



UNHCR Observations on the
Current Situation of Asylum in Bulgaria

April 2014

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1. Introduction

On 2 January 2014, the Office of the United Nations High Commissioner for Refugees (UNHCR)¹ issued its *Observations on the Current Situation of Asylum in Bulgaria*, noting systemic deficiencies in the asylum procedure and reception conditions for asylum-seekers in Bulgaria, which had worsened following a large increase in the number of asylum-seekers arriving in the preceding months. UNHCR identified a number of areas where urgent improvements were required, and called for a temporary halt to all transfers of asylum-seekers to Bulgaria under the Dublin Regulation.²

UNHCR undertook to reassess the situation as of 1 April 2014. The present paper contains the results of that reassessment and is an update to UNHCR's observations of January 2014. It identifies the numerous improvements that have been made to reception conditions and the asylum procedure in Bulgaria since the beginning of the year, on the basis of which UNHCR now concludes that a general suspension of all Dublin transfers to Bulgaria is no longer justified.

However, despite the progress made by the Bulgarian authorities, serious gaps remain in the national asylum system, a number of which are identified in this update. UNHCR would therefore like to highlight that, while deficiencies are no longer such as to justify a general suspension of Dublin transfers to Bulgaria, there may nevertheless be reasons precluding transfers under Dublin for certain groups or individuals. UNHCR recommends that Dublin participating States conduct an individual assessment as to whether a transfer would be compatible with States' obligations to protect an individual's fundamental rights under European Union (EU)³ and international law, in particular with regard to asylum-seekers who have specific needs or vulnerabilities.⁴

Moreover, given, *inter alia*, the potentially large number of pending Dublin transfers to Bulgaria,⁵ UNHCR is concerned about the medium- to long-term sustainability of the improvements made so far. The Office will therefore continue to closely monitor developments in Bulgaria. In the meantime, this update identifies areas where it is recommended that the Bulgarian authorities take further sustained action to ensure compliance of the national asylum system with EU and international standards. These concern the integrity of the national asylum system as a whole, including, in particular, serious concerns about reported "push-backs" and other measures taken by the Bulgarian authorities as of November 2013 to restrict access to Bulgaria's territory for asylum-seekers arriving from Turkey, whose number has now dramatically decreased.

¹ The Office of the United Nations High Commissioner for Refugees (UNHCR) is mandated to supervise the application of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol (hereinafter jointly referred to as the Refugee Convention) under its Statute in conjunction with Article 35 of the Refugee Convention and Article II of the 1967 Protocol.

² References to the "Dublin Regulation" are to the Dublin III Regulation (EU Regulation No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast), 29 June 2013, available at <http://goo.gl/XnJ2mV>, which recasts the Dublin II Regulation (EC Regulation No. 343/2003).

³ The Dublin Regulation requires in article 31 that "the Member State carrying out the transfer of an applicant (...) shall communicate to the Member State responsible such personal data concerning the person to be transferred as is appropriate, relevant and non-excessive for the sole purposes of ensuring that the competent authorities, in accordance with national law in the Member State responsible, are in a position to provide that person with adequate assistance (...)." The article continues, indicating that the Member State transmit information on, amongst others (a) any immediate measures which the Member State responsible is required to take in order to ensure that the special needs of the person to be transferred are adequately addressed, including any immediate health care that may be required; and (c) in the case of minors, information on their education.

⁴ See UNHCR, *Guidance Note on bilateral and/or multilateral transfer arrangements of asylum-seekers*, May 2013, available at <http://www.refworld.org/docid/51af82794.html> This document specifies, *inter alia*, that transfer arrangements need to guarantee that each asylum-seeker will be individually assessed as to the appropriateness of the transfer, subject to procedural safeguards, prior to transfer.

⁵ As of 31 March 2014, 1,628 requests from other Dublin participating States were already pending before the Bulgarian State Agency for Refugees (SAR), with 614 under the "take back" and 819 "take charge" provisions of the Dublin Regulation as well as 195 requests for information under the Dublin Regulation, which include determining the State responsible for examining the individual's application for international protection. See further section 1.8 below.

2. Key Features of the current situation

2.1 Asylum claims: selected statistics

From 1 January 2013 to 31 March 2014⁶, approximately 9,175 persons⁷ applied for international protection in Bulgaria mainly Syrians, persons of Palestinian origin from Syria, Algerians, Afghans and Iraqis. Of these, 7,144 applied for asylum in 2013 and 2,031 applied from 1 January to 31 March 2014, although the majority in the latter category arrived in late 2013.

