, which began providing housing and integration assistance to recognized refugees in 1991,²¹⁷ has not only one of the oldest refugee housing programs in the region but also the most successful of its type. This success is due, in no small measure, to the sustained financing of the program by the government over the years, but also to their continued efforts at refining and improving the program.

Immediately upon recognition, refugees are provided accommodation at state-regulated rates in one of four existing integration centers where they may reside for six months (though this period is generally extended) and where they receive support in the form of free language classes and counseling. This support and initial orientation into Czech society is provided both by government and PPI social workers. During their time in the integration center, refugees begin living independently again and are encouraged to seek employment or apply for social assistance benefits if they cannot find a job immediately, as well as to search for permanent housing. In general, they are permitted to remain in the integration center until they find their own private accommodation or a permanent housing alternative has been identified and proposed to them as part of the state housing assistance program, a process which frequently takes a year, though this waiting period varies considerably depending on the needs of the refugee and his family and the type of accommodation that is identified.

Under the permanent housing assistance program, a one-time offer of housing, either a flat or a house, is made to a recognized refugee and his family. If the offer is accepted, the refugee then benefits from a right to reside in the premise for a maximum period of ten years, with a state-regulated rent which he pays himself. The

²¹⁷ When it was still the former Czechoslovakia.

process of securing and financing the housing for this program is explained in detail in the Czech country profile in this chapter. Suffice it to say, that housing is usually obtained through housing offers which are made by local communities in return for a financial contribution from the state, part of which goes towards the general infrastructure of the community, and the other part to either the rehabilitation of the flat itself or a reconstruction fund which the municipality may use at its discretion.

The program that was restructured in 1994, essentially led to the program that exists today. Subsequent improvements, however, continued to be made. One such recent improvement to the program included a substantial increase of the amounts of the financial contributions made by the state to participating communities and individuals who have offered housing in the context of this program, but also important, was the added flexibility in the manner in which these financial contributions could be used. Other notable changes brought to the program include the transfer of the implementation of the program from the government to PPI in 1998, and the formal inclusion of the state housing program in the draft Refugee Law, which is expected to be adopted by either the end of 1999 or the beginning of the year 2000.

The facts that the participation by local communities in the scheme is voluntary, and that some of the funds at least are to go towards improving the general infrastructure of these communities, have also been viewed as positive aspects of the program in that they promote a climate of hospitality for refugee beneficiaries moving into new towns, rather than one of resentment. As discussed in the individual country profile, some argue that a mandatory quota of housing offers for refugees should be imposed on large cities where jobs are more readily available, such as Prague, but where both local authorities and private persons are more reluctant to offer housing on a voluntary basis. The new approach by PPI to encourage refugees to be proactive in seeking their own housing offers, may yet be another creative initiative which empowers the individual, and has the advantage of sometimes already being linked to job prospects or social ties.

As stated above, since 1998 the state permanent housing program has been implemented by PPI, rather than the Ministry of Interior. Under this program, PPI is in charge of identifying and soliciting appropriate housing, matching particular housing with specific refugee beneficiaries, and making recommendations to the government. The transfer of the implementation of the program to PPI, has yielded positive results to date including, a substantial increase in the number of flats and houses secured for the program, and an encouraging increase in housing offers in large urban centers and towns. In addition, as PPI is exclusively mandated to focus on the integration of recognized refugees, refugees get the benefit of a more individualized and specialized service by social workers who are able to follow every facet of their integration process, from orientation sessions, special needs, to housing and employment.

While securing housing compatible with employment possibilities continues to pose an on-going challenge to PPI social workers, and is the most pressing integration problem for refugees given that the overwhelming number of housing offers are still made by private persons or municipalities in the countryside and small towns where unemployment rates are generally much higher, this situation has improved considerably in the last two years due in part to more vigorous efforts soliciting large municipalities and to more attractive financial terms. The positive trend since 1997 appears to be continuing, and in 1998 and 1999 more flats were secured in Prague, Brno, Plezen, and Usti nad Labem.

The ability of the program to meet demand for housing has also increased significantly. During 1998 and 1999 alone, 109 flats were secured for this program,²¹⁸ for a cumulative total of 210 flats secured since the start of this program in 1994. By 1998, the total state expenditure for this housing program was of 27,270,000 CZK (779,143 USD).

Several recommendations have been made by experts in the field on how to further improve the housing program, and are discussed in the Czech Country Profile at the end of this chapter, where a more detailed description and analysis of the program is also provided. Readers interested in the issue of refugee-specific housing programs should, therefore, refer to the Czech country profile for a more comprehensive understanding of a program which represents one of the most successful models of refugee housing assistance in the region to date.

In addition to this specific program, recognized refugees in the Czech Republic who are deemed to be in need are also eligible for a state housing allowance in the context of the national social assistance system on the same terms as nationals.

Slovakia

In Slovakia, recognized refugees in need of assistance following their recognition may continue residing for a period of six months at one of two centers (a refugee and an integration center) run by the Slovak Migration Office. Beyond this temporary accommodation, in 1996 the Migration Office and UNHCR initiated a collaborative project managed by the former, which is similar to the housing program in the Czech Republic in that it is intended to provide rehabilitated state flats made available by local communities to recognized refugees at state-regulated rents, which are paid by the refugee. UNHCR has funded a significant proportion of the costs for

²¹⁸ Please note that for 1999, figures were only available until the month of November. Also note that the housing program provides housing for handicapped Bosnians (formerly under temporary protection) and for recognized refugees so that some of the flats have also been allocated to the former.

housing projects undertaken from 1996 to 1999, for a total of 14 977, 667 SLK, as compared to the 5 977 318 SLK allocated by the Slovak Government over the same period.

This housing program has not been entirely successful to date however, due to a variety of factors including, most notably, hostility towards receiving refugees within one of the principal communities participating in the program. The housing project begun in the town of Lucenec in 1997, was followed by a second reconstruction project in this same town in 1998, after the problems mentioned above had already become apparent. This led to a high concentration of rehabilitated flats for refugees on the same street and in the same hostile town. In fact, as of 1999 Lucenec was still the town with the highest concentration of flats secured for refugees under this program, although of the twenty-two flats, only six are occupied due to the refusal of refugees to move there. Also unfortunate, is that these twenty-two flats represent a significant proportion of the total fifty-nine flats which have been made available to recognized refugees under this housing program from 1996 to 1999.

In addition to the problems presented by the housing project in this specific town, other weaknesses of the program have been attributed to the implementation of the housing rehabilitation scheme in regions suffering from some of the highest rates of unemployment in the country, as well as to the lack of proper guidelines and selection criteria governing the housing program as a whole. The development of such guidelines are especially necessary with respect to the rules regarding the distribution of the rehabilitation funds; the procedure for identifying appropriate flats, suitable regions of the country, and for allocating flats to refugee beneficiaries; and the development of a quality control mechanism regulating the rehabilitation of these flats. Moreover, UNHCR, NGOs and refugees should be consulted and involved more closely in the above procedures and decisions.

The housing program has also revealed a limited capacity for providing sufficient flats to meet the needs of the population of recognized refugees in Slovakia, both in terms of the actual numbers and size of the flats. Indeed, the fifty-nine flats (of which twenty-two are in an unsuitable community) made available to refugees under this scheme can only assist a small percentage of the 330-340 recognized refugees still residing in Slovakia as of November 1999. Moreover, while a project for the renovation of ten flats in Bratislava has recently been completed, the flats appear to be very small, so that they are only suitable for a single person rather than refugee families who could perhaps benefit most from being in the capital where they have better employment prospects to support family members. Encouraging however, is a new housing project undertaken in 1999 for the renovation of 17 flats in the town of Kosice, which included the collaboration of local authorities, the Migration Office, UNHCR and a local NGO. The second largest city in Slovakia, Kosice boasts relatively good integration conditions for refugees. The renovation of the flats is expected to be completed by mid-2000.

Hungary

Much like several of the other countries under consideration, Hungary grants newly recognized refugees temporary accommodation for six months at the reception center for asylum-seekers. This period may be prolonged for another six months, or even longer with permission from the Hungarian refugee authorities.

On the other hand, the *permanent* housing assistance program in Hungary, is very different from both the Slovak and the Czech model, as it concentrates on providing financial assistance instead of offers of actual housing. Once the refugee has moved from the reception center, he is then eligible for a number of government grants and material assistance programs, many of which are intended to assist directly or indirectly with housing and settlement costs.

According to the 1998 Decree on Care and Maintenance, refugees who are deemed to be in financial need and who do not own property are eligible for a regular government contribution to their cost of living for a period of up to five years, as well as a monthly residence benefit, which may be granted for a period of six months (extendable) and is intended to cover a significant percentage of the monthly rent. By virtue of the same Decree, a one-time settlement grant may also be provided by the Refugee Office upon request of the refugee. This grant may be requested within six months of recognition, as well as upon the birth of a child or arrival of an immediate family member, and upon leaving the reception center.

Finally, refugees are eligible for a home-creation benefit, also in the form of a one-time interest-free loan, which seeks to help refugees either purchase their first home or construct/renovate a house or flat. The loan may be extended for a period of one to fifteen years and must in principal not exceed 70% of the total cost of either the purchase or construction costs, for a maximum loan of 700,000 HUF (2,800 USD) for a family of four.

In addition to these refugee-specific assistance programs, refugees are also eligible for social welfare assistance benefits on the same terms as nationals, including programs specifically providing housing assistance.

A large number of refugee families, most of whom are ethnic Hungarians, have been able to take advantage of these programs in the past, and in particular, the home-creation and residence benefits and the settlement grants, indicating both a need for such programs and a willingness on the part of the government to implement them in practice. It is hoped therefore, that the program continues to be equally successful with regard to the new non-European refugees to be recognized under the new Hungarian Asylum Law.

As seen above, refugee-specific state housing programs differ considerably from country to country, such that some programs offer only temporary accommodation,

while others such as Hungary offer also financial and material assistance towards settlement and permanent housing costs, and yet others, namely Slovakia and the Czech Republic, provide recognized refugees with actual offers of affordable housing in the form of specific flats or houses. However, despite the existence of some state housing program, the assistance provided by NGOs and UNHCR in this field in all the selected countries in the region, continues to be vital, whether it complements government programs or represents the only housing assistance to which refugees have access.

UNHCR and NGO Programs

The principal NGOs providing housing assistance to refugees in the selected countries in the region are UNHCR implementing partners, with occasional assistance also provided by Churches and other charity groups primarily in the form of temporary or emergency accommodation in shelters. NGO and UNHCR housing assistance programs generally consist of financial aid and/or assistance in identifying suitable housing. Where government programs are in place, such as in the Czech Republic, Hungary and Slovakia, the assistance on the part of NGOs is of course more focused and is intended to provide help with aspects of housing which are not already covered by state programs. In many of the countries under consideration however, and especially in countries providing little or no state assistance, housing is perhaps the single most pressing integration issue, taking up most of the energy and resources of both refugees and NGOs.

As already mentioned, in the Czech Republic, the NGO, PPI, implements both the state refugee housing program and non-governmental integration assistance projects, such as those funded by UNHCR. One such project provides a moving in allowance intended to help refugees in need with the costs of initially setting up a home, such as for the purchase of basic furniture. In Slovakia, UNHCR also funds installation or rental grants intended to help defray the housing costs of refugees who have not already received similar support, such as in the form of student scholarships or permanent accommodation by the Ministry of Interior in the context of their housing assistance program. Because the Slovak Government's housing program is not sufficient to grant every recognized refugee accommodation, NGOs also offer concrete assistance by identifying suitable housing in the context of their general counseling services. Given the focus on financial assistance of the Hungarian government housing program, NGOs provide mainly assistance in identifying affordable housing.

In Slovenia, UNHCR has granted supplementary financial assistance to recognized refugees, who having decided not to accept the government offer of accommodation have found housing on their own initiative.

UNHCR-funded NGO programs in the remainder of the selected countries, namely, Bulgaria, Poland and Romania, all offer both financial assistance and help in

locating affordable flats, mostly in the private market as it is nearly impossible to obtain a state-regulated municipal flat given their limited number and the high demand. As discussed above, there are as of yet no functioning state programs to assist refugees with the issue of housing in these countries.

Hence, in Bulgaria, NGOs provide help in identifying housing, and also financial aid under a sliding scale assistance program, which, while not specifically intended for housing costs may be used to defray this expense. UNHCR has been exploring the idea of allocating accommodation grants and of restructuring its financial aid package in order to encourage refugees to reside outside Sofia and in the countryside where the cost of living is cheaper. According to this new scheme, which would commence implementation in the year 2000, three different types of assistance packages would be offered to refugees. Refugees deciding to live outside the capital, i.e., in small towns and the countryside, would receive a more advantageous financial assistance package, including a much more generous housing allowance which could be granted for a duration of up to two years for those in the countryside, while refugees in the capital would only qualify for a three-month accommodation assistance benefit.

Refugees in Poland also receive limited financial assistance from UNHCR implementing NGOs to help cover rental costs and utilities, in addition to assistance in locating flats, again mostly in the private housing market. Romania has a similar program, whereby assistance in the identification of housing, as well as installation grants and material support are provided to needy and vulnerable refugees to help them cover the first few months of rent and the purchase of furniture. The program in Romania places a priority on providing housing assistance to refugee families, as their housing needs are often more difficult to meet than those of single persons. It also gives priority to recognized refugees who demonstrate a willingness to integrate into Romanian society by fulfilling other conditions, such as, ensuring that children attend school regularly, registering with the employment office and participating in the NGOs employment programs, and attending language courses. By the end of 1998, 170 grants had been allocated to families totaling 360 recognized refugees.

For many refugee-assisting NGOs in the region dealing with integration, a substantial percentage of their workload pertains either directly or indirectly to the issue of housing. In a region where the shortage of affordable urban housing is a chronic problem, a great deal of resources have been necessary in order to ensure that recognized refugees are provided a minimum of assistance in this field. However, more concerted efforts are necessary. This is especially true because of continued privatization, expected increases in state-regulated and private market rents, and a reluctance on the part of some governments to adopt proper regulations and

protection for tenants in the private sector, all which render dubious the prospects for improvement in the housing sector in the short- and medium-term future. More comprehensive strategies, rather than *ad hoc* responses, are therefore necessary if we are to meet the challenge of providing affordable housing for the increasing number of recognized refugees who are expected to settle in these host countries.

Table 4:
Right to Housing for Recognized Refugees²¹⁹

	ACCESS TO HOUSING	REFUGEE-SPECIFIC STATE HOUSING ASSISTANCE ^①		COMMON HOUSING PROBLEMS			
		Same Rights as nationals ²²⁰	Temporary accommodation	Permanent housing	High rents in urban areas	Shortage of affordable housing	Affordable housing not compatible with employment
Bulgaria	✓	✗	✗	✓	✓	✓	✓
Czech Republic ^②	Current RefLaw: ✓ Draft RefLaw: ✓	✓	✓	✓	✓	✓	✓
Hungary ^②	✓	✓	✓	✓	✓	✓	✓
Poland	✓	Only in exceptional cases	✗	✓	✓	✓	✓
Romania	✓	✗	✗	✓	✓	✓	✓
Slovakia	✓	✓	✓	✓	✓	✓	✓
Slovenia ^{②③}	✓	✓	✓	N/A ^④	N/A	N/A	N/A

✗ Yes ✓ No

^① This assistance also covers joint government/UNHCR programs which benefit from UNHCR financial assistance.

^② Refugee-specific assistance for permanent housing is provided for in the relevant domestic legislation of these countries. In the case of the Czech Republic it is provided in the Draft Law on Asylum.

^③ Housing offer is not characterized as either temporary or permanent.

^④ N/A, refers to not applicable. Given the very few numbers of recognized refugees in Slovenia, there is insufficient information regarding their housing problems, though it is expected that the housing situation in Slovenia is quite similar to that of many of the countries under consideration.

²¹⁹ Please note that the information on housing provided below reflects the situation as of August 1999 and therefore includes the new Slovenian and Bulgarian asylum laws which came into effect during the month of August.

²²⁰ While most countries under consideration grant refugees the residency status and rights of permanent residents, rather than nationals, permanent residents essentially do have all the rights of citizens (with the common exceptions of the right to vote, be elected and military duty). This is also true with regard to the right to housing.

3. Recommendations

Housing, and especially affordable housing compatible with employment possibilities, is undoubtedly one of the most severe and pressing problems for recognized refugees in the region, affecting their very capacity for self-sufficiency and mobilizing much of their energy and resources as well as those of the organizations assisting in their integration process. Even when employed, the high cost of housing relative to their wages means that refugees are generally unable to secure a livelihood. Given this shortage of affordable housing, especially in urban areas, which exists in all the selected countries in the region, it could be argued that without well-defined and effective state and non-government housing assistance programs, the very institution of asylum may be in jeopardy with asylum-seekers and recognized refugees continuing to use the region simply as a transit area westward. In other words, the selected countries will continue to be perceived by refugees as economically non-viable asylum countries.

Indeed, this is further highlighted by the requirement in most countries in the region for proof of domicile when securing identity/residency cards, cards which serve to prove the refugee's legal status and legal entitlements in the host country and without which he is unable to exercise many of his most basic rights, such as employment and access to social assistance benefits. Without formal proof of a domicile, refugees are generally unable to secure these identity/residency papers.

Hence, it is imperative that affordable housing be treated as a priority objective of the refugee policy of these countries if their status as destination asylum countries is to be secured in the near-and medium-term future. Affordable housing, and housing compatible with employment, was rated by UNHCR and NGOs in the region as amongst the most severe, if not the foremost integration obstacle for recognized refugees, with the exception of Slovenia which does not have a significant enough number of recognized refugees. Even in the Czech Republic, the country with the best housing program to date, securing housing compatible with employment was still considered a serious problem, despite the fact that accessing affordable housing alone was not.

The following are some recommendations specific to the housing situation of recognized refugees in this region.

Need for a Comprehensive Study on Sustainable Housing Strategies for Refugees in the Region

In order to help interested organizations and national governments identify housing solutions, the commissioning of a study specifically on housing in the selected countries in the region is suggested. The study could draw on the current situation, make projections of future developments in this sector (fifteen year term)

based on legal regulations, market indicators and demographic patterns across the country, and research the most up-to-date approaches to the issue of affordable housing for vulnerable or marginalized groups which have been attempted both within and outside the region.

In order to ensure that it is appropriate to this region, such a project would have to take into account the limited financial capacity of the governments involved, the general employment situation in each country, and the potential marginalizing effect of some of the traditional affordable housing programs, a factor which cannot be underestimated with regard to refugees in this region and which must be avoided. The study would also suggest guidelines to be established between governments and other partners in joint housing projects.

Such a study could be undertaken by a consultant who is familiar with the region, housing issues, as well as with community revitalization projects, including those incorporating affordable housing. The study could then serve as a basis to inform the design of new affordable housing programs for both refugees and other vulnerable or marginalized groups in the region and in each country. As capitals and big cities in the region become increasingly congested due to large national migratory movements in search of employment from rural areas to urban centers, both housing and community revitalization programs will command more government attention in the future. As such, the research, findings and pilot projects emerging from such a project (which would be intended to identify suitable housing solutions for refugees) could also benefit governments for other groups besides refugees.

Possible funding sources for such refugee housing projects should be explored with the consultant and should be an integral part of the research. Finally, the refugee housing programs in Slovakia, the Czech Republic and Hungary should be carefully assessed, so as to determine the long-term advantages and effectiveness of different types of housing assistance, including purely financial assistance (as in Hungary) as opposed to actual offers of affordable accommodation such as those provided in the former two countries. The proposed program of providing financial incentives and special assistance to encourage refugees to move out of the capital and other major cities in Bulgaria should also be assessed for its long-term costs and viability.

Drawing from the Czech Housing Model

Whether in connection to the above study or independently the current state housing program in the Czech Republic, including its method of operation and the existing debates and recommendations for its improvement, may be of interest to governments and funders in other countries in the region. Readers interested in further information and an analysis of this program, which is the best practice in the region to date, should refer to the Czech Republic's individual country profile in this chapter.

Temporary Accommodation Immediately upon Recognition

Where permanent housing is not immediately available to newly recognized refugees, it is imperative that governments provide temporary accommodation. Beyond providing them shelter, housing is important in this region also because without proof of a domicile address and the identity/residency cards (which cannot be issued without the former) refugees cannot exercise many of the basic rights granted to them by virtue of both domestic and international refugee standards.

This accommodation should be for a period sufficiently long to enable the refugee to identify and secure permanent housing. Given the housing market in the region, an extendable minimum period of six months is recommended, during which any rent charged should be either state-regulated, or commensurate with social benefits or entry level wages.

Housing during this transition phase should not be in isolated areas, but should be in relatively large towns or cities, or at least in areas allowing for easy and affordable access to urban areas so as to allow refugees to seek permanent housing and employment possibilities.

If possible, it would be preferable to offer recognized refugees accommodation outside the reception/refugee camps for asylum-seekers in an environment that would promote a more independent life style at the same time as providing integration support services, such as, counseling and language courses.

In countries with very limited resources and which do not yet have adequate accommodation facilities for asylum-seekers or newly recognized refugees, a housing program which simultaneously answers the needs of both groups might be necessary. In this case, an active permanent housing assistance program for these newly recognized refugees should also be provided and their temporary accommodation at such a facility should not exceed six to twelve months, during which time they should be encouraged to live independent lives and pay a nominal rent.

Permanent Housing Assistance Programs Should Strive to Promote the Following:

(a) Affordable housing compatible with employment possibilities: promoting a general requirement for an integrated strategy to both issues.

Donors and governments should require that proposals for housing assistance projects automatically include an employment analysis and/or strategy in order to ensure a proper evaluation of the viability of the proposal for long-term integration. Other policy and program decisions should also be considered from the point of view

of whether they offer an integrated approach to these two issues. For example, as demonstrated by the NGO, PPI, in the Czech Republic, the advantage of having the integration program for recognized refugees implemented by one specialized organization is that they can offer a holistic approach in their services, so that at the same time that they administer the housing program they can also consider and offer adequate employment assistance. For further details regarding the issue of housing compatible with employment opportunities please also see Chapter II on Employment.

(b) Durable housing solutions for refugees offering guaranteed housing for a minimum of five years, but preferably longer.

(c) Possibility of exchanging apartments between refugee beneficiaries, and in exceptional cases, requesting a change of housing when this is required due to a pressing need, such as growing families.

(d) Avoiding marginalization and ghettoizing effect of certain housing strategies and sites, and projects which impose a heavy concentration of refugees in one area.

(e) Programs which, to the extent possible, contribute to local communities and garnish local support rather than resentment. Renovation projects which create housing rather than take housing away from local residents, or programs such as that in the Czech Republic which include a contribution to cooperating municipalities for their infrastructure and make local officials aware of the existence of refugees, rather than direct financial assistance to refugees are good examples of such strategies. This is especially important given that the housing shortage in the countries in the region is also acutely felt by host populations.

(f) The collaboration of state refugee agencies, local communities, UNHCR and local NGOs, in the implementation process of housing programs, especially with regard to the identification and selection of sites and buildings, and the discussions undertaken with local authorities and refugees. All of these actors should be involved, including refugees and local authorities themselves, in determining the suitability of the site and particular housing projects for the long-term integration prospects of refugees. In addition to socio-economic indicators, attitudes of local populations to foreigners and refugees should of course be taken into consideration.

Settlement Grants and Assistance with Household Furnishings

Settlement or Rental Grants

Settlement grants must continue to be offered, preferably by national governments but if this is not yet realistic by refugee-assisting agencies, since this type of assistance plays an important function in securing housing for refugees. This is

principally due to the fact that refugees generally do not have sufficient savings to permit them to affect the move from a refugee camp to their own accommodation and a self-sufficient lifestyle. Moreover, large deposits are habitually required by landlords in the private housing sector, especially in the case of foreigners. Frequently, settlement grants are therefore the only source of extra assistance which enable them to overcome these initial obstacles and establish a home for themselves.

Furnishings

Furniture and other household goods, which constitute considerable expenditures for refugees, are ideal items for in-kind donations. This should be taken advantage of and a program specially designed for this purpose is most probably feasible in all the selected countries. Such in-kind donations could be solicited from embassy offices, as well as their international staff who are subject to rotations, large companies, furniture manufacturers and retailers, department stores, private persons, including foreigners who may donate some of their furnishings upon leaving the country in question. A storage area could be rented for this specific purpose year round, but it is suggested that an annual one month long donation campaign could be organized with the help of volunteers in which solicitations, advertisements (including for example, in local newspapers for foreigners, NGO and Embassy circulars and newsletters) and pick ups could be arranged.

Address of Domicile or Permanent Residence

Suggested ways of dealing with the problem of providing a formal address of domicile, such as by granting a longer period of validity on refugee identity/residency cards, and accepting a *de facto* place of residence are provided in Chapter I and Chapter 7.

**PART II:
INDIVIDUAL COUNTRY PROFILES**

1. Bulgaria

Temporary Accommodation

No form of state assistance for the temporary accommodation of newly recognized refugees exists as of yet in Bulgaria. UNHCR is therefore the major source of assistance in this regard through its sliding scale assistance program described below.

Permanent Housing

Although no domestic provision specifically accords recognized refugees a right of access to housing, more generally applicable provisions guarantee this right on the same terms as Bulgarian citizens, both under the previous Ordinance on Refugee Status which granted them the rights of permanent residents²²¹, and under the new Refugee Law which provides that refugees have the same rights and obligations as nationals, unless otherwise provided by law.²²² The new Refugee Law also imposes an obligation on local governments and administrations to accept in their territory and enter into the registers for the population the refugees which have been granted refugee status and their families.²²³

In Practice

Despite having the same rights to housing as nationals however, it appears that in practice most refugees may not qualify for low-income housing schemes which are in high demand and are granted by municipalities based on financial need. While many recognized refugees may certainly be considered to be in need, according to UNHCR some municipalities have determined that there are Romanian nationals who have even less resources (such as the elderly) and should therefore to be given priority in the allocation of low-income housing.

²²¹ Arts. 2 and 23, Refugee Ordinance *supra* note 28.

²²² Art. 28, Law on Refugees (unofficial UNHCR English translation), XXXVIII National Assembly of the Republic of Bulgaria, May 27, 1999, entry into force August 1, 1999.

²²³ / 4, Additional Provisions, Law on Refugees (unofficial UNHCR English translation), XXXVIII National Assembly of the Republic of Bulgaria, May 27, 1999, entry into force August 1, 1999.

Hence, though no legislative barriers exist in the area of housing, factors internal to the domestic housing market such as high rents and the scarcity of affordable housing constitute important obstacles for refugees. This situation is aggravated by the fact that at the moment there is still no effective legal protection or rent control for those renting apartments on the private market in Bulgaria. Properties owned by the state or municipalities are of course subject to state-regulated rent, but as mentioned above the availability of flats in state properties is rare.

Housing Assistance Programs

Government Program

With the exception of *ad hoc* assistance in some cases, there are no government housing program for recognized refugees and no collective or individual accommodation facilities.²²⁴

However, the government Agency for Refugees does administer a housing program for asylum-seekers whereby, upon request, private accommodation is located for them. The Agency for Refugees receives and processes the requests for housing assistance, identifies and signs the leases with the landlord and pays the rent directly to him. Once recognized, refugees who wish to remain in this accommodation may do so by paying the rent themselves. The housing program for asylum-seekers is funded through a collaborative effort between the government and UNHCR, each of whom contribute 50% of the costs, though the government does not contribute anything in the case of recognized refugees.²²⁵ Unfortunately, this program does not have the capacity to meet the existing level of demand for affordable housing by asylum-seekers.

²²⁴ Government reception centers largely offering short-term logistical support to asylum-seekers arriving from Turkey on their way to Sofia and a building of the Agency for Refugees which since 1998 has accommodated approximately 200 asylum-seekers and a few refugees who have been allowed to remain there after being granted refugee status, are the only assistance granted by the government.

²²⁵ While this scheme has been welcomed by UNHCR as mitigating the problem of securing affordable housing for asylum-seekers, the Agency for Refugees does not possess the capacity to meet the current demands for housing, especially given the number of applications received and the budgetary constraints which oblige them to seek only the most affordable housing. Furthermore, the fact that it is the government that pays the rent (which in most cases also includes utilities) directly to the landlord, creates a bureaucratic process which proprietors dislike and see as a disincentive to engage in the scheme. As a result, landlords terminate leases or pressure asylum-seekers to leave, forcing them to change residences often which is particularly disruptive when children are involved and must also change schools as a consequence. Given these weaknesses in the housing scheme, fewer recognized refugees are likely to benefit from it by remaining in the same flats after recognition.

Non-Government Programs

The principle source of assistance with regard to housing for recognized refugees is therefore the UNHCR counseling and financial assistance program. Although the financial assistance program, which is based on a sliding scale principal, is not specifically intended for accommodation costs and indeed is not sufficient to cover the entire rental of a room or flat, it may nonetheless be used to help defray a portion of housing costs.²²⁶ Once a refugee is recognized, UNHCR assistance under this sliding scale program is reduced by 20% from what they received as asylum-seekers for the first six months and by 50% during the second six-month period.

For the year 2000, UNHCR is discussing the possibility of replacing the above program with one that would offer recognized refugees three different assistance packages, directed at encouraging them to establish themselves outside of the capital city. The first would be for refugees living in Sofia, and the second and third, which are more advantageous assistance packages, would be granted to refugees who elected to live in towns outside the capital and in the countryside. The latter would offer the most generous amount of assistance, particularly with regard to the housing allowance. Whereas in Sofia a recognized refugee would only be granted a housing allowance for three months, after which the sliding scale would commence, a refugee living in the countryside would be granted a housing allowance for a full two years.

In order for this program to work, government cooperation is essential, particularly at the level of municipalities who would assist UNHCR in identifying and securing affordable housing in these areas. Given the high unemployment rate outside urban centers, however, it has been suggested that this preferential assistance and accommodation package should target mostly vulnerable refugees who would in all likelihood not obtain or be capable of regular employment in any case, and who would at least benefit from the low cost of living in rural areas.

In addition to the above, UNHCR implementing partners also provide assistance to refugees in identifying affordable accommodation, an essential service in the tight housing market in and around Sofia where most asylum-seekers and refugees are concentrated.

²²⁶ For further details on this sliding scale program refer to the Bulgarian country profile in Chapter V on Public Relief and Social Security.

Future Projects

As of October 1999, the Bulgarian Government, with the support of UNHCR, was to prepare a submission for a Phare-financed housing project. The aim of the project is to provide affordable accommodation (i.e., state-regulated) to vulnerable Bulgarian families and refugee families in equal numbers. The building for the project, which is located in Bucharest, has already been identified and partly renovated by the government which is now seeking funds for its completion.

2. Czech Republic

Temporary Accommodation

The Czech Government provides newly recognized refugees with temporary accommodation in four integration centers for a period of six months, though in practice they are generally permitted to remain there until they are able to secure their own accommodation or are offered housing through the government housing program. For further details, see the section on programs below.

Permanent Housing

Although current Czech legislation does not confer a specific right to housing for refugees, article 19(1) of the Czech Refugee Law which generally provides refugees with the same rights as citizens, also applies with regard to housing.

The draft Refugee Law promises to change this however, by officially incorporating the existing state refugee housing program (which is formally referred to by the Czech Government as the State Integration Program) into the law, and formally recognizing it as one of the principal components of the state's wider responsibilities in the area of refugee integration. The draft Refugee Law thus provides as follows:

*State Integration Program is a program focusing on the assistance provided to asylum-holders in order to ensure their integration in society.*²²⁷

²²⁷ Art. 68, Draft Law on Asylum *supra* note 26.

It further stipulates that:

*State Integration Program in the area of permanent residence is carried out in the form of a one-time accommodation offer provided by the Ministry to the asylum-holder.*²²⁸

In addition to the right to participate in this special refugee housing program, recognized refugees also enjoy all of the rights of permanent residents with regard to access to housing in general, under the same draft law.

General Information on Housing in the Czech Republic

As of August 1999, it was estimated by PPI that approximately 11% of all recognized refugees lived in Prague, 7% in Brno and 13% in Usti nad Labem, three of the largest cities in the country. Moreover, the estimated free market rent (including utilities) charged in Prague for a one-bedroom flat is currently approximately 9,000 CZK (260 USD), while a three-bedroom flat is 15,000 CZK (430 USD). By contrast, a rough estimate of the market rents charged in the countryside is 5,000 CZK (140 USD) for a one-bedroom flat, and 8,000 CZK (230 USD) for a three-bedroom, which represents slightly more than half of the cost of equivalent apartments in Prague.

State-regulated rents are approximately one third of those charged on the free market in the case of Prague, and about half of the market rents in the countryside. Hence, a three-bedroom flat in Prague for example, will cost approximately 5,000 CZK (140 USD) a month as compared to 15,000 CZK (430 USD) on the free market.²²⁹

State Housing Program

Background

Before any other country in the region, the former Czechoslovakia initiated a government-sponsored integration program which endeavored to work with local government in providing housing for recognized refugees, after an initial stay in a government-run integration center. The scheme was first promulgated by Decree in December 1991 as recognition that refugees lacked the basic conditions for integration, particularly with respect to housing but also regarding language and cultural barriers. Approximately 100 refugees benefited from the initial program,

²²⁸ Art. 69, Draft Law on Asylum *supra* note 26.

²²⁹ All the monthly rental amounts cited include all utilities and are, particularly with regard to the countryside, only very rough estimates as the market rents differ very significantly according to locality.

whereby the government granted 20,000 CZK (570 USD) to each municipality for each refugee they accepted into state-owned housing. Several fundamental shortcomings were identified which inhibited the effectiveness of the scheme's operations, including the failure to define clear conditions governing the purposes for which the municipalities could use the grants, as well as vague conditions regarding the type of housing which could be rented.²³⁰

As a result, following the split of Czechoslovakia, the Czech Government developed a more comprehensive and structured integration program, which became operational as of mid-1994²³¹ and forms the basis of the program still in existence today. Indeed, the housing scheme has been implemented since then in essentially the same form, despite some changes introduced in February 1997, followed by a transfer of implementation responsibility from the government to the integration NGO, PPI, in 1998.

Integration Centers

As soon as refugees are recognized they may move from the refugee camp to one of four integration centers, where they benefit from short-term collective support. While residing at the centers, refugees are entitled to a range of services, such as general and socio-legal counseling, housing assistance, and orientation sessions regarding the rights concomitant to their status. General counseling is provided by government social workers while the remainder of these activities are implemented by PPI, an integration NGO.

Refugees are nonetheless able to live an independent lifestyle at these integration centers, shopping and cooking for themselves, and have the opportunity to enroll in Czech language classes free of charge. They are also obliged to pay rent at the state-regulated rate and are expected to search for permanent accommodation and employment.

²³⁰ Drbohlav, Dusan, *Integration of International Migrants and Refugees (The Czech Republic Relative to Current Trends)*, in 3rd International Symposium on the Protection of Refugees in Central Europe, 23-25 April 1997, Budapest, European Series, vol. 3, No. 2, December 1997, published by UNHCR Regional Bureau for Europe, at 156.

²³¹ The state Integration program was established by Decree in December 1993.

Permanent Housing State Program for Recognized Refugees

The apartments made available to refugees within the government-funded permanent housing scheme are offered by local authorities, legal entities or private citizens to the Ministry of Interior which then leases them in order to make them available to refugees and their families for a period of ten years.²³² The state-regulated rent is payable directly by the refugee-tenant to the building owner. The program's operation relies on an internal incentive mechanism, whereby sizable financial grants are offered in exchange for participation in the housing scheme by municipalities or private owners.