Between 1 January and 31 March 2014, 2,781 individuals were granted international protection⁸ in Bulgaria. The vast majority were Syrians (2,513) followed by persons of Palestinian origin from Syria (223), and Iraqis (27). International protection was also granted to applicants of other nationalities, including Afghans (10), Iranians (4), Somalis (2) and Ethiopians (2). During the same timeframe, 61 asylum-seekers from Afghanistan (3), Myanmar (2), Ghana (1), Egypt (1), India (2), Iraq (18), Iran (15), Côte d'Ivoire (7), Mali (7) and Syria (5) were rejected at first instance.⁹ 51 asylum-seekers who received a final negative decision introduced subsequent applications for international protection.

UNHCR has provided technical equipment and training to improve the data collection process regarding asylum-seekers and beneficiaries of international protection, including disaggregated data reflecting age and gender. UNHCR and European Asylum Support Office (EASO) continue to work with the Bulgarian State Agency for Refugees (SAR) in order to enhance the capacity of staff with regard to collecting, analysing and reporting statistical data in line with Regulation 862/2007 on migration and international protection statistics.

Recommendations

- SAR is encouraged to continue its on-going efforts with a view to providing regular and accurate data on applications for international protection including those pending at the appeal stage, as well as for applications rejected at first instance, including those that were suspended, or terminated without an interview on the merits.
- SAR is also encouraged to further consolidate the total annual figures of refugees and holders of subsidiary protection and provide age and gender breakdowns.

⁶ Data shared by the Bulgarian State Agency for Refugees (SAR).

⁷ All of them have been formally registered by SAR and have been issued with a Registration Card.

⁸ 1,494 were recognized as refugees and 1,287 were given subsidiary protection (the latter referred to as Humanitarian Status under the Bulgarian Law on Asylum and Refugees).

⁹ Note that information on asylum claims rejected on appeal stage is not yet readily available.

2.2 Border management, access to territory and registration of applications

Between 1 January and 31 March 2014, 376 third-country nationals were apprehended for irregular entry through the “green border” as well as 86 at official border crossings at the Bulgarian-Turkish border. The Border Police reported that of these, 255 applied for international protection¹⁰.

It should be recalled that the number of asylum-seekers reaching Bulgaria began to increase in mid-2013. In October alone there were 3,626 new arrivals. In early November 2013, 1,500 police were deployed to reinforce controls along the Bulgarian-Turkish border in the Elhovo region. The number of new arrivals then decreased dramatically. Approximately 160 of these police have since been removed as the number of new arrivals has decreased. Preparations have commenced for the erection of a fence along the border between the villages of Lesovo and Kraynovo.

UNHCR remains seriously concerned that measures to control irregular entry to Bulgaria prevent people in need of international protection from entering and requesting asylum in Bulgaria. UNHCR is also seriously concerned about reports that individuals who may be in need of international protection have been prevented from reaching or entering Bulgarian territory or have been forcibly returned from Bulgarian territory without being able to apply for international protection. In some cases these “push-backs” have resulted in family separations. UNHCR has received several reports of these alleged “push-backs” from Bulgaria concerning nationals of Syria, Afghanistan and Sudan, as well as Palestinians from Syria.

According to information provided to UNHCR, in the first three months of 2014, Bulgarian Border Police recorded 255 applications for international protection and notified SAR within 24 hours as required by law. While the majority have not been penalised for irregular entry, 27 individuals were convicted of using false documents¹¹.

Frontex has provided support for interpretation services to the Border Police at their official check-points. In addition, following the increase in the number of new arrivals, the Border Police have hired professional interpretation services. UNHCR’s legal partner, the Bulgarian Helsinki Committee (BHC) provides legal information and counselling to asylum-seekers at the border check points, in the detention facilities run by the Directorate of Migration (DoM) including the Elhovo Triage Centre, and the Special Centres for Temporary Accommodation of Foreigners (SCTAFs) in Bustmansi and Lyubimets. BHC also provides brochures in Farsi, Pashto, Arabic, English and Kurdish to complement the one provided by the Government.

Recommendations

- While recognising the need of the authorities to control Bulgaria’s borders, UNHCR urges the Government of Bulgaria to ensure that the mechanisms put in place respect fundamental rights, including the principle of *non-refoulement*, and the right to asylum, and allow people in need of international protection to enter Bulgaria and obtain access to fair and efficient asylum procedures.
- More particularly for the Border Police carrying out the surveillance of land borders and/or conducting border checks, UNHCR recalls their responsibility to inform people who arrive at the border and may be in need of international protection, where and how applications for international protection may be lodged. To that end, Bulgaria needs to ensure that, in accordance with EU Directive 2013/32/EU¹², border authorities have the relevant information and receive the necessary training. UNHCR stands ready to provide the necessary training on how to identify persons who may be in need of international protection and refer them to the competent authorities.