The amount of the grants were increased²³³ in 1998 to compensate for inflation, so that as of that date 150,000 CZK (4,286 USD) was offered per head of household for the offer of the flat or house (plus an additional 50,000 CZK or 1,430 USD for each refugee sharing the flat with the head of the household) and a 100,000 CZK (2,860 USD) contribution was made for general infrastructure purposes (with an additional 10,000 CZK or 286 USD for each additional sub-tenant).²³⁴

Moreover, as part of the changes made to the scheme in 1997 in order to render the program more flexible and more responsive to the needs of local communities, the original requirement that the 150,000 (4,286 USD) be spent on the renovation of the particular apartment being offered was liberalized. As such, this contribution may now be placed in a reconstruction fund which the municipality may use at its discretion to improve the local housing supply across the board. Refugees are also now eligible for newly constructed flats, whereas during the early stages of the scheme refugees were mostly placed in old flats which had to be renovated in order to be rendered habitable, a process which lengthened the allocation of housing. Finally, following a successful lobbying effort by NGOs, the housing scheme has been made more inclusive by being expanded to include refugees whose status was recognized prior to January 1994, who had previously been excluded from the program.

²³² Legally this period is ten years plus one day.

²³³ Initially, in exchange for a commitment to renovate flats which had fallen into disrepair and make them available to refugees under the terms of the rent-controlled lease, the Ministry of Finance originally offered 100,000 CZK (2,860 USD) per refugee leasing the apartment (head of household) and 50,000 CZK (1,430 USD) per additional refugee sharing the flat. The government further contributed a sum (50,000 CZK or 1,430 USD per tenant, head of household, and 10,000 CZK or 286 USD per additional tenant) to the municipality for its infrastructure development, namely, for local housing and employment projects.

²³⁴ Ministry of the Interior Decree, No. U-51/98, February 2, 1998. *See also* D. Drbohlav, *Integration of Refugees and Related Issues: The Current Developments in the Czech Republic* (summer 1998) (presentation at the UNHCR Integration Conference, Bled).

During the four-year period of 1994 to 1997, a total of 101 flats or houses was secured for refugees under this government housing project. This number increased sharply in 1998, when PPI was granted the management of the housing project by the government, so that a total of fifty-three flats were obtained in that year alone. According to the same official figures provided by the Czech Ministry of the Interior, a total of 27,270,000 CZK (779,143 USD) had been allocated to this refugee housing program during the same four-year period.²³⁵

While the housing made available under this scheme has generally been dispersed throughout the country, it has typically been concentrated in smaller towns. During 1997 and the first half of 1998, most apartments were offered and accepted in the regions of North Bohemia, South Moravia, and Central Bohemia. However, a positive trend in securing housing in larger cities has been detected since 1997²³⁶ and appears to be continuing under the management of PPI, who report securing new flats in Prague, Brno, Plzen, and Usti nad Labem since 1998.

Finally, as of November 1999, a total of 210 flats had been secured since 1994, according to information provided by PPI and the Ministry of Interior.²³⁷ And during 1998 and 1999 (to the month of November) alone, a total of 174 recognized refugees were provided housing under this program.²³⁸

Other Recent Developments and Improvements to the Program

The refugee housing program has further evolved under the management of PPI, who implement this program under a fee for service contract with the Department of Integration of Foreigners of the Ministry of Interior. PPI's responsibilities under this program consist chiefly in managing and mediating contacts between all the

²³⁵ Figures provided to UNHCR Prague by the Czech Ministry of the Interior, Department for Refugees and the Integration of Foreigners, in 1998. The breakdown of the number of persons accommodated for each year is as follows: 84 in 1994, 120 in 1995, 44 in 1996, and 54 in 1997. Also, during the same period, a total of 20,150,000 CZK (575,714 USD) were contributed specifically towards the expenses relating to the accommodation of the refugee, while 7,120,000 CZK (203,429 USD) were granted to the infrastructure fund of the participating Municipalities.

²³⁶ During 1997, 11% of participating refugees received flats in Prague, and 25 % in Brno, the second largest city in the Czech Republic, according to D. Drbohlav, *Integration of Refugees* (1998), *supra* note 233, at 11.

²³⁷ Figures provided to UNHCR Prague by the Czech Ministry of the Interior, Department for Refugees and the Integration of Foreigners, in 1998, as well as by PPI on November 1999. The breakdown of the number of persons accommodated for each year is as follows: 84 in 1994, 120 in 1995, 44 in 1996, and 54 in 1997. It should be noted that a certain number of flats secured under this program (especially those identified in Prague) are also to be allocated to handicapped Bosnian refugees.

²³⁸ According to PPI, a further 64 handicapped Bosnians also received housing in 1998 and 19 in 1999 as of the month of November of that year.

participants in the housing scheme, and in undertaking all the necessary administrative steps before the contracts are signed. More specifically, their actual tasks include: providing information on the program and soliciting housing offers; assessing the housing needs of the particular refugee and his family; analyzing the housing offers made and if accepted, matching these with a particular refugee family; and completing the individual case files for the government which include information regarding the city or village where the flat is located, a physical description of the flat and recommendations on its suitability for a particular refugee or refugee family. In an effort to encourage greater participation by municipalities, particularly large cities which offer greater employment opportunities, in 1998 alone the center sent letters to over 400 municipalities and district offices to inform them of the program and inquire whether they had available flats.

As the implementing NGO for the state refugee housing scheme, the ability of PPI to offer a holistic approach to their general integration assistance is enhanced. The same counselor who is advising an individual refugee about his eligibility for social welfare benefits or about strategies for securing employment is also simultaneously working with municipalities to place him in a flat in a city where his chances for work are greater. As such, this promotes both a more individualized and a more comprehensive approach to integration assistance.

Thus, the decision by the government to contract out the state housing program to a refugee-assisting NGO,²³⁹ and the substantial increase of state funds for this program in 1998, represent very significant improvements to the program. These changes are undoubtedly one of the reasons for the record number of flats secured in 1998 and 1999. Other important improvements have included a new flexibility attached to the use of the state contributions and the rules regarding the combination of these by participating Municipalities, the possibility to accept higher-grade or even new flats under this scheme, the possibility to transfer state subsidies for a given year to another year if properly scheduled in advance, a positive trend in the growing number of housing opportunities offered by Prague and other large cities compared to previous years, and, as mentioned above, a new draft Refugee Law which finally recognizes the right of refugees to take part in this state integration program.²⁴⁰

²³⁹ In 1998, the state provided 1,200,000 CZK (34,285 USD) to support the activities of PPI. D. Drbohlav, *Integration of Refugees* (1998), *supra* note 233, at 10.

²⁴⁰ See also D. Drbohlav, *Integration of Refugees* (1998), *supra* note 233; and D. Drbohlav: *Integration of International Migrants and Refugees (The Czech Republic Relative to Current Trends)*, in UNHCR Regional Bureau for Europe, *3rd International Symposium on the Protection of Refugees in Central Europe, 23-25 April 1997, Budapest*, Vol. 3, No. 2 (1997) at 139 —172.

Critique of the Program

Despite these important changes to the program however, several problems and weakness still exist which result in continued housing problems for recognized refugees. Perhaps most important, according to some experts, is that the housing scheme's success has been limited in the past by the low number of actual housing offers within the integration scheme in comparison to the need,²⁴¹ although this situation has improved significantly as of 1998. In fact, according to information provided by PPI, this is no longer a significant problem, with the exception of Prague where demand for housing continues to be difficult to meet, as well as housing for single persons and small families.²⁴²

The other weakness of the program is the predominance of offers from areas which are sometimes ill-suited to the integration needs of the majority of refugees. A disproportionate number of offers continue to be made by small towns where employment opportunities are scarce.²⁴³ This is particularly unfortunate in the Czech Republic where the national unemployment rate is one of the lowest in the region and employment prospects in many large cities are therefore fairly good. As a result, one of the recommendations that has been made involves the establishment of an obligatory quota system which would impose, especially on large cities, an obligation to offer a minimum number of flats for the purposes of this program. At least with regard to these cities, it would effectively replace what is now a system of voluntary participation by interested municipalities.²⁴⁴

Another gap in the current state housing program is the lack of any systematic financial aid in the form of a one time start-up or settlement grant for recognized refugees, who often lack the financial resources to furnish their apartments or assume other related costs of moving into a new flat. The fact that too many large apartments are offered while there are not enough smaller ones for small families and single persons,²⁴⁵ and that it is difficult if not impossible to change apartments in order to move into a bigger flat which is able to accommodate a growing family for example, are other problems inherent to the structure of the current program. It has also been

²⁴¹ D. Drbohlav, *Integration of Refugees* (1998), *supra* note 233, at 11.

²⁴² Given that contributions by the government are significantly increased for large families, Municipalities tend to offer large flats rather smaller ones which would be appropriate for single persons.

²⁴³ Furthermore those flats that are offered in Prague are often justifiably reserved for handicapped Bosnians (who are also included in the scheme) who need to live in the city in order to benefit from increased access to services that the city provides.

²⁴⁴ D. Drbohlav, *Integration of Refugees* (1998), *supra* note 233, at 12.

²⁴⁵ This is due to the fact that the more persons are accommodated, the higher is the contribution to the owners of the flat/house. D. Drbohlav, *Integration of Refugees* (1998), *supra* note 233, at 12.

argued that the housing program should not render ineligible refugees who have lived in the Czech Republic for more than five years and have obtained Czech citizenship, since they may still be facing an unstable housing situation.²⁴⁶

In addition to the above, the housing scheme continues to be subject to strict conditions which, it has been argued, should be relaxed in order to more efficiently meet the housing needs of recognized refugees. In a particularly restrictive measure, a refugee who has rejected an offer is excluded from the program. In practice however, this restriction may prove less problematic since PPI took over the management of the program, given the NGO's more individualized approach and matching procedures.

As well, the housing schemes process of matching recognized refugees and their families with appropriate housing on an individual basis, along with the administrative and reconstruction delays involved means that the process of securing housing under this scheme may at times be lengthy. In addition to the basic criteria that the apartment be structurally habitable, employment concerns and the particular housing needs of the refugee and his family all factor into the complex process of matching refugees with suitable apartments. Given these multiple variables, it is difficult to estimate an average waiting period before a refugee is able to move from the integration center into a flat of his own. Some cases are resolved quite quickly, but often it takes at least a year before a refugee is able to move into an apartment located through the housing scheme. During that time he continues to reside at one of the integration centers.

Some experts in the field are of the opinion that it would be preferable from an integration point of view to have an even more individualized matching procedure by which refugees would be shown potential housing and familiarized with the particular town, and effectively be afforded the opportunity to decide on its suitability before formally receiving an offer from the Ministry. A limit of a couple of rejections could be permitted for example, even if it might lengthen the process by a few months. A strategy which might improve the quality as well as the time required for the matching procedure would be to encourage a more proactive role by refugees themselves in identifying suitable municipalities, which PPI would then solicit and negotiate with. This is an approach which PPI has been encouraging, in recognition of the fact that recognized refugees are in the best position to determine their preferences and needs.

²⁴⁶ D. Drbohlav, *Integration of Refugees* (1998), *supra* note 233, at 12, 13.

Other Housing Support in the Form of Financial Assistance

In addition to the assistance in locating a flat, financial assistance is also offered on a small-scale both by the government and UNHCR. Refugees, like citizens, are entitled to a state housing allowance under the range of social benefits offered under the rubric of the social minimum provided through the local social services offices. They will continue being entitled to these benefits under the draft Refugee Law, by virtue of the fact that they will be granted permanent resident status.

UNHCR also offers a needs-based moving in allowance, which is implemented by PPI, to help recognized refugees meet their basic furnishing requirements. PPI is currently lobbying the government to take on this responsibility themselves by offering all newly recognized refugees a start-up fund which would essentially resemble the assistance which is currently offered by UNHCR.

3. Hungary

Temporary Accommodation

Under the 1998 Government Decree Regulating the Care of Refugees, (hereinafter, the Decree on Care) newly recognized refugees may continue to be accommodated in reception centers for six months following their recognition.²⁴⁷ This initial period may be extended by another six months by the center's director, though further extensions require the permission of the ORMA. Refugees staying at these centers are required, depending on their income or property, to reimburse the center for their meals and other in-kind assistance they may receive such as toiletries and clothing. Though the majority of refugees reside in private accommodation, as of March 1998, 101 recognized refugees were still living in the three reception centers.

Permanent Housing

Article 17 of the 1997 Asylum Law accords refugees the rights and obligations of citizens unless an Act or Government Decree provides otherwise. Thus, recognized refugees are entitled by law to access housing in general, including housing assistance programs and available state-regulated accommodation, on the same terms as nationals.

²⁴⁷ Art. 9, Government Decree Regulating the Care of Refugees, *supra* note 66.

Article 18(b) of the same law further provides for refugee-specific state assistance by stipulating that refugees are entitled to special care/maintenance and benefits within the sphere and under the conditions defined by the Act and a Government Decree. This Government Decree provides for a series of material assistance programs, which benefit refugees uniquely, many of which are directed towards housing assistance, and are further described below.

Housing Obstacles

Currently, approximately 70% of recognized refugees live in Budapest, where employment is most available. However, the main barrier regarding accommodation remains the difficulty in securing affordable housing compatible with employment opportunities. This is illustrated by the fact that an average rent in Budapest is between 20,000-30,000 HUF (80-120 USD) while it is only 10,000-15,000 HUF (40-60 USD) in the countryside, where there are few employment prospects. Furthermore, although recognized refugees are entitled to benefit from state-regulated rent on the same terms as nationals, in practice there are very few flats available within this framework. One of UNHCR's implementing partners, Menedek, has suggested the need to gather information regarding available housing, and to explore various options to improve the housing situation for recognized refugees, including the possibility of some type of agreement with commercial real estate companies.

Housing Assistance Programs

Non-Governmental Housing Assistance Programs

Assistance with locating housing is available through NGOs, while various forms of assistance programs, both general as well as refugee-specific programs for financing or subsidizing housing costs, are offered by the Hungarian Government. For the first time, in 1998 UNHCR began funding counseling programs which are implemented through partner NGOs and which offer, amongst other things, assistance to all recognized refugees (rather than only mandate refugees) in locating available and affordable housing. The Menedek Hungarian Association for Migrants (hereinafter referred to as Menedek), one of the UNHCR implementing partners, is chiefly responsible for this program, though other NGOs such as MEJOK and the Mahatma Gandhi Human Rights Movement also offer assistance in finding private accommodation.

Government Housing Assistance Programs

Refugee-Specific Assistance

With regard to government housing assistance, we have seen that the 1998 Decree on Care includes benefits which are intended to assist refugees with housing

costs both directly and indirectly. In the form of indirect assistance, it provides for a regular contribution to the cost of living to refugees for a period of five years following recognition, on the condition that the refugee does not possess any property and his monthly income does not exceed the minimum amount of old age pension at any one time.²⁴⁸ Details regarding this monthly stipend are provided in the Hungarian country profile in Chapter V on Public Relief and Social Security.

Assistance more directly tied to housing includes a monthly residence benefit, a one-time settlement assistance, and a home-creation benefit, all of which are of a discretionary nature.²⁴⁹ The monthly residence benefit grants six months of financial assistance to refugees living in a flat or accommodation not exceeding the minimum size and quality of flats recognized in the community. The amount may extend to 50% of the rent, or 70% in cases of extreme need and may be extended by a further six months on not more than two occasions by the Refugee and Migration Office.

A one-time settlement assistance in the form of a grant may also be provided by the Refugee Office upon request of the refugee. This award shall not exceed six times that of the minimum old age pension at any one time and may be requested within six months of recognition as a refugee, upon the arrival of an immediate relative or birth of a child, or upon leaving the reception center.

The home-creation benefit constitutes a further financial grant, which is available only to adult refugees who are entitled to the assistance on a single occasion. The application may be submitted within five years of recognition for the first-time purchase, construction or renovation of a flat or house. The benefit is in the form of an interest-free loan which may be extended for a period of one to fifteen years. The amount of the benefit may not exceed 70% of the total costs of the purchase or construction and varies depending on the number of family members. The maximum amount for which a family of four may apply is 700,000 HUF (2,800 USD).

Housing Assistance under National Programs

Finally, as refugees generally possess the same rights and obligations as citizens, they are also entitled to the same social welfare assistance, including programs directed towards the provision of housing assistance. The 1993 Law on Social Welfare Administration and Social Services makes accommodation assistance

²⁴⁸ Art. 17, Act on Asylum, No. 1997: CXXXIX, December 9, 1997, entry into force March 1, 1998.

²⁴⁹ Arts. 27, 21, and 22, Government Decree Regulating the Care of Refugees, *supra* note 66.

available to a person or family if their reasonable household operating expenses exceed 35% of the combined income of household members sharing the costs, provided that monthly per capita income does not exceed twice the minimum amount of the old age pension at any one time.²⁵⁰

State Practice

Taking into consideration the other cash benefits available to refugees, the total assistance for which refugees are legally eligible constitutes a considerable defraying of housing costs as well as the general costs of beginning a new life in Hungary. According to information provided by UNHCR as of May 1999, recognized refugees appear to generally have good access to both the national social assistance system as well as to refugee-specific subsidies and benefits, although access to the discretionary benefits, which include most of the housing benefits described above, is more difficult.

Figures representing the actual provision of assistance to recognized refugees in the past (most of whom were ethnic Hungarians from Romania and ex-Yugoslavia) residing in private accommodation between 1989 and 1998 indicate the high demand for these material assistance programs.²⁵¹ Approximately 3600 families were granted home-creation benefits in the form of interest-free loans extended for periods of ten to fifteen years. The amounts averaged approximately 280,000-300,000 HUF (1,120-1,200 USD) per loan. Residence benefits, covering on average 50% of the rental price, were also granted towards the payment of rent for approximately 800-900 families, while 500-600 families benefited from the one-time settlement aid in the same period.²⁵²

²⁵⁰ Arts. 38 and 39, Law on Social Welfare Administration and Social Services, 1993.