¹⁰ Data shared by the Ministry of Interior

¹¹ Based on Bulgarian Helsinki Committee’s border monitoring, of these cases, 27 individuals were convicted for usage of falsified documents, which is not de-penalized in Bulgaria. This “offence” is not dropped even if the person has applied for asylum (and this prosecution is without prejudice to the individual’s asylum claim).

¹² Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast).

2.3 Detention

Under Bulgarian law, border or immigration police may detain people on grounds of unauthorised entry, irregular residence or lack of valid identity documents. Persons arrested on these grounds are normally subject to removal. By law, asylum-seekers have to be transferred within 24 hours from the Border Police to SAR reception facilities. In practice, asylum-seekers are transferred by the Border Police within 24 hours to the Elhovo Triage Centre, a detention centre, where they spend between three and five days before being transferred to a SAR reception facility.

Irregular immigrants, on the other hand, are kept in the SCTAFs, pre-removal detention centres¹³ managed by the Directorate of Migration. If they apply for asylum while in detention, they are transferred to a SAR facility where they are registered. In all detention centres managed by the Directorate of Migration, detainees receive food regularly, have access to medical care when needed, have access to basic recreational activities which includes television, and have access to outdoor recreation areas. UNHCR provided some books in Arabic, Dari, Farsi and French in Bustmansi.

UNHCR, through its legal partner BHC, provides regular legal counselling to asylum-seekers in detention with the service of interpreters. Social counselling including referral to BHC is also provided on a weekly basis by another implementing partner, Bulgarian Red Cross (BRC).

As of 31 March 2014, there were no unaccompanied children in detention. Previously, five had been sent to SCTAFs by the Border Police together with adults with whom they arrived, although they were not actually related to each other. However, when it was later established through registration or subsequent interview that they should have been considered unaccompanied children, the Directorate of Migration referred those who were not applying for international protection to the Child Protection Services and they were subsequently released from detention. Unaccompanied children who did apply for international protection were referred to SAR. DoM does not undertake age assessments and accepts the age given by the child. SAR can undertake age assessments if necessary.

Recommendations

- Persons detained on grounds of unauthorised entry, irregular residence or lack of valid identity documents who make an application for international protection should be released and transferred from SCTAFs and Elhovo Triage Centre to SAR centres within 24 hours in accordance with the law.
- Border Police should be provided with further training on identification of unaccompanied children, and procedures to facilitate such identification need to be established. UNHCR is ready to offer support for this.

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¹³ Busmantsi and Lyubimets.

2.4 Reception facilities, basic and specific needs

As of 27 March 2014, the capacity of the seven SAR centres (Reception and Registration Centres –Banya, Sofia and Harmanli, Transit Centre Pastrogor, Accommodation Centres of Voenna Rampa, Vrazdebnna and Kovachevtsi) reached 4,150 spaces with an 82% occupancy rate. SAR expects to reach a capacity of 6,000 places by the end of April 2014.

Asylum-seekers are expected to leave the reception centres within 14 days of receiving a final decision on their claim. However, in practice SAR has tolerated many refugees and holders of subsidiary protection staying in reception centres mainly because they lack the resources to rent adequate housing in the absence of social assistance and integration programmes in place for beneficiaries of international protection, and considering the winter weather period. As of 27 March 2014, there were 1,243 refugees and holders of subsidiary protection staying in SAR centres.

SAR has hired 160 additional staff since December 2013, of whom 50 are permanent and 110 have temporary EU funded contracts until the end of April 2014. According to the Government of Bulgaria, alternative funding extending beyond 30 April is being secured. The new staff include mainly registration officers and interviewers but also staff who provide social services. SAR informed that in addition one social worker has been recently appointed for each reception centre. The vast majority of newly recruited staff have received training and support on the management of reception centres, including on prevention and response to Gender Based Violence (GBV) and the identification of persons with specific needs by UNHCR, and on the Asylum Procedure Determination and registration by EASO.

GENERAL LIVING CONDITIONS

Conditions observed in the centres have improved significantly in comparison with the situation observed in December 2013, particularly in the facility of Harmanli which currently accommodates more than 1,000 people. Harmanli no longer operates under a closed regime.

Asylum-seekers have access to primary medical care services, interpretation services for the registration and asylum process, heating, separate facilities for single men and women and a monthly assistance of 65 BGN (33 euros). In February and March 2014, some administrative delays were encountered with these payments but action was taken to address this by the Bulgarian authorities and all February payments have since been made. However there are still delays in the March payments.