²⁵¹ The figures, which were provided by UNHCR, are based on a total of 4,284 recognized refugees since 1989.

²⁵² The above figures were provided by Menedek, 1998.

4. Poland

Temporary Accommodation

According to the Aliens Law, for three months following their recognition, refugees may (in exceptional cases) be granted the same rights as asylum-seekers to accommodation, food, medical care, material help, and financial assistance.²⁵³ In such cases, these vulnerable refugees may be temporarily accommodated in refugee centers for asylum-seekers.

Permanent Housing

Persons with refugee status have access to housing in general, including state-regulated housing, on essentially the same terms as nationals, but due to the housing shortage and high demand few refugees have had access to such affordable accommodation in practice. In addition to the shortage of state-regulated flats, the application procedure is complicated, with long processing periods and waiting lists. Moreover, applications by recognized refugees for sub-standard flats or housing which require renovation lead to difficulties as many municipalities do not possess the financial resources necessary to make them habitable and there is no state housing assistance program for refugees in place in Poland which could assist in this regard.

Housing Assistance Programs

Recent government proposals for new integration and housing assistance programs, and the noteworthy contributions made by Warsaw's voivod (municipality) since 1998 to the NGO, Polish Humanitarian Action, for the purpose of assisting a number of refugees with their rental costs in the capital are positive developments. However, there is as yet no systematic government housing assistance program specific to recognized refugees. Currently, the only housing assistance is provided by UNHCR's implementing partners who assist refugees to locate flats on the free market and provide limited financial assistance in order to help cover rental costs and other related accommodation expenses, including utilities.

²⁵³ Art. 40, Act on Aliens, Journal of Laws No. 114, item 739, June 25, 1997, entry into force December 1997 (unofficial UNHCR English translation).

Housing Problems and Proposals for Future Housing Assistance Programs

The general housing shortage and the high rents which affect the whole population, are felt even more acutely by refugees, who usually do not have the ordinary support structures provided by family and friends and who rarely benefit from subsidized/state-regulated flats which are in high demand. As a result, refugees are forced to rent apartments on the free market. The lowest monthly rent for a studio apartment on the free market in Warsaw is approximately 400 USD, while the average monthly salary is approximately 300-350 USD. In addition to high rents, the requirement made by many landlords for large deposits and their reluctance to register rentals (in order to avoid taxes) to recognized refugees with the local government office, which result in difficulty in the legal registration of one's place of residence, are other notable barriers to adequate housing for refugees in Poland.

No data is available regarding the number of recognized refugees living either in or outside Warsaw. However, in general only big cities in Poland offer housing which is compatible with employment opportunities.

A variety of proposals for refugee-specific housing programs have been under discussion by both the government and NGOs in Poland. For example, as an alternative to renting on the open market and to the former PIA program, one possibility which has been considered is the use of sojourn centers run by social care organizations in which recognized refugees could stay for the first twelve months on the basis of co-responsibility and co-management. Under the PIA program a few people already took advantage of this possibility and stayed in such centers, which some believe have the advantage of making it easier to offer better language training and cheaper accommodation. One concern with respect to this option, however, is the ghettoizing effect that it may have on refugee populations. Other ideas which have been suggested in order to alleviate the problem of housing have included, establishing an accommodation center for newly recognized refugees where they could also receive Polish language training, classes on Polish culture, and psychological counselling, as well as renovating old municipal apartments which could then be provided to refugees at a reduced rent.²⁵⁴

A draft Ordinance on an integration program for recognized refugees which was still being considered as of March 1999, but which later failed to be endorsed by the legal department of the Council of Ministers due to the lack of an enabling provision (rather than on its merits),²⁵⁵ contained a mention regarding assistance in acquiring

²⁵⁴ These proposals were discussed during a two-day workshop on integration in October 1998 which was attended by NGOs, various Ministries and Voivod Offices, and funded by UNHCR and the EU Odysseus program.

²⁵⁵ /8(2), Draft Ordinance on integration of refugees *supra* note 83.

accommodation, though no further details were provided regarding the exact nature of this assistance. This draft integration program also proposed financial assistance for recognized refugees, which was expected to be substantially greater than that provided under the former PIA program, so that, if eventually adopted, this program might help defray a greater share of housing costs.

Housing under the Former PIA Program

Under the Polish Government's former PIA program for recognized refugees, which was in place from March 1996 to August 1998, refugees participating in the assistance program were entitled to a maximum of fifteen months of financial assistance and a modest one-time settlement allowance, part of which could be used for housing expenses. However, the program cannot be considered to have been successful, given the fact that over 40% of the accepted participants had their contracts dissolved, and the failure to adjust the benefits to the rate of inflation meant that the assistance was not sufficient to cover the basic living costs of the participants. With regard to housing in particular, although the financial assistance provided did generally allow refugee families who were able to aggregate each individual member's benefits to rent a cheap flat, single persons were forced to combine in groups or to rent space in a communal flat. Of the 272 participants in the PIA program, there was a lack of data for 106, while ninety-four participants lived in Warsaw, eighteen in Bielsko Biala, twelve in Poznan, and eleven in Lublin.²⁵⁶ For further information on the PIA program please refer to the Polish country profile in Chapter V on Public Relief and Social Security.

5. Romania

Temporary Accommodation

No state assistance program providing for the temporary accommodation of newly recognized refugees exists in Romania as of yet. In the past, approximately seventy-five recognized refugees who had been accommodated at the Gociu camp for asylum-seekers during their RSD procedure were able to remain there even after they were recognized, though no formal arrangement existed to this effect. In order to remain living at the camp, these refugees had to show that they were unable to secure private housing. However, this camp closed in 1999 and the possibility to remain at the camp no longer exists at the new refugee center. Once this option was terminated,

²⁵⁶ PIA Report, *supra* note 183, at 15.

UNHCR provided an installation grant to all recognized refugees who had to move from the camp, as well as accommodation or material support to those deemed vulnerable persons.²⁵⁷

Permanent Housing

Although there is no specific legislative provision stipulating their rights with regard to housing or any special government housing assistance program,²⁵⁸ refugees are entitled to access the private housing market on the same terms as nationals. In principal, they are also eligible to apply for state-subsidized housing or other affordable accommodation schemes, as the relevant legislation does not differentiate between nationals and non-nationals. In practice however, the constant shortage of such housing means that refugees have little chance of actually securing these types of affordable accommodation. Largely as a result of this, refugees' income levels are insufficient to meet their basic needs.

While not specifically designed as a means of accommodation assistance, the reimbursable loan granted to refugees under the Romanian Refugee Law may be used to help defray the costs of accommodation for the first six to nine months following their recognition. For more specifics on this form of loan assistance and past state assistance to recognized refugees, please refer to the Romanian country profile in Chapter V on Public Relief and Social Security.

Non-Governmental Refugee Housing Assistance Programs

The Romanian National Council for Refugees, a UNHCR implementing partner, provides assistance in finding housing and cooperates with some housing agencies to which they refer refugees. They believe that housing is the most important problem faced by refugees in their integration process, estimating that approximately 80% of the problems for which refugees seek assistance from them are related to housing. Identifying suitable housing, and high rents, which are disproportionate to their salaries or social assistance benefits, are especially serious problems.

²⁵⁷ Amongst those who were assisted by UNHCR, 32 Afghan recognized refugees were temporarily accommodated in a motel.

²⁵⁸ Nine months of free accommodation and board was granted to recognized refugees under the Government Decision No. 807/95, but this Decree was never implemented by the Government and the Refugee Law was adopted shortly thereafter.

Through this same NGO, UNHCR also offers a one-time installation grant to both refugees who were living in the camp as well as those living in private accommodation. This grant is intended to cover initial local settlement costs such as the first few months of rent, furniture, and essential utilities. A ceiling for the grants is set at 450 USD per person, and 560 USD for a family of four. Both the amount of the assistance allotted as well as the form of payment is decided on a case-by-case basis, depending on need and other established criteria. Priority is granted to families and to refugees who fulfill other integration conditions, such as sending their children to school regularly, registering with the employment office, participating in the NGO's employment program, and registering for Romanian language courses. Thus, in order to qualify for this assistance, refugees must demonstrate their willingness to integrate into Romanian society. By the end of 1998, a total of 170 installation grants had been granted to 360 recognized refugees.

Obstacles with Regard to Housing

Accommodation is one of the more critical problems for recognized refugees in Romania and constitutes one of the more serious impediments to their self-sufficiency and independence from UNHCR's programs. The market rate for a one-room apartment in Bucharest in fair condition is approximately 100 USD in the outer districts of the capital, and a minimum of 50 USD in the countryside which offers the additional possibility of renting small pieces of land at an affordable rate. Utilities add approximately 20-30 USD a month in additional costs.

Furthermore, a three-month advance on the rent is usually requested, which poses an important problem for recognized refugees who in general simply do not have that much in savings. The situation is further aggravated by the fact that refugees are sometimes perceived simply as other foreigners, and therefore, charged higher rents by some landlords.

One may quickly appreciate the financial difficulty refugees experience in meeting these high housing costs when they are compared to the minimum wage in Romania, which as of June 1999 was approximately 450,000 Lei (25 USD). Although both housing and living expenses are lower in smaller towns and the countryside, the unemployment rate in these locations often does not make living there a viable option.

Future Housing Projects

While there continues to be no systematic government program to locate available and affordable housing for recognized refugees, they are expected to benefit from more direct assistance for their accommodation needs in the near future. As a

result of a joint project between the Romanian Government and UNHCR, with financial assistance by the latter,²⁵⁹ a government-owned building in Bucharest is currently being renovated which is expected upon completion to be able to accommodate 350 persons. Half the units are to be offered to asylum-seekers and the other half to recognized refugees, with priority given to vulnerable refugees. The project is expected to be completed in the year 2000. If this project is successful, refugees would benefit from housing at rents fixed by the Ministry of Interior which would be substantially lower than market prices. UNHCR's stated preference with regard to this housing project, however, is to encourage the use of this building by recognized refugees only as temporary accommodation during the initial transition period following recognition.

6. Slovakia

Temporary Accommodation

Article 24(2) of the Refugee Law provides for the accommodation of recognized refugees in a refugee center only for the necessary period of time, during which, if employed, he is obliged to pay his expenses.

In practice, newly recognized refugees who need this assistance are entitled to stay for a period of six months at an integration center in Zvolen which is run by the Migration Office and has several one-room and two-room flats, with a capacity of forty persons. Following this short-term stay, counselors assist refugees in locating accommodation.

Permanent Housing

In Slovakia, no specific article governs refugees' rights and access to housing. However, by virtue of being granted permanent residence, and article 18 of the Refugee Law which provides that refugees have the same status as citizens so long as no regulation provides otherwise, refugees are accorded access to the housing market on the same terms as Slovak citizens.

²⁵⁹ UNHCR made a contribution in the amount of 120,000 USD.

Obstacles to Housing in Practice

The barriers that most often confront recognized refugees in their search for housing in Slovakia are due to the housing shortage and the high cost of rents or of purchasing a home, particularly in urban areas, as well as the difficulty in securing affordable housing compatible with employment. Indeed, affordable housing in Slovakia is generally only found in areas of high unemployment, so that refugees are caught in a vicious circle which renders the road to self-sufficiency and their ultimate integration quite uncertain.

As seen below, this same problem is also reflected in the refugee housing program, which has suffered from a similar difficulty in identifying state/municipally owned housing in locations suitable for the integration of refugees. For the most part, flats which were reconstructed within the framework of the government-run refugee housing scheme have been located in more affordable areas and in relatively small towns where the unemployment rate is high. However, most refugees want to stay in Bratislava where employment prospects are better, and securing them a flat in the capital continues to be nearly impossible, although recently 10 small flats were secured there through the refugee housing program. Hence, at present it is estimated that only 15% of recognized refugees are able to find some type of accommodation in Bratislava.

As of September 1998, the average rents in the private housing market in Slovakia were as follows:²⁶⁰

In the capital: studio flat 5,000 SLK (119 USD);
 two-bedroom flat 10,000 SLK (238 USD);
 three-bedroom flat 18,000 SLK (429 USD).

In the countryside: small flat 4,500-5,500 SLK (107-131 USD).

However, if a recognized refugee is able to secure a lease in a state or municipally owned building, the state-regulated rent is estimated at only 1,700-2,800 SLK (40-67 USD) throughout all of Slovakia.

A continued suspicion of foreigners amongst some sectors of the host population, and a tendency to charge them slightly higher rents than nationals is also cited as a problem by some refugees, according to UNHCR.

²⁶⁰ These are estimated amounts provided by UNHCR as of September 1998.

Problem of Proving a Domicile Address and Obtaining Identity/Residency Cards

Accommodation assistance, especially in the form of placement into formal and secure rental arrangements, as well as assistance in obtaining identity/residency cards is particularly critical in Slovakia, without which recognized refugees are effectively unable to implement even their most basic rights. Indeed, as is the case in many of the selected countries in the region, the identity/residency card play a vital role in the everyday life of Slovak residents, including recognized refugees. These cards constitute proof of one's legal residency status and rights in the country, and are used to implement such basic rights as the right to employment and social assistance benefits. In order to be issued this card however, one must be able to furnish proof of a domicile, a requirement which, in the past, some recognized refugees in Slovakia have not been able to meet due to uncooperative landlords.

These landlords appear reluctant to sign official leases or grant other formal authorizations of residence requested by tenants for two principal reasons: (1) they wish to avoid paying taxes on the income they earn through rent; and (2) they wish to avoid the responsibilities such official contracts impose on them under the Slovak Civil Code.

Though some Slovak citizens may also experience difficulties in securing an official lease, refugees are particularly vulnerable to this phenomenon because they are unable to resort to proof of a pre-existing domicile (a method often used by nationals), cannot rely on the support of family members and friends, and most notably are subject to requirements governing the frequent renewal of their identification documents. Indeed, because recognized refugees must renew their identity/residency cards annually, thus requiring proof of a domicile address each time, this problem may be faced repeatedly every year. For this reason, refugees who must renew their identity card have more of a problem with securing a domicile address than newly recognized refugees who go directly from the Refugee Camp to the Integration Center, which they simply register as their permanent residence.

More recently however, it appears that this problem is being successfully managed, according to information provided by UNHCR in 1999. This is due in part to the assistance provided by NGOs in helping refugees obtain and renewing these identity cards, and also to the housing assistance program, including the temporary accommodation which they are granted immediately upon recognition. Moreover, the new Law on Permanent Residence, (adopted on July 1, 1998, but not expected to enter into force until the after the year 2001) also appears to provide for some exceptions to the standard of evidentiary requirements regarding proof of domicile, as well as for procedures for dealing with the situation of persons born outside Slovakia.

Nonetheless, the problems experienced by some refugees in Slovakia in the past have served to illustrate how close a connection exists between housing, identity/residency cards, and the effective exercise of one's most basic rights, not only in that country, but also in the other selected countries in the region.

Refugee Housing Rehabilitation Scheme

In 1997, UNHCR and the Migration Office of the Ministry of Interior initiated and co-funded a collaborative effort, managed by the Migration Office, to provide newly recognized refugees with affordable accommodation in rehabilitated flats. In some ways, the program is similar to the initial Czech housing scheme. The Slovak program involves the renovation of state-owned apartments made available by local communities to refugee families at state-regulated rents. Once the flat has been attributed to a refugee, he is responsible for the rental contract between himself and the flat owner, including the payment of the rent.

This housing program has not been entirely successful to date however, due to a variety of factors including, most notably, a serious problem with a block of twenty renovated apartments in the town of Lucenec. In addition to a high rate of unemployment (23%) in this town, the apartments were also located in a dilapidated neighborhood whose inhabitants were themselves stigmatized by the local population.

When refugees actually began moving into the town in 1998 the unsuitability of this town for the program was further confirmed by the widespread expression of hostility by the community. Unfortunately, the reconstruction project which was initiated in Lucenec in 1997 was then followed by a second renovated housing project in this same town in 1998, after the problems mentioned above were already apparent. This led to a high concentration of rehabilitated flats for refugees on the same street and same hostile town. In fact, as of 1999 Lucenec was still the town with the highest concentration of flats under the refugee housing assistance program. Indeed, the town of Lucenec has available a total of twenty-two flats under this program, of which only six were occupied as of 1999 due to departure of some of the refugees who had initially moved in and the refusal of new refugees to move to that location. By contrast, the twenty-seven other apartments in other areas of the country are nearly all occupied. Unfortunately, the twenty-two flats in Lucenec represent a significant proportion of the total fifty-nine flats which have so far been made available to recognized refugees under this housing program from 1996 to 1999.²⁶¹

²⁶¹ The figures referred to above have been drawn from the Table Reconstruction of flats for refugees in Slovakia: 1996-1999, provided by UNHCR, October 1999. According to this table, 22 flats are available in Lucenec, 27 in various other towns mostly in Central Slovakia (such as in Ruzomberok with 14 flats, and Zvolen I-Straze with 4 flats), and 10 small flats in Bratislava (which were completed as of October 1, 1999 and are now in the process of being allocated), for a total of 59.

In addition to the problems presented by the housing project in this specific town, other weaknesses of the program have been attributed to the implementation of the housing rehabilitation scheme in regions suffering from some of the highest rates of unemployment in the country, and to the lack of proper guidelines and selection criteria governing the housing program as a whole. The development of such guidelines are especially necessary with respect to the following: rules regarding the distribution of the rehabilitation funds; the procedure for identifying appropriate flats, suitable regions of the country, and for allocating flats to refugee beneficiaries; and the development of a quality control mechanism regulating the rehabilitation of these flats.

Moreover, it has been suggested that both UNHCR and NGOs should be consulted and involved more closely in the above procedures and decisions. In this regard, the collaboration demonstrated between the Migration Office, UNHCR and a local NGO in East Slovakia, during the process of selection of another rehabilitation project in the town of Kosice in 1999, has been encouraging. In addition to the fact that all of the above actors took an active part in this process,²⁶² this particular project also indicates better integration prospects than some previous projects. Kosice is the second largest city in Slovakia, has an unemployment rate of 15-16%, which in comparison to other locations offered under the housing program offers good employment opportunities for refugees, and is also considered to be a suitable community in other respects. The project is expected to be completed by mid-2000 and to offer seventeen apartment units for newly recognized refugees.

The housing program has also revealed a limited capacity for providing sufficient flats to meet the needs of the population of recognized refugees in Slovakia, both in terms of the actual number of flats as well as their size. Indeed, the fifty nine flats (of which twenty-two are in an unsuitable community) made available to refugees under this scheme can only assist a relatively small percentage of the 480 persons who had already received refugee status in Slovakia as of October 1999.²⁶³ Moreover, this limited capacity is likely to be felt even more acutely in the future should Slovakia open its asylum system to more asylum-seekers and recognized refugees, which have been relatively few in the recent past.²⁶⁴

²⁶² The building was identified by the local NGO and the physical check of the site took place together with municipal authorities, by the Migration Office and UNHCR.

²⁶³ It should be noted that of the 480 persons granted refugee status as of October 1999, only 330-340 are known to have remained in the country, according to information provided by UNHCR.

²⁶⁴ The figures for the number of asylum claims and recognized refugees are as follows: 506 and forty-nine persons respectively in 1998, and 1,031 and twenty-five persons respectively in 1999 (as of the end of October 1999). Statistics provided by UNHCR.

Furthermore, while the renovation project of the ten flats in Bratislava was certainly welcomed, the flats appear to be very small, so that they are only suitable for a single person rather than refugee families who generally have more difficulty securing suitable and affordable housing in the capital where they have better employment prospects to support their family members. The new project in Kosice, already mentioned above, is nonetheless a positive indication of the willingness to continue expanding the housing program.

According to information provided by UNHCR, by 1999 UNHCR had contributed a total of 14,977,667 Sk (356,611 USD) and the Slovak Government a total of 5,977,318 Sk (142,317 USD) to the total costs of this renovated housing program undertaken from 1996 to 1999.²⁶⁵

Non-Governmental Housing Assistance

Housing placement assistance is offered by UNHCR implementing NGOs within the context of their general counseling services.

Installation or rental grants of 40,000 SLK (952 USD), which may be used to defray housing costs also represent another form of integration assistance which UNHCR finances, and which in the case of recognized refugees is administered by the Government Migration Office. The funds are distributed to beneficiaries selected through a process of individual review by a Grants Committee which consists of representatives of the Migration Office, the Slovak Ministry of Labor, Social Affairs and Family, UNHCR and its NGO implementing partners.

As initial results demonstrated that the grants were not always used for their proscribed purposes, in 1997 stricter criteria governing the distribution of the grants were imposed. Only those refugees who are leaving facilities run by the Migration Office, such as the integration or refugee centers, and who are able to present proof of a valid lease and identity card are eligible. In exceptional cases, refugees who prove that they are dependent on basic social assistance are also entitled to benefit from these grants. However, refugees who receive financial support from elsewhere such as university students receiving scholarships from NGOs and those who have been provided with permanent accommodation by the Migration Office are excluded. Beneficiaries are in principle entitled to a single grant, though some exceptions have been made in the past.²⁶⁶

²⁶⁵ Table Reconstruction of flats for refugees in Slovakia: 1996-1999, provided by UNHCR, October 1999.

²⁶⁶ In 1997 both the Bjornsons Society and OPU granted smaller subsistence grants to refugees who had already received an integration grant in 1995.

7. Slovenia

Legal Situation until 13 August 1999

Temporary Accommodation

The provision in the Foreigners Law (entry into force on June 25, 1999) providing for a government offer of accommodation to recognized refugees, described below, does not specify whether it is to be considered temporary or permanent housing.

Permanent Housing

Recognized refugees have all the rights and general access to housing of permanent residents, who are accorded essentially the same rights as Slovene nationals.

Under the Foreigners Law, recognized refugees who are deemed to be in need are also entitled to refugee-specific housing assistance in the form of an offer of accommodation in premises to be determined by the government. According to Article 39 of this law, a refugee is entitled to accommodation and means of subsistence until he is capable of providing for him/herself for a maximum period of two years. Exceptions can be made however, for persons deemed incapable of guaranteeing their livelihood.

The 1996 Order implementing this provision establishes the Office for Immigration and Refugees (OIR) as the competent authority which determines the basic accommodation to which refugees are entitled following recognition of their status. The Order further permits a refugee to continue living in the accommodation for six months beyond the moment he no longer can prove his financial dependence, so long as he pays the rent and utilities himself.²⁶⁷

Moreover, recognized refugees may be granted housing-related benefits in the context of the national system of social assistance. The eligibility criteria for access to financial assistance for the purposes of lodging, as well as the amounts granted, are defined by the Executive Council of the Assembly of the Republic of Slovenia.²⁶⁸

²⁶⁷ Art. 2, 1996 Order on the rights of recognized refugees, *supra* note 97.

²⁶⁸ Art. 40, Foreigners Act, Official Gazette of the Republic of Slovenia, No. 1/91-I, entry into force June 25, 1991, *as amended* in July 1997. For further details see Chapter V on Public Relief and Social Security.

New Law on Asylum Effective as of 14 August 1999

This new Law on Asylum continues to grant recognized refugees permanent residency status, so that refugees maintain the same general rights and access to housing as under the previous regime. The new law also provides for refugee-specific housing assistance. More specifically, article 51 states that a refugee shall be allocated basic housing, [but] should a refugee refuse the housing that has been allocated, he shall lose the right to obtain assistance for housing and may choose his own, at his own costs.²⁶⁹

Recognized refugees with no other financial resources also continue to have the right to accommodation-related benefits under the national social assistance scheme. In this connection, it is of note that under the new Asylum Law their right to financial assistance is limited to three years rather than the previous two-year period.

In Practice

In practical terms, state housing assistance for recognized refugees in the past has taken the form of an offer of a room in a home for migrant workers situated outside of Ljubljana, where no organized assistance for their integration is offered by either the government or NGOs. Refugees who have declined this offer, have been granted a housing allowance by the government of approximately 35 USD per month instead. The two recognized refugees still remaining in Slovenia have found accommodation in Ljubljana through their own initiatives and with supplementary financial assistance by UNHCR. The accommodation benefits and financial assistance accorded to recognized refugees in the framework of the national social assistance scheme, are distributed by local social centers, although the costs are then reimbursed by the Office for Immigration and Refugees.

No further information is available regarding housing programs for refugees since the adoption of the new Asylum Law in 1999.

²⁶⁹ Art. 51, Law on Asylum, Official Gazette of the Republic of Slovenia No. 61/99, July 30, 1999, entry into force August 14, 1999 (unofficial UNHCR English translation).

MAIN INTERNATIONAL STANDARDS

**Convention Relating to the Status of Refugees of 28 July 1951
Article 21**

Public Education

1. *The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.*
2. *The Contracting States shall accord to refugees treatment as favorable as possible and, in any event, not less favorable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.*

**International Covenant on Economic, Social and Cultural Rights of 16
December 1966
Article 13(1) and 13(2)**

1. *The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.*
2. *The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:*
 - a. *Primary education shall be compulsory and available free to all;*
 - b. *Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;*
 - c. *Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;*

- d. *Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;*
- e. *The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.*

Protocol No. 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms of 20 March 1952

Article 2

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

Convention on the Rights of the Child of 20 November 1989

Article 28

1. *States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:*
 - a. *Make primary education compulsory and available free to all;*
 - b. *Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;*
 - c. *Make higher education accessible to all on the basis of capacity by every appropriate means;*
 - d. *Make educational and vocational information and guidance available and accessible to all children;*
 - e. *Take measures to encourage regular attendance at schools and the reduction of drop/out rates;*
2. *States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.*
3. *States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.*

EDUCATION

**PART I:
PRIMARY, SECONDARY AND HIGHER EDUCATION
AND LANGUAGE TRAINING**

1. International Standards

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.

2. The Contracting States shall accord to refugees treatment as favorable as possible and, in any event, not less favorable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.

1951 Convention, Article 21, Public Education

1951 Convention

As suggested by the title of this provision, the intention was that this article be applicable only to education provided by public authorities which is funded or subsidized by public funds, at the exclusion of private schools.²⁷⁰ Significantly, this provision makes no requirement regarding lawful residence, and simply applies to refugees without further conditions.

The importance attached to ensuring a basic elementary education to all children is demonstrated in the first paragraph of this article, which grants to refugees equality of treatment with nationals. This right is reaffirmed in the Executive Committee of the UNHCR (hereinafter EXCOM) Conclusion No. 47 which calls upon states to

²⁷⁰ N. ROBINSON, *supra* note 11, at 103.

ensure that all refugee children benefit from primary education of a satisfactory quality, that respects their cultural identity and is oriented towards an understanding of the country of asylum.²⁷¹

The distinction between elementary and higher education is dependent on the definitions applied by each Contracting State.²⁷² With respect to education beyond the elementary level, which includes general higher education as well as vocational training,²⁷³ Contracting States are to grant refugees as favorable treatment as possible according to the 1951 Convention. However, as this general statement lacks a measurable standard, a minimum obligation is imposed whereby refugees must receive at least the same treatment with regard to higher education as other foreigners in the same circumstances.

It is of course of utmost importance that this provision be interpreted as applying to the children of refugees, as much as to the recognized refugees themselves.²⁷⁴ Indeed, the principal whereby the rights which are granted to refugees are also to be extended to members of their families is endorsed in Recommendation B of the Final Act of 28 July 1951, which notes that the official commentaries of the Ad Hoc Committee on Statelessness and Related Problems support this interpretation.²⁷⁵ Naturally, if the child has by virtue of a different status of his own, more rights than his parent, he will benefit from the more favorable treatment.

The mention of recognition of foreign certificates, diplomas and degrees in this provision of the 1951 Convention is solely intended for the purpose of admission to advanced studies, which require a prior diploma, certificate or degree.²⁷⁶ It is also important to note that with regard to the remission of fees or charges this article should be read together with the more favorable provision in Article 29, which in many cases will prevail over article 22.²⁷⁷ Article 29 accords refugees the same treatment as nationals with regard to duties, charges or taxes of any description whatsoever, which are levied by the state.

²⁷¹ EXCOM conclusion No. 47 (XXXVIII), Refugee Children, 38th Session, 1987, in *Conclusions on the International Protection of Refugees: Adopted by the Executive Committee of the UNHCR Programme*, at 105 (UNHCR, 1991).

²⁷² N. ROBINSON, *supra* note 11, at 103.

²⁷³ A.GRAHL-MADSEN, *supra* note 8, at 87.

²⁷⁴ In this connection, please note that for the purposes of this study, the expressions *refugee children* and *children of refugees* are used interchangeable, and include both categories of children.

²⁷⁵ A.GRAHL-MADSEN, *supra* note 8, at 86.

²⁷⁶ A.GRAHL-MADSEN, *supra* note 8, at 87.

²⁷⁷ A.GRAHL-MADSEN, *supra* note 8, at 87.

Other Relevant International and Regional Instruments

When compared to provisions in other relevant international and regional human rights instruments, and most notably the ICESCR, the CRC and the ECHR, the guarantees provided to refugees in the area of education by the 1951 Convention are relatively minimalist. Recognized refugees, and indeed non-nationals in general, are thus granted considerably more generous and better-defined education rights (both of a positive and non-interventionist nature) by virtue of these human rights instruments.

Moreover, not only is the standard of treatment generally higher and more detailed in these instruments, especially with respect to secondary and higher education, but they also have the added advantage of being subject to supervisory mechanisms, such as the Monitoring Committee and the HRC with regard to rights under the ICESCR, and the European Court of Human Rights in the case of rights under the ECHR. This is particularly noteworthy in relation to the right to education given the binding nature of decisions by the European Court and the existence of a significant body of case law in this area. This right is also considered to be one of the more justiciable of the rights in the ICESCR, portions of which the Committee considers capable of immediate application by judicial and other organs in many legal systems.²⁷⁸ Furthermore, it is unlikely that the Monitoring Committee and the HRC would allow states much latitude to differentiate in favor of their nationals, given that the right to education has generally not been denied to non-nationals.²⁷⁹

A minimum core content of the right to education has also been identified by commentators on article 13 of the ICESCR, even though its Monitoring Committee has not pronounced itself in this regard. The minimum core content has been defined as including the following: the right to non-discriminatory access to existing public educational institutions; to free and compulsory primary education; to free choice of education without interference by the state or third person; and the right to be educated in the language of one's choice at institutions outside the official system of public education.²⁸⁰

²⁷⁸ J. A. Dent, *supra* note 111, at 95. In its General Comment 3, the Committee suggested that articles 13(2)(a), 13(3) and 13(4) in particular would be capable of immediate application in many legal systems.

²⁷⁹ J. A. Dent, *supra* note 111, at 93.

²⁸⁰ J. A. Dent, *supra* note 111, at 95, refers primarily to the definition of the minimum core content of the right to education as elaborated by F. Coomans: Clarifying the Core Elements of the Right to Education, in *The Right to Complain about Economic, Social and Cultural Rights*.

Primary Education

While the 1951 Convention simply grants refugees national treatment (whatever that may be) with regard to primary education, the ICESCR, CRC, and the Universal Declaration further specify that this substantive right to primary education is to be free and compulsory for all, without discrimination.²⁸¹ In particular, the Monitoring Committee of the ICESCR has interpreted this obligation strictly, stating that the charging of fees for primary education is contrary to this provision and cannot be deemed justifiable even for economic reasons.²⁸² As seen above, commentators have also concluded that free and compulsory primary education, as well as the right to equal access to existing public educational institutions are part of the minimum core content of the right to education under this International Covenant. Moreover, the Covenant even encourages extending and intensifying fundamental education as much as possible to persons who have not completed the entire period of their primary education.²⁸³

The UNESCO Convention Against Discrimination in Education also forbids any form of discrimination which impairs equality of treatment in education, with regard to, *inter alia*, access to and quality of education of any type or level, and reiterates the principles relating to free and compulsory primary education.²⁸⁴

In contrast to the international instruments just mentioned, the ECHR articulates the right to education narrowly and as a negative right. It states, in article 2 of Protocol 1 to the ECHR:

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

²⁸¹ Arts. 2 and 26, Universal Declaration of Human Rights, G.A. Res. 217 A (III), December 10, 1948; arts. 2(2) and 13, International Covenant on Economic, Social and Cultural Rights, G.A. Res. 2200 A (XXI), December 16, 1966, entry into force January 3, 1976; arts. 28 and 28, Convention on the Rights of the Child, G.A. Res. 44/25, November 20, 1989, entry into force September 2, 1990.

²⁸² J. A. Dent, *supra* note 111, at 94.

²⁸³ Art. 13(2)(d), International Covenant on Economic, Social and Cultural Rights, G.A. Res. 2200 A (XXI), December 16, 1966, entry into force January 3, 1976.

²⁸⁴ Arts. 1 and 4, UNESCO Convention Against Discrimination in Education, December 14, 1960.

On the one hand, by adopting a negative formulation, i.e., the obligation of Contracting States not to deny anyone the right to education, the ECHR reaffirms the principle of non-discrimination in relation to access to existing educational institutions. On the other hand, it imposes no positive obligation on States Parties to establish or fund particular types or levels of education.²⁸⁵

Another important component of the right to education that is included in all three instruments mentioned above relates to the obligation of State Parties to respect the religious, cultural, moral and philosophical convictions of the child and/or his parents. No such stipulation is included in the provision on education in the 1951 Convention, although its provision on freedom of religion does provide a lesser guarantee, namely, that states are to accord refugees treatment at least as favorable as that granted to nationals, including the right to the religious education of their children. The UNHCR EXCOM Conclusion No. 47 also recommends that the education of refugees respect their cultural identity.

In the ICESCR this right is formulated as an obligation upon states to respect the liberty of parents to choose schools for their children, other than those established by the public authorities (although they should conform to the minimum standards set out by the state), and to ensure the religious and moral education of their children in conformity with their own convictions.²⁸⁶ Similarly, article 29(1)(c) of the CRC requires that:

States Parties agree that the education of the child shall be directed to:

...

The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

This provision is particularly relevant to refugees and aliens generally, and commentators have concluded that in the case of child refugees, this implies a right to education about their own indigenous culture, as well as knowledge of their country of asylum.²⁸⁷

²⁸⁵ J. A. Dent, *supra* note 111, at 104.

²⁸⁶ Art. 13(3), International Covenant on Economic, Social and Cultural Rights, G.A. Res. 2200 A (XXI), December 16, 1966, entry into force January 3, 1976.

²⁸⁷ J. A. Dent, *supra* note 111, at 103, referring to Van Bueren.

We recall that the relevant provision in the ECHR focuses primarily on the obligation of the state to respect the parental convictions of parents in relation to their child's education, notably with respect to their religious and philosophical convictions.²⁸⁸ The European Commission as well as the Court have considered this provision in their case law. In the *Danish Sex Education* case, the Court interpreted it as requiring the state to respect parental convictions by prohibiting any form of indoctrination. Commentators have elaborated on this, stating that this provision also requires that in state schools positive measures be taken to respect this right, such as, granting exemptions to students for certain subjects.²⁸⁹ The European Commission of Human Rights has also stated that the right to the establishment of private educational institutions can be a right inferred from article 2 of the Second Protocol, though it did not find that states have an obligation to finance such schools.²⁹⁰ Following the same line of reasoning, the Court found that the provision does not include the right to state-funded education in the language of one's choice.²⁹¹

Therefore, the provisions in the above-mentioned human rights instruments are wider in scope than those emerging from the 1951 Convention. For example, they include convictions other than of a religious nature, and are more definitive with respect to the obligations of states insofar as they guarantee specific rights rather than simply a standard of treatment.

Provisions contained in other instruments, although of more marginal interest, also potentially provide certain guarantees in relation to the education of aliens and refugees. These include provisions in the following: ILO Conventions,²⁹² the European Convention on the Legal Status of Migrant Workers,²⁹³ and in the Convention on the Elimination of Discrimination Against Women, which guarantees

²⁸⁸ Art. 2, Protocol No. 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, ETS No. 9, March 20 1952, entry into force May 18, 1954.

²⁸⁹ J. A. Dent, *supra* note 111, at 105.

²⁹⁰ J. A. Dent, *supra* note 111, at 105.

²⁹¹ J. A. Dent, *supra* note 111, at 105, referring to the *Belgium Linguistic Case*.

²⁹² For example, article 12(f) of the ILO Convention (No. 143) concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers provides that states are to take steps to assist efforts of migrant workers to preserve their national and ethnic identity as well as their cultural ties with their country of origin, including the possibility of children to be given some knowledge of their mother tongue. Although refugees' primary objective in moving to their host country is protection, they may still fit the definition of a migrant worker. J. A. Dent, *supra* note 111, at 99-100.

²⁹³ Article 14 sets out the principle of equal treatment between nationals and migrant workers of Contracting States with regard to general, as well as vocational education. In order to benefit from EMW rights, recognized refugees (as other aliens) must be nationals of a Contracting State and be authorized to work in another Contracting State. Given that few refugees come from Contracting States however, the EMW is only of marginal relevance. J. A. Dent, *supra* note 111, at 106-107.

that women receive equal treatment with men in this field and provides for some substantive rights for women in rural areas.²⁹⁴

Secondary and Higher Education

We recall that according to the 1951 Convention, refugees are to receive treatment as favorable as possible, but not less favorable than is granted to aliens generally in the same circumstances. Thus, they are to benefit from any rights which are routinely extended to aliens but may not, on this basis, claim treatment which is reserved for preferred aliens, such as EU nationals.²⁹⁵

By contrast the ICESCR and the CRC offer more specific guarantees to non-nationals by requiring, in working towards the progressive realization of this right, that states make secondary education generally available and accessible to every child, and that higher education be accessible to all on the basis of capacity.²⁹⁶ In the context of these two instruments, secondary education includes general, as well as technical and vocational education at that level. Article 13(2)(b) and (c) of the ICESCR read as follows:

The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

[]

(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

It is of particular note that unlike the right to primary education, the provisions pertaining to secondary and higher education in these two human rights instruments contain elements of progressive realization, which means that state obligations may be more flexible, especially with regard to certain requirements.²⁹⁷ Hence, on the

²⁹⁴ Arts. 10 and 14, Convention on the Elimination of All Forms of Discrimination Against Women, G.A. Res. 34/180, December 18, 1979, entry into force September 3, 1981.

²⁹⁵ J. A. Dent, *supra* note 111, at 97.

²⁹⁶ Art. 28(1)(b) and (c), Convention on the Rights of the Child, G.A. Res. 44/25, November 20, 1989, entry into force September 2, 1990; art. 13(2)(b) and (c), International Covenant on Economic, Social and Cultural Rights, G.A. Res. 2200 A (XXI), December 16, 1966, entry into force January 3, 1976.

²⁹⁷ J. A. Dent, *supra* note 111, at 94.

one hand, the principal of non-discrimination with regard to access to education and secondary education in particular, is likely to be viewed as requiring immediate realization. This interpretation is supported by the fact that the right to education has not typically been denied to non-nationals, so that it is unlikely that the Monitoring Committee or the HRC would permit states much latitude to differentiate in favor of their nationals. On the other hand, the obligation of Contracting States under both the CRC and the ICESCR to work towards the progressive introduction of *free* secondary education is more likely to be granted the flexibility characteristic of rights subject to progressive realization.²⁹⁸

The provision on education in the ECHR stating that no person shall be denied the right to education does not specify a particular level of education and must be read therefore, as guarantying non-discriminatory access to existing public educational institutions at all levels. The UNESCO Convention Against Discrimination in Education also forbids any form of discrimination which impairs equality of treatment in education with regard to, *inter alia*, access to and quality of education of any type or level. Furthermore, it upholds the same principles as contained in the CRC and the ICESCR, namely that secondary education is to be generally available and accessible to all, and higher education also equally accessible based on merit.²⁹⁹

In fact, in all the above-mentioned instruments with the exception of the 1951 Convention, higher education benefits from the same guarantees as secondary education with respect to access, which is to be based on the principal of non-discrimination. The distinction is that equal access to higher education is further qualified in that it is based on capacity or merit. The ICESCR also provides for the progressive realization of *free* higher education. Potentially relevant provisions on higher education in other instruments include: article 6(1)(a)(i) in the ILO 1949 Convention concerning Migration for Employment (No. 97), granting migrant workers national treatment in apprenticeship and vocational training;³⁰⁰ the CEDAW, whose provisions on education strive to guarantee women equal access to education as men; and provisions in the European Social Charter, as well as the European Convention on the Legal Status of Migrant Workers, which relate to vocational training.³⁰¹

²⁹⁸ J. A. Dent, *supra* note 111, at 94.

²⁹⁹ Arts. 1 and 4, UNESCO Convention Against Discrimination in Education, December 14, 1960.

³⁰⁰ J. A. Dent, *supra* note 111, at 100.

³⁰¹ Art. 10, European Social Charter, ETS No. 35, October 18, 1961, entry into force February 26, 1965; art. 14, European Convention on the Legal Status of Migrant Workers, ETS No. 93, November 24, 1977, entry into force May 1, 1983. The personal scope of the ILO Conventions, the ESC and the EMW, as well as their relevance to recognized refugees is discussed in the International Standards section in the preceding chapters. Recall in this context, that the applicability of the ESC and the EMW to recognized refugees is marginal. For more details on the personal scope, implementation and relevance of these instruments to refugees, see J. A. Dent, *supra* note 111, at 24-29, 35-40. See also UNHCR Regional Bureau for Europe, *NGO Manual on International and Regional Instruments Concerning Refugees and Human Rights*, Vol. 4, No. 2 (1998) at 335-330.

2. Comparative Analysis

This section aims to provide an analysis of the extent to which the selected countries in the region satisfy the international standards, and of their practice and programs relating to education. It also addresses the issue of language training, given its central importance to the integration, and indeed, the education of refugees. Moreover, with regard to technical and vocational courses, for the purposes of this chapter we consider only those courses which are offered in the framework of public educational institutions, and not those offered under employment-assistance programs for refugees, which are covered in Chapter II on employment. Children's educational support programs are frequently provided to all children without differentiating as to whether they are children of asylum-seekers, temporary refugees or recognized refugees. These programs are therefore discussed in the same manner in this chapter.

¶ *Primary Education*

All the countries under consideration in this study observe the standard of treatment stipulated under the 1951 Convention with regard to access to primary education. Thus, children of recognized refugees have access to elementary school on the same terms as nationals, which at this level means that school is free and compulsory. The manner in which different countries attribute this right to refugees varies. In some instances, such as in the case of Slovenia, the Czech Republic and Romania, this right is explicitly provided for in the Asylum Law, while in other countries in the region, namely in Slovakia, Hungary, and Bulgaria, it is granted by virtue of a general provision according to which recognized refugees have the same rights/status as citizens, with no applicable exception stipulating otherwise. In some instances, such as in the case of Slovakia and Bulgaria, secondary legislation reiterates that the standard of treatment granted to nationals concerning primary education is also applicable to aliens, and/or recognized refugees.

Of concern with regard to primary schooling is its comparatively short duration in the case of Romania, where according to national standards it is limited to a total of four years (i.e., ages six to ten). Beyond the fact that it fails to meet the European standard of a minimum of six to seven years of free primary education, children of refugees are particularly affected by this minimal elementary schooling since, unlike Romanian children, they do not have the right to free secondary education.

Secondary Education, Including Vocational/Technical Studies

With the exception of Romania and Poland, all the other countries under study continue to grant the children of refugees the right to pursue their secondary

education on the same terms as nationals. The educational systems and requirements naturally vary from country to country, so that the number of years of secondary schooling may differ, as well as whether they are compulsory or not, and even the conditions for acceptance may differ given that some countries impose entrance exams. The children of refugees are thus subject to these same conditions, details of which are provided in the Individual Country Profiles section below.

With regard to Slovakia, it is noteworthy that a 1984 Resolution by the Ministry of Education specifies that only elementary education is compulsory in the case of the children of aliens with permanent or temporary residence in Slovakia. However, this provision has not been interpreted or applied restrictively with regard to recognized refugees, who according to the Refugee Law benefit from the same status as citizens unless special regulations provide otherwise.

In contrast to the above five countries, children of refugees are placed at a distinct disadvantage in Poland and Romania, where according to the law they are treated as foreigners and therefore required in principal to pay school fees once they have reached the secondary school level. Only once refugees receive permission to settle in Poland, which they are eligible to apply for after a three-year stay in the country but which in practice has proven difficult for recognized refugees to obtain, are they afforded the same standard of treatment as citizens with regard to secondary education. Children of refugees in Romania are by law also subject to school fees, which average 250 USD per month, the equivalent of approximately eight times the national minimum wage. According to information provided by UNHCR, it appears that in practice, refugee children may not be required to pay these tuition fees and that waivers are granted in both countries. Nonetheless, this decision seems to be at the discretion of the relevant authorities.

Higher Education

As with secondary education, recognized refugees are legally entitled to access higher education, including vocational training and university level studies, on the same terms as nationals in the majority of the selected countries in the region, namely, in Slovenia, the Czech Republic, Slovakia, Hungary and Bulgaria. Moreover, in a number of these countries, education is still free of charge in most or all state universities, though in some cases important changes are expected in this respect.

There is insufficient information with regard to state assistance to students and the award of scholarships to draw reliable conclusions on state practices in the region. Nonetheless, by virtue of the fact that in the above-mentioned countries refugees are granted essentially the same rights as nationals, in principal, unless a legal provision stipulates otherwise, this standard should also be applicable in this regard. We know for example, that in the Czech Republic recognized refugees are granted the same

right to social assistance as Czech students, and that in Slovakia scholarships may be granted to both citizens and permanent residents, thus rendering refugees eligible.

In principal, recognized refugees are required to pay university fees in both Poland and Romania. In practice, rectors in Poland have discretion to reduce the fees or even waive them entirely depending on the financial situation of the applicant, and it appears that at least in some instances this has been applied favorably to refugees. As mentioned above, should refugees be granted permission to settle in Poland, they would then have the right to access all levels of education including university, on essentially the same terms as nationals.

Until relatively recently, recognized refugees in Romania were also, at least as a matter of policy (though not law), granted access to university studies on the same terms as nationals on the condition that they pass the general university entrance exams. As of mid-1998 however, this exception is no longer made and no individual waivers are known to have been issued for refugee applicants in Romania since then, despite the fact that university fees can cost 350 USD per month.

Recognition of Foreign Diplomas

With respect to the recognition of foreign school certificates, diplomas and degrees, it was not possible to gather sufficient information from which to draw reliable conclusions on state practices. Moreover, the procedures for obtaining academic recognitions and equivalencies not only differ from country to country, but in certain cases even from academy to academy. We know, however, that whether it be for purposes of employment or further education, refugees are frequently in need of assistance, both to negotiate the bureaucratic procedures inherent to the process of obtaining recognition of foreign diplomas, and financially in order to have these degrees and sometimes even their thesis translated.

Practice and Programs

Supplementary government assistance in the education sector is generally limited with the exception, in some countries, of language courses. Thus, in this region, UNHCR together with NGOs are the principal providers of educational assistance for recognized refugees and their children. With the exception of Slovenia, local UNHCR offices in all the countries under consideration fund education support programs covering a range of age groups and needs including assistance for schoolchildren, university grants, and language courses. It should be noted that with regard to assistance to schoolchildren, most programs do not provide different services or distinguish between children of asylum-seekers and recognized refugees.

Primary and Secondary Education

UNHCR-funded education programs for primary, secondary and technical school students include the following: subsidies for transportation costs, books and other educational materials, and, when necessary, tuition fees; organization of educational and extra-curricular and recreational activities, such as summer camps, and day outings; provision of extra tutoring and language classes; and assistance through close cooperation with school authorities to ensure timely enrollment in schools.

In Romania, Bulgaria, and Hungary, the implementing NGOs noted their satisfaction with the degree and quality of their cooperation with the relevant school authorities, as well as with their children's educational projects in general. This cooperation has been especially beneficial in the case of Romania, and was instrumental in resolving some problems relating to attendance by some refugee children. In that case, the chief refugee-assisting NGO together with teachers and school authorities in Romania began monitoring refugee children attendance, as well as tying certain benefits for the parents to their children's school attendance.

Moreover, in Romania and Bulgaria in particular, the strict language requirements for school age children, namely a nine-month and a one-year language course (or the passing of an exam before entering school) respectively, have also meant that UNHCR, NGOs and the relevant government authorities have had to provide special assistance in this respect in order to ensure that these children meet the language requirements and do not suffer related delays in furthering their education.

In Hungary, NGO initiatives, and particularly those by the Red Cross have led to the establishment of a network of volunteers who provide refugee children help with their homework, tutoring, and the Hungarian language. In this context, the project with the American School in Budapest is noteworthy, despite the fact that due to logistical reasons it may primarily benefit children of asylum-seekers. This project provides these children the opportunity to participate in this school's classrooms once a week, thus exposing them to a different educational and cultural environment. This is followed up with tutoring in the English language, which teachers from this school provide on a volunteer basis twice a week at the refugee camps.

Also noteworthy is the refugee-specific assistance which the Hungarian Government has included for primary and secondary school children in the Government Decree on Social Care and Maintenance, in the form of school enrollment benefits equivalent to 50% of the minimum old age pension. This financial assistance is for families in need who are already receiving contributions to their cost of living by the Migration Office. Under the same Decree, some supplementary assistance is also provided to help defray travel and other related costs for refugees seeking to take vocational training and language courses.

Of grave concern however, is the fact that children of asylum-seekers in Hungary do not appear to be granted any rights to education.

Higher Education

Some programs of assistance for higher education, including all post-secondary and university level studies, are provided to refugees by UNHCR and in some countries, most notably Hungary, also by national authorities.

Hungary is, to our knowledge, the only country under consideration which provides for a specific program of financial assistance for refugee students under its Government Decree on Social Care and Maintenance. According to this Decree, refugee students who can prove financial need are eligible to apply for high-level education grants, i.e., post-secondary and university level education, from the Migration Office to cover tuition fees. The above-mentioned school enrollment benefit, which is offered under the same Decree, is also available for pursuing vocational studies or training schools. However, no statistics are yet available with regard to the number of applications or grants received to date.

In Poland, authorities have been cooperative by granting refugee students waivers for university fees in the past, despite the fact that they are not legally entitled to free access to Polish universities. And in the Czech Republic, refugee students benefit from the same program of social assistance granted to Czech students under the age of twenty-six who can demonstrate financial need.

In order to assist refugees to pursue their studies, UNHCR as well as some other organizations and NGOs also provide university scholarships, though in most cases these are fairly modest. They are intended to help defray some of the costs of school expenses such as the purchase of textbooks and other materials, the payment of university fees, and/or some of the living expenses, and do not constitute full scholarships. Moreover, in all cases, UNHCR-funded scholarships are based on demonstrated need rather than scholastic merit alone. In the case of Bulgaria, UNHCR Sofia administered the DAFI Scholarship Program (an Albert Einstein German Academic Refugee Initiative) until 1998 in addition to their own, more modest program, which is still running.

Despite the generous access to higher education which is granted to refugees by the majority of the countries under consideration, they are, nonetheless, frequently at a disadvantage when competing with nationals. This competitive disadvantage stems primarily from the language barrier, which in addition to affecting their studies as such, also affects their performance on state entrance exams, which are a requirement for gaining free, or at least equal access to universities. If they fail to pass these entrance exams, students must then usually pay full tuition (even if nationals are not

so required) either at state universities or private academic institutions. Thus, in practice, refugee students cannot always benefit from legal provisions granting them equal access with nationals to higher education. This situation, as well as the fact that governments are increasingly imposing tuition fees for state universities, renders the existence of refugee-specific university scholarships programs all the more necessary.

Language Courses

Despite being essential to the integration process as well as to the pursuit of further education in the country of asylum, language courses are not yet formally included as a state responsibility in the refugee legislation of all the countries under study. At present, only recognized refugees in Slovenia, the Czech Republic, and Hungary are specifically granted a right to free state language courses. Furthermore, such provisions have only been adopted in the context of the relatively recent refugee legislation in the case of Hungary and Slovenia, such that there is really only a limited or no state practice to date in this respect. In the case of Slovakia, according to the Refugee Law, language courses are provided by the government at refugee centers. The courses are therefore primarily intended for asylum-seekers, although newly recognized refugees who are permitted to remain in the center for fifteen days after recognition, may also participate in them during that time.

In Poland and Romania there are neither a state practice nor legal provisions granting refugees language courses, while in Bulgaria, the situation was only somewhat improved by a provision granting language courses to asylum-seekers under the new Asylum Law, which entered into force in August 1999.

UNHCR and NGO assistance in providing language courses for asylum-seekers and recognized refugees remains a necessary component of integration programs in the region, whether it be in order to complement the state-funded programs already in existence, or to provide a basic framework for free language training for refugees where no other programs are available. Even where state-funded courses are provided to refugees, these are often insufficient on their own and need to be followed up with more advanced courses, or in other cases the courses are only provided in refugee camps such that recognized refugees living independently need to be provided with alternative language training.

Table 5:
Right to Education for Recognized Refugees³⁰²

	Equal rights as nationals			Legal provision grants a right to state language courses
	Primary education (free and compulsory)	Secondary education	Higher education	
Bulgaria	✓	✓	✓	✗
Czech Republic	✓	✓	✓	✓
Hungary	✓	✓	✓	✓
Poland	✓	✗	✗	✗
Romania	✓	✗	✗	✗
Slovakia	✓	✓	✓	✓ limited
Slovenia	✓	✓	✓	✓

✗ Yes ✓ No

³⁰² Please note that the information provided in this table reflects the situation as of December 1999 and therefore includes the new Slovenian and Bulgarian asylum laws which came into effect during the month of August 1999. It also takes into account both the current and the draft Law on Asylum of the Czech Republic.

3. Recommendations

Primary Education

All seven selected countries in this study satisfy the obligation to provide children of refugees with access to free and compulsory primary education on the same terms as nationals.

The following are some other areas and issues with regard to primary education which still merit attention:

1. Given the particularly short duration of primary school in Romania (i.e., a total of four years), an amendment to the current law is recommended in order to extend the right to free secondary education to children of recognized refugees. In this way, these children will be guaranteed the benefit of a longer education. From the legal point of view as well as that of integration, this solution is preferable to requesting that the duration of primary school be extended for children of refugees or indeed for nationals. Moreover, by formally granting refugee children a right to access secondary education on the same terms as nationals, Romania would be confirming their current practice, as well as harmonizing their laws with those of the majority of the countries under consideration.

2. Though this has not so far been presented as a problem in the region, special attention should be paid to cases of refugee children who are recommended for placement in special schools (i.e., schools for children with learning disabilities or special need.) in order to ensure that this does not result or gradually develop into a general coping policy for dealing with refugee children who may still face language barriers and cultural adaptation.

3. At the program level, education support activities for schoolchildren, particularly during the first years in their host country, can play an important part in ensuring scholastic success and integration into their new social environment. Specifically, language classes and after school tutoring opportunities should be provided. While some activities are most appropriately provided by teachers in a formal educational context, much of this support can be offered by volunteers (such as in the framework of a program analogous to that in Hungary whereby teachers provide educational support services on a volunteer basis, or a Big Brother , Big Sister Program, such as exists in the United States for example).

4. Financial assistance, whether it be for the purposes of purchasing school materials, transportation or other school-related costs, is also likely to continue being necessary for children of newly recognized refugees given the often limited employment opportunities of their parents prior to mastering the host language.

5. The importance of extra-curricular and recreational activities, again, particularly in the first few years in the host country, should not be underestimated as they provide refugee children opportunities to establish a close rapport with their host counterparts and culture. Furthermore, these activities are easily undertaken by volunteers and attractive to non-traditional donors, such as corporations or civic associations. In fact, the positive impact that these activities with children also tend to have on NGO staff (who tend to suffer from burn-out) and volunteers, in terms of being rewarding and keeping the latter interested in refugee issues, should not be underestimated.

Making some of these activities regular and periodic events, will help children of recognized refugees whose families have found their own housing and who no longer have easy access to information about activities organized in refugee camps and integration centers continue participating in them after they have moved out. These activities should also be posted in places frequented by newly recognized refugees or publicized in the available refugee newsletters. Summer camps, such as those in Bulgaria for example where they include both Bulgarian and refugee children and focus on improving the language skills of the latter, should also continue to be encouraged. NGOs should be encouraged to identify alternative sources of funding for such activities.

Secondary Education

1. Romania and Poland need to amend their legislation to provide refugee children the legal right to access free secondary education on the same terms as nationals, in order to harmonize with the practice in the region and to meet their international obligations, such as under the CRC and ICESCR. Given the level of wages in these countries, the current school fees, such as in Romania, constitute a barrier to access, so that a waiver of such fees should not be left to the discretion of school authorities or be based on discretionary government practices. Governments may need to be reminded that the refugees unable to complete a secondary education are likely to become quickly marginalized, a situation neither to the benefit of the refugee or the host society.

2. Recommendations No. 3-5 above are equally applicable to secondary school students.

Education Rights of Asylum-Seekers

1. In keeping with the international standards relating to education discussed in this chapter, host countries should grant children of asylum-seekers the right to primary and secondary school on the same terms as nationals. Of grave concern, is

Hungary's failure to provide for the rights of these children, in breach of their international obligations. An amendment to their legislation is urgently required in this regard.

University and Other Forms of Higher Education

1. Access to the normally available educational facilities, especially in the context of the increasingly sophisticated economies of Central European countries, can be regarded as including university level studies. Thus, Poland and Romania are strongly encouraged to grant recognized refugees the legal right to access higher education on the same terms as nationals, and in this way bring their legislation and practice into line with the general standard of treatment granted to refugees by the other countries in the region.

2. In the remainder of the countries under consideration, it may in certain instances continue to be necessary to inform institutions of higher education of the rights of refugees, as cases have been reported whereby recognized refugees have been requested to pay the same fees as other foreigners. Governments, and particularly the Ministry of Education, can take a proactive role in this regard by issuing information letters and internal instructions. These institutions should also be approached regarding mechanisms to facilitate refugee enrollment.

3. Financial and other types of support for university, professional re-qualification, and vocational studies are discussed in Chapter II on Employment. While UNHCR should continue to fund grants for post-secondary studies, alternative funding for these programs must also be sought by refugee-assisting NGOs, and wherever possible, governments and educational authorities should be lobbied to provide tuition waivers and scholarships to refugees. Special attention should be paid to assisting refugees who must support family members and whose studies are pursued in the context of professional re-qualification and certification programs, specific employment opportunities, or in order to complete studies already begun.

Language

1. After ensuring the basic material and housing needs of refugees, language training is the next most fundamental type of integration assistance which must be provided. Hence, it should be part of the asylum state's most basic responsibilities under article 34 of the 1951 Convention which imposes an obligation to facilitate the integration process of recognized refugees. Even countries with limited resources for integration assistance should, therefore, be encouraged to grant refugees this basic right. In particular, the Romanian, Bulgarian, Polish and Slovak asylum laws should be amended in order to provide for the right of refugees to state-funded language

courses, even if these must later be complemented by more advanced courses which could be provided by other organizations.

2. Language training should also be provided to asylum-seekers during the RSD procedure, as language skills are certain to facilitate the integration of those persons who will eventually be granted refugee status.

3. For further recommendations on language training please refer to the recommendations section in Chapter II on employment.

**PART II:
INDIVIDUAL COUNTRY PROFILES**

1. Bulgaria

Primary and Secondary Education

Children of recognized refugees have access to free primary and secondary education on the same terms as nationals in Bulgaria, where school attendance is compulsory from seven to sixteen years of age. Supporting this is the Ordinance on Enrollment of Foreigners in State and Municipal Schools,³⁰³ which provides explicitly that refugees have the right to enroll in public schools under the same conditions as Bulgarian citizens.

Until July 30, 1999

Furthermore, article 2 of the Ordinance on Refugees,³⁰⁴ which was in force until July 31 1999, granted recognized refugees the rights of permanent residents, a status holding essentially the same rights as nationals.

New Refugee Law: effective 1 August 1999

As of the above date, the right to education is also guaranteed by the new Refugee Law, which grants recognized refugees the same rights and obligations as nationals, unless specified otherwise by law.³⁰⁵

State Practice and Refugee-Specific Programs

No problems have been found to exist in practice, with regard to access to these levels of education.

Newly arrived children undergo a nine-month course in the Bulgarian language, after which they can then enroll in regular Bulgarian schools at which an evaluation is conducted in order to determine their scholastic equivalency. Once enrolled in regular schools, these children may benefit from educational programs, organized by

³⁰³ Art. 2, point 4; art. 5, para. 2, art. 8, Ordinance on Enrollment of Foreigners in State and Municipal Schools.

³⁰⁴ Art. 2, Refugee Ordinance *supra* note 28.

³⁰⁵ Art.28, Law on Refugees (unofficial UNHCR English translation), XXXVIII National Assembly of the Republic of Bulgaria, May 27, 1999, entry into force August 1, 1999.

the Agency for Refugees and the Bulgarian Red Cross (hereinafter BRC), who provide extra tutoring free of charge for all children who wish or need to improve their knowledge in a specific subject. The Agency for Refugees and the refugee service of the BRC also offer a two-year language course for secondary school students, as well as students seeking to pursue higher education.

As a general rule there is no problem with attendance at schools, and refugee and asylum children adapt well, receiving good scores. Both NGOs, UNHCR, as well as social workers of the Agency for Refugees maintain contact with teachers and school authorities in an attempt to assess the special needs and problems of the children. The greatest challenge seems to be learning the Bulgarian language.

As a consequence of this contact with teachers and a survey conducted by the BRC, further programs were formulated by the BRC to meet specific needs of the children that had previously been neglected. With UNHCR support, in-kind and financial assistance for the purchase of textbooks, outfits for physical education and snacks are provided. In the past, the BRC also implemented a three-week summer camp project, funded by UNHCR until 1998, whereby Bulgarian and refugee children could interact and the latter could improve their Bulgarian language skills. After 1998, alternative funding was sought and identified so that it is the Spanish Red Cross that now funds this project, which continues to be implemented by the BRC.

Higher Education

Recognized refugees are also entitled to access higher education and vocational training on the same footing as nationals.

Until July 31, 1999 refugees were granted permanent residence by virtue of the Ordinance on Refugees in force at that time, a status that as mentioned above accords them essentially the same rights as Bulgarian citizens, including with regard to education.

This right is also guaranteed to recognized refugees by operation of the general provision in the new Refugee Law effective August 1999 granting them the same rights as nationals.

Moreover, this is further confirmed by a 1994 Order issued by the Ministry of Education, which entitles recognized refugees to apply and be admitted to higher education under the same conditions as Bulgarian nationals.³⁰⁶

³⁰⁶ Additional Regulations of the Order No. 2, Regulation No. 1, March 22, 1994, Bulgarian Ministry of Education.

In Practice

Despite these generous provisions, in practice, refugees sometimes experience discrimination when they are requested by universities to pay tuition fees applicable to foreigners, rather than the minimal fees charged to Bulgarian nationals.³⁰⁷ In these instances, the UNHCR office or implementing partners have intervened and met with university officials in order to explain the applicable provisions regarding refugees. Furthermore, refugees, like Bulgarian citizens, must pass state exams in order to be admitted free of charge to universities. In some cases, this has been problematic for those refugees who have not mastered the Bulgarian language to the same degree as the native speakers against whom they are competing for admission.

As a result, they are obliged to pay for their studies, a burden UNHCR has sought to alleviate by offering their own scholarships for university studies, and by running the DAFI-Scholarship program (the Trust Fund of which is administered at UNHCR Headquarters in Geneva), the latter having ended in 1998.³⁰⁸

On a more modest scale than the DAFI scholarships, UNHCR grants finance university fees and provides for a small allowance, the amount of which depends on individual need and required school expenses such as books and other supplies.

Language Courses

There is no provision specifically provided for state-sponsored Bulgarian language courses in the Ordinance on Refugees, which was in effect until July 31, 1999. Moreover, in the New Refugee Law, effective after the above date, this is only partly remedied since article 37(1) only explicitly grants Bulgarian language courses to asylum-seekers.

As such, UNHCR provides funding for free language courses, which are implemented by the BRC and organized for recognized refugees, upon request. Indeed, a variety of language training programs have made Bulgarian language courses available to both recognized refugees and asylum-seekers. General language classes are offered in the premises of the Agency for Refugees (i.e., the Sofia and the Banja reception centers), and special language courses are organized for children in

³⁰⁷ In practice, university fees have been charged to Bulgarian nationals since the early 1990s.

³⁰⁸ UNHCR Bulgaria began to implement the DAFI-Scholarship program (an Albert Einstein German Academic Refugee Initiative) in 1996 and had during the academic year 1997/1998 a total of seventeen students enrolled, eight of whom are graduate students in medicine and environmental protection, and nine in undergraduate programs in natural sciences (medicine, chemistry and engineering). Most of the students originate from Afghanistan, and the Republic of Congo. However, the DAFI program stopped receiving new applications as of 1998.

parallel with their school curriculum. Moreover, a children s entertainment club with a part-time teacher and a child care service are available at the centers, in order to allow their parents to attend language classes. The lessons are given by professional language teachers.

As of 1998, UNHCR no longer financed the salaries of the teachers, the Agency for Refugees having assumed these costs. With the entry into force of the new Refugee Law, however, it is unclear what exact responsibilities the Agency for Refugees will take on, as the new law is too recent to provide any information on the ensuing government programs and practices.

The children s summer camp project mentioned above was also organized with the objective of helping refugee children improve their Bulgarian language skills, and indeed included intensive language classes. Refugee children have also been encouraged by NGOs to learn about their native culture and language, and a refugee woman from Afghanistan offers lessons in Pashtu, on a *pro bono* basis, on Afghan culture and history to refugee children at the women s integration center.

2. Czech Republic

Compulsory Education

With respect to compulsory public education, children of refugees have the same rights as nationals. Article 19(3) of the Refugee Law specifically provides for the right of refugees to free education up to the level of compulsory school attendance, i.e., ninth grade.

Higher Education

By virtue of article 19(1) of the Czech Refugee Law, which provides that recognized refugees are to enjoy the same status as Czech citizens (with the exceptions enumerated in the same provision), in principle, refugees and their children also have access to higher education at state institutions on the same terms as nationals. The rights of citizens with regard to education are stipulated in article 33 of the Czech Charter, which grants them the right to free education at elementary and secondary schools and depending on the individual s ability and the potential of society, also at university level.³⁰⁹

³⁰⁹ Other relevant legislation include the Law on Education No. 29/ 1984 and the University Law No. 172/1990.

Hence, recognized refugees who pass the entrance examinations for secondary schools and university faculties which do not require tuition fees are entitled, like Czech citizens, to free education. Otherwise, they pay the same fees as Czechs.

In case of need and in the absence of any other means of support, refugee students also have access to the social assistance benefits available to Czech students until the age of twenty-six on the same terms as nationals.

¥ *Language Courses*

Article 19(3) of the Refugee Law provides for free Czech language courses. The government must provide recognized refugees with 75 hours of basic Czech, either at the integration centers or local municipalities. Attendance is not compulsory. Recognized refugees are not entitled to other language courses outside of these centers, though NGOs sometimes pay for places at language schools.

Draft Refugee Law

The draft Refugee Law maintains the state's obligation to provide Czech language courses,³¹⁰ and grants recognized refugees the same rights with regard to all levels of education as permanent residents. Given that permanent residents enjoy essentially the same rights as citizens in the Czech Republic, in practice, the situation of recognized refugees will therefore remain the same as under the current law, and they will continue to enjoy the right to access education on the same terms as nationals.

Education Programs, Language Training, and Relevant Statistics

UNHCR funds some small educational assistance projects, most of which are implemented by the integration NGO, PPI. These programs consist primarily of financial assistance to help cover school-related expenses for refugee students in need. They include funds for needy refugees attending secondary schools in order to help with the purchase of school supplies and transportation costs, and university scholarships intended to help defray school expenses.³¹¹ These University grants are

³¹⁰ Arts. 68 and 70, Draft Law on Asylum *supra* note 26.

³¹¹ In 1999, financial assistance was provided to approximately fifteen secondary school students, and ten university scholarships were granted.

provided to refugee students with a demonstrated need for financial assistance, which is particularly strong in instances where the students are older than twenty-six and are no longer eligible for the student-welfare benefit.

UNHCR also offers a Czech language program, again implemented through PPI, to complement training provided by the government. Recognized refugees who demonstrate that the language skills obtained through the government program are insufficient to meet their needs may therefore benefit from these additional intensive Czech language courses.³¹²

In their 1998 survey of recognized refugees in the Czech Republic, the integration NGO, PPI, found that 83% of respondents felt that they had a good knowledge of the Czech language. Czech is understood best by refugees from the former USSR countries, people between the ages of 18-30 and by the employed.³¹³ On the other hand, those refugees most likely to experience difficulty in acquiring Czech were refugees from Asian countries, those over 46 years of age, those with only elementary education, unskilled laborers, worker assistants and housewives.³¹⁴

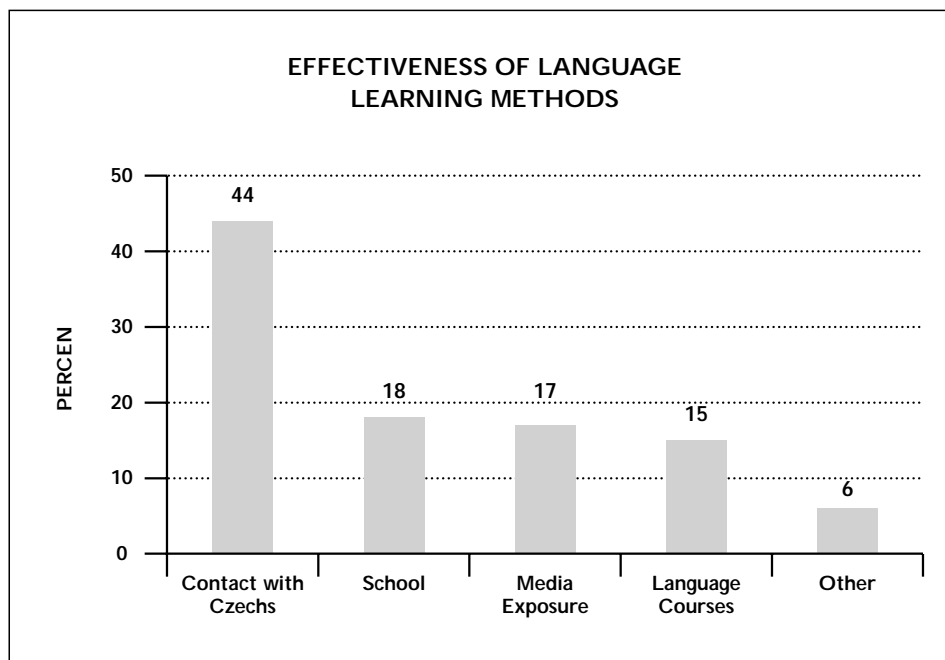
Only one quarter of respondents took a language course after receiving refugee status, of which a majority took courses financed by the state, while a much smaller percentage took courses offered by two refugee-assisting NGOs.³¹⁵ Persons most likely to take such courses included refugees from African countries, those over the age of 46, university graduates, professionals, and the unemployed. Among the reasons cited for not taking Czech language courses after being recognized was that they did not want or need them, that they were not offered such courses or did not know they existed. With regard to the most effective way of learning the language, the largest number of respondents (44%) stated that they learnt the language through everyday contact with Czechs, while 18% felt they learnt it most effectively in the course of their studies or through the media (17%), and only 15% mentioned that language courses were an effective way of learning the language.

³¹² Approximately 40 recognized refugees were expected to receive this additional (UNHCR funded) Czech language training in 1998.

³¹³ Ninety-six, ninety-one, and ninety-two percent respectively. Refugees in the Czech Republic, *supra* note 172, at 28.

³¹⁴ Refugees in the Czech Republic, *supra* note 172, at 28.

³¹⁵ Refugees in the Czech Republic, *supra* note 172, at 29.



* This chart has been adapted from the PPI Refugee Report (1998, p. 30).

3. Hungary

Primary, Secondary and Higher Education

Children of recognized refugees have access free of charge to primary and secondary public education on the same terms as nationals. The Asylum Law accords refugees the same rights as Hungarian nationals, unless an Act or Government Decree has provided otherwise.³¹⁶ In the case of the right to education, no such Act or Decree exists which would limit the access to education of recognized refugees. Therefore, children are admitted to Hungarian primary and secondary schools free of charge, and school is obligatory until the age of sixteen.³¹⁷

³¹⁶ Art. 17, Act on Asylum, No. 1997: CXXXIX, December 9, 1997, entry into force March 1, 1998.

³¹⁷ F. LIEBAUT, *Legal and Social Conditions for Asylum Seekers and Refugees in Central and Eastern European Countries*, at 98 (Danish Refugee Council, 1999).

According to the same legal provision in the Asylum Law, refugees also have access to higher education, though University education is not free of charge in Hungary, and recognized refugees as well as nationals must pay a set fee.

Language Courses

Article 18 of the Asylum Law provides that refugees are entitled to attend a language course free of charge. The Government Decree Regulating the Care of Refugees³¹⁸ further specifies that a basic language course or one which improves the existing knowledge will be organized by an Institute designated and funded by the Migration Office. They are to be provided at reception centers, but courses may also be organized for privately accommodated recognized refugees outside of the centers. The provision on Hungarian language courses under the new law is particularly welcomed, as the previous asylum law did not grant recognized refugees this right.

Unfortunately, the implementation of the language courses which were contracted to Hungarian language schools by the government to date, does not appear to have been satisfactory, partly due to the lack of follow-up of their results, and by November 1999 alternative language programs were already being considered. Of concern is also the fact that no systematic language training is offered to asylum-seekers during the RSD procedure in Hungary, thus placing those refugees who are eventually recognized at a distinct disadvantage on the job market.

Programs

The Government Decree Regulating the Care of Refugees³¹⁹ provides that refugees may request a grant from the Migration Office to cover the tuition fees of high level education as first basic training for no longer than the period stipulated for acquiring the qualification. High level education in this context refers to studies undertaken at colleges or universities, or other post-secondary institutions. These funds will be distributed to those who demonstrate sufficient need upon the submission of a statement certifying their income level and value of any property they may own. No statistics are yet available regarding applications to date.

This same Decree also provides for a school-enrollment benefit amounting to 50% of the minimum old age pension for primary and grammar schoolchildren who receive regular contributions to their cost-of-living by the Migration Office.³²⁰

³¹⁸ Art. 16, Government Decree Regulating the Care of Refugees, *supra* note 66.

³¹⁹ Art. 15(1), Government Decree Regulating the Care of Refugees, *supra* note 66.

³²⁰ Art. 19, Government Decree Regulating the Care of Refugees, *supra* note 66.

Additionally, this school enrollment benefit may also benefit refugees pursuing vocational studies and skilled workers training school. Furthermore, the Government Decree³²¹ grants a travel benefit to help defray the costs associated with enrollment in vocational and language training.

Refugee-assisting NGOs, with UNHCR support, also provide some educational, recreational and cultural programs for children of refugees. The Red Cross (refugee unit), in particular, identifies the educational programs for these children as one of their greatest successes. Amongst other things, they have developed good connections with education centers near refugee camps, so that whenever new refugees arrive, the children are immediately admitted into school within one week.

They have also developed a network of volunteers who tutor and help children with their homework, and to learn Hungarian. One of the more interesting examples of this is the project with the American School in Budapest. On a volunteer basis, the American School provides transportation for the children to the school and allows them to participate in their classrooms once a week (after normal Hungarian school hours). These classes are conducted in English, thus allowing children to improve their skills in that language and have contact with foreign students, as well as the director of the school, who meets with them every four months. Twice a week some volunteer teachers from the school also come to the refugee camps to offer tutoring in the English language.³²²

4. Poland

Primary, Secondary and Higher Education

Refugees and their children (who upon recognition receive permission to reside for a specified period) have the right to access elementary education, which is free and compulsory, on the same terms as nationals, but not secondary schools and higher education.

According to information provided by UNHCR as of December 1999, it appears that in practice, parents are not required to pay fees for secondary education, though in the past, the practice seems to have been that parents who could not afford these fees had to apply to the headmaster of the school, who had discretion in this matter.

³²¹ Art. 18, Government Decree Regulating the Care of Refugees, *supra* note 66.

³²² No breakdown was immediately available however, regarding the beneficiaries of these programs so that it is unknown whether both children of asylum-seekers as well as refugees benefit from them.

With respect to university studies, in practice, rectors of universities possess considerable discretion as to whether to reduce the payments or to waive them completely depending on the material situation of the refugee. According to UNHCR, it appears that to date there has been a general understanding that refugees are to benefit from this exemption. Thus, several refugees have been able to continue their studies at the university level and some have even pursued scientific careers at research institutes.

University diplomas are recognized on the basis of bilateral interstate agreements, though in cases where such agreements do not exist, diplomas must be confirmed and recognized by the authorities of the relevant academies.

By contrast to the above, persons granted permission to settle are to receive equal treatment with Polish nationals and enjoy full access to free state education at the elementary, secondary and university levels. However, we recall from Chapter I on Legal Residence and Related Rights, that upon recognition, refugees only receive permission to reside for a specified time, i.e., temporary residence, which is granted for up to two years with the possibility of extensions. They may only apply for permission to settle after a three-year stay in Poland. In practice, UNHCR is not aware of any refugee so far who has received permission to settle under this procedure.

Language Courses

There are no legal provisions granting recognized refugees a right to free Polish language training. However, upon request, UNHCR finances and organizes free language courses through its implementing NGOs.

5. Romania

Primary Education

According to the 1996 Refugee Law,³²³ children of recognized refugees have the right to follow primary education under the conditions established by law for Romanian citizens, and the other educational levels under the same conditions as foreigners. This new law is less generous than the previous refugee regime³²⁴ in which refugee children benefited from free education up to and including secondary school.

³²³ Art. 15(e), Romanian Refugee Law, *supra* note 85.

³²⁴ Established by Government Decision 28/1994.

Under the current law, children of refugees are only provided with free primary education, i.e., the first four years of school between the ages of six and ten, and are subject to the same standard of treatment as foreigners for all other levels of education, including secondary schooling. They must also complete a preparatory year to learn Romanian and/or pass a language test to prove their fluency in that language before they can attend school.³²⁵

Secondary and Higher Education

All levels of education are free of charge for nationals. For children of refugees wishing to go on to secondary school however, school fees average 250 USD per month, which is equivalent to approximately two-and-a half times the national average take-home wage and eight times the national minimum wage. As stated above, they do not have the right to secondary or higher education on the same terms as nationals. Fortunately, to date, the Ministry of Education has chosen not to apply this restrictive provision in the current law, and has waived these fees in the case of secondary schools.

University fees are even higher, costing approximately 350 USD per month. Moreover, to the knowledge of UNHCR, no waivers have been granted to recognized refugees with respect to these fees. During 1997 and until the middle of 1998, recognized refugees were, in principle, to have access to university on the same terms as Romanian nationals on the condition that they pass the same entrance exams. However, this policy has changed since that time, and such exceptions are no longer granted. Given the high university tuition fees applicable to aliens, UNHCR will continue to negotiate with the Ministry of Education for the fees to be waived in the case of recognized refugees.

Language Courses

There is no state practice or legal provision granting recognized refugees a right to free Romanian language courses. During 1998, the Ministry of Education nonetheless agreed to allow language classes to be held in some public schools, in the context of a UNHCR program offering language classes to recognized refugees. Three different levels of language courses are offered in this program, which had sixty-eight beneficiaries in 1998.

³²⁵ F. LIEBAUT, *supra* note 316, at 170.

Education Assistance Programs

The UNHCR implementing partner, the Romanian National Council for Refugees (hereinafter CNRR)³²⁶ assists secondary schoolchildren with transportation to school, provides needs-based subsidies towards the costs of school materials, and organizes extra-curricular activities and camping trips. The frequency and quality of cooperation between the NGO and Romanian authorities at the relevant schools (i.e., schools which are attended by children of refugees) appears to be excellent. As a response to some consistent problems of school attendance and enrollment among some residents of the former refugee camp, the implementing partner regularly liaises with school officials, teachers and parents with regard to the special needs of these children and their attendance and progress in school.

Special classes for children whose Romanian language skills are not yet sufficient to join mainstream classes are also organized by the implementing partner. Furthermore, Save the Children organizes educational and recreational programs. The above educational programs for children have been reported as being one of the most consistently successful programs to date by NGO social workers.

Over the past few years, the UNHCR Scholarship Program has included two one-year post-secondary education grants,³²⁷ though as of 1999 only one student continued benefiting from this program. The Romanian Cultural Foundation NGO has also paid for a full university scholarship for a third refugee.

With regard to language courses, UNHCR, is the sole funder of language classes for asylum-seekers and refugees. However, as mentioned above, as of May 1998 a collaborative agreement was reached with the Ministry of Education with regard to new language classes for adults, whereby UNHCR finances the teachers salaries and state school authorities provide the facilities, such as the venue.

³²⁶ Prior to 1999, CNRR was known as the Refugee Advice and Support Center (RASC).

³²⁷ These grants were provided to students obtaining professional degrees in law and medicine.

6. Slovakia

Primary and Secondary Education

Children of refugees, like nationals, benefit from free and compulsory primary and secondary public education for ten years or until the age of sixteen. The Refugee Law grants recognized refugees the same status as citizens so long as no other regulations provide otherwise³²⁸ (in this case, the *lex specialis* are Act No. 29/1984 on Schools and Resolution No. 143/1984 of the Ministry of Education of the Slovak Socialist Republic). Although the Act on Schools only provides that elementary and secondary education is free of charge for nationals, in fact, neither this Act nor the 1984 Resolution stipulate any *restrictions* for children of recognized refugees, so that the same standard therefore applies to them.

It should nonetheless be noted that article 18(4) of the Refugee Law provides that special regulations can apply with regard to obligatory school attendance. The special regulation referred to is the 1984 Resolution, which stipulates that only elementary school attendance is obligatory in the case of children of aliens with permanent or temporary residence in Slovakia. This latter provision has not been interpreted restrictively however, so that children of refugees wishing to go on to secondary school may do so on the same terms as nationals.

School directors have discretion as to whether they group children of refugees into separate classes, and may take into consideration their background and knowledge of the Slovak language when making this decision. When there is a large enough number of foreign children in the same school, the director may also arrange, with the assistance of the Migration Office and NGOs, for special classes for them. Such classes are held outside of normal school hours and are intended to help them improve their knowledge of the Slovak language. In practice, to date this has only been done in one school for children of refugees under temporary protection.

Higher Education

Recognized refugees have access to higher education on the same terms as permanent residents and nationals. As stated above, by virtue of the Refugee Law,³²⁹ refugees have the same legal status as citizens, and according to the Slovak Constitution, citizens have, *inter alia*, the right to free higher education according to

³²⁸ Art. 18, Refugee Act, No. 283, November 14, 1995, entry into force January 1, 1996 (unofficial UNHCR English translation).

³²⁹ Art. 18(1), Art. 18, Refugee Act, No. 283, November 14, 1995, entry into force January 1, 1996 (unofficial UNHCR English translation).

their personal abilities and the possibilities of the state.³³⁰ Furthermore, no special provisions stipulate a different treatment for refugees in this regard,³³¹ so that one may conclude that they are not required to pay tuition at state Universities.

This is further confirmed by Resolution No. 358/1991 of the Ministry of Education³³² regulating the obligation of aliens to pay tuition, and according to which the provisions of this Resolution do not apply to aliens with permanent residence in the Slovak Republic. Moreover, according to a 1990 Resolution on University Scholarships, these can be granted to students who are citizens of the Slovak Republic or aliens with permanent residence in Slovakia.³³³

According to information provided by UNHCR, refugees also have access in practice, to all levels of education, including, secondary and university level education, provided that their knowledge of the Slovak language is sufficient.

Language Courses

Article 18(3) of the Refugee Law accords refugees and asylum applicants the right to participate in language courses free of charge while they remain in the refugee center. This is therefore a provision which is primarily aimed at asylum-seekers. For newly recognized refugees it simply means that they may continue taking Slovak language courses for the fifteen days that they are permitted to remain in the camp following their recognition.

Refugees may subsequently attend more Slovak language courses once they move into the Integration Center in Zvolen, although these are not state-funded.

Education Assistance Programs

Through its implementing partners, UNHCR provides assistance in the form of school materials, counseling and support for educational activities at all levels. However, the number of beneficiaries of these programs continue to be low. As of June 1, 1998, three primary school children had received assistance for daily transportation to school, for tuition fees and for related costs from UNHCR implementing

³³⁰ SLOVAK CONST., September 1992, Art. 42

³³¹ In particular, Act No. 172/1990 on Universities.

³³² /1, //3, Resolution regulating the obligation of aliens to pay tuition, No. 358/1991, Ministry of Education of the Slovak Republic.

³³³ /1, Resolution on University Scholarships, No. 326/1990, Ministry of Education of the Slovak Republic.

partners, and one child received educational materials. Assistance was also provided to two beneficiaries to pursue their studies at secondary technical schools. Additionally, some cultural and recreational activities have generally been organized in the past, as have pre-school/day care facilities for children under the age of six so that parents, and single mothers in particular, could have the opportunity to attend vocational training courses.

In 1998, UNHCR implementing partners in coordination with the Ministry of Education, facilitated the attendance of twenty-nine refugee beneficiaries at Slovak universities. The UNHCR-funded scholarships were in the amount of 30,000 Sk (714 USD) per student to help cover their expenses during the ten-month university period, including full board, registration fees and related costs. A further 3,000 Sk (71 USD) was also made available to university students for the purchase of textbooks. This financial assistance is intended to supplement the state assistance provided under the national social protection scheme, which is insufficient. Thirteen of the students mentioned above graduated or ceased their studies in 1998 so that sixteen have continued receiving UNHCR financial support in 1999.

7. Slovenia

Situation until August 13, 1999

Article 36 of the Law on Foreigners provides that children of recognized refugees are entitled to the same rights as their parents until they reach the age of eighteen, at which point they are treated as temporary residents. Therefore, as permanent residents, recognized refugees and their underage children have in principal access to the Slovene education system under the same conditions as Slovene nationals.³³⁴

Article 10 of the Slovene Law on Primary School, also explicitly states that children of foreigners and stateless persons residing in Slovenia have the right to primary education, under the same conditions as nationals. School is free and compulsory in Slovenia for eight years, up until the child is approximately fourteen years of age.

However, given the lack of any other specific legal provisions on the education rights of recognized refugees, and the fact that no practice exists to date (as no recognized refugees have yet needed to enter the educational system) there is

³³⁴ The termination of these rights at the age of 18, may be contrary to Recommendation B of the Final Act of 28 July 1951, which recommends that the rights granted to refugees be extended to members of their families.

insufficient information from which to draw definitive conclusions with regard to other levels of education.³³⁵

There are no legislative provisions, and no practice regarding state language courses for recognized refugees. The Foundation GEA 2000, an NGO, is able to cover the fees for Slovene language courses at university, should the need arise.

New Law on Asylum Effective as of 14 August 1999

The new Law on Asylum remedies the above-mentioned legislative gaps with regard to the right of refugees to both education and language courses. It provides that recognized refugees and their close family members shall be accorded the same treatment as Slovene nationals in terms of their rights to primary, secondary and higher education.³³⁶ In the context of Slovenia's new integration responsibilities, the new law also provides that the state shall pay special attention to organizing Slovene language courses for refugees, as well as other forms of further education and vocational training, and inform them about Slovene history, culture and its Constitution.³³⁷

No new information regarding the practice with regard to the right to education or with respect to educational programs in general is available since the adoption of this new law.

³³⁵ We could perhaps draw on the treatment granted to children of parents under temporary protection. As of the end of 1998, 914 children from Bosnia Herzegovina, mostly under temporary protection, were enrolled for free in Slovene primary schools, while students at secondary and vocational schools, as well as university students received assistance for their tuition fees from UNHCR and the Ministry of Education.

³³⁶ Art. 53, Law on Asylum, Official Gazette of the Republic of Slovenia No. 61/99, July 30, 1999, entry into force August 14, 1999 (unofficial UNHCR English translation).

³³⁷ Art. 19, Law on Asylum, Official Gazette of the Republic of Slovenia No. 61/99, July 30, 1999, entry into force August 14, 1999 (unofficial UNHCR English translation).

MAIN INTERNATIONAL STANDARDS

**Convention Relating to the Status of Refugees of 28 July 1951
Article 23**

Public Relief

The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

**International Covenant on Economic, Social and Cultural Rights of
16 December 1966
Article 11(1)**

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

**International Covenant on Civil and Political Rights
Article 6(1)**

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.