Nevertheless, UNHCR remains concerned about the accommodation and sanitary conditions in Vrazdebnna and Voenna Rampa centres which at present host 811 asylum-seekers, the majority of whom are Syrian. Sanitary facilities are very limited in these centres, with an inadequate number of toilets, bathrooms with limited access to hot water, and sewage systems with persistent blockages. Two cases of Hepatitis A have been confirmed.

In addition, in these two centres, families with children are obliged to share the same room with other families resulting in inappropriate living space for each person, with only flimsy sheets separating families from each other. These conditions do not allow privacy or respect for family life. In addition, due to limited occupational and recreational activities, asylum-seekers are idle most of the time.

While SAR has undertaken renovation work to improve both these centres, including the sanitation and accommodation problems, work is still on-going. Meanwhile measures have been taken to mitigate the problems including the installation of chemical toilets and mobile shower rooms. Residents were offered alternative accommodation but preferred to remain in these centres pending completion of the renovations. In Banya, families with children have been moved from the open-space areas to individual rooms.

Laundry facilities/washing machines are available in the centres in Sofia, Banya and Pastrogor. In Kovachevtsi, SAR organizes a weekly external laundry service. The Dutch Red Cross is financing the installation by BRC of washing machines for Harmanli, Voenna Rampa and Vrazdebnna. It is expected that they will be installed by April 2014.

Asylum-seekers in the reception centres have access to information in writing concerning their entitlements and obligations, as well as the rules of the centres. They also have access to information in Bulgarian about services offered by aid organizations. Efforts are made to verbally explain the contents of the documents to asylum-seekers.

Besides Kovachevtsi, where there is a gym, TV room and a pool table, there are no recreational activities available for adults in any of the centres.

PROVISION OF FOOD

UNHCR distributed hot meals in December 2013 to Harmanli, and in January 2014 to Harmanli and the three centres of Kovachevtsi, Voenna Rampa and Vrazdebnha. SAR took over this responsibility for all the centres in the beginning of February 2014. Residents currently receive two hot meals a day.

Regular visits and monitoring carried out in the different centres by UNHCR have indicated that asylum-seekers find the quality and quantity of the food satisfactory. Communal kitchens, where asylum-seekers can prepare their own food, are available in Banya, Pastrogor, Sofia and Kovachevtsi. UNHCR is planning to start the construction of communal cooking facilities in Harmanli, Vrazdebnha and Voenna Rampa in April 2014. Baby food and food for people with special dietary needs has been provided by NGOs through donations. However, on 31 March 2014, SAR concluded an agreement for the provision of baby food from April 2014.

HEALTH CARE

SAR has recruited doctors and nurses for three of its centres (Sofia, Banya and Pastrogor) while the centres of Harmanli, Voenna Rampa and Vrazdebnha rely on the medical assistance temporarily provided by the Médecins sans Frontières (MSF) team through weekly consultations. MSF is preparing to phase out in Harmanli, Voenna Rampa and Vrazdebnha by the end of May 2014 and is working in cooperation with SAR to designate general practitioners who can cover the medical needs of the residents of these centres. One Arabic-speaking doctor has already been selected and is working alongside MSF in Vrazdebnha during this period of transition.

In Kovachevtsi, SAR has arranged a periodic consultation by a doctor from the local hospital pending a longer-term arrangement, and there is also an Arabic-speaking nurse in the facility.

ASYLUM-SEEKERS WITH SPECIFIC NEEDS

UNHCR remains concerned about the lack of systematic identification of persons with specific needs, as well as a system to respond to such needs once identified.

SAR introduced a questionnaire for use by their staff for the early identification of asylum-seekers with specific needs, however this questionnaire is not systematically used and only serves to identify victims of trauma. Where specific needs are identified by SAR, their staff does not have the capacity to respond to their needs. Civil society, including the BRC and the Assistance Centre for Torture Survivors (ACET)¹⁴, attempt to bridge the gap, to a certain extent, by identifying people with specific needs, but their efforts bring limited support as they depend on available resources.

Banya has recently been designated as a centre for vulnerable asylum-seekers, particularly women with children, and unaccompanied minors. So far, tailored accommodation units for them have not yet been established, nor are there plans for Banya to receive other groups of persons with specific needs, such as persons with reduced mobility.

As a result of the European Refugee Fund (ERF)funded and UNHCR-led "Response to Vulnerability in Asylum" project in 2013, the Bulgarian authorities are working with UNHCR to implement standard operating procedures (SOPs) for the identification and appropriate response to persons with specific needs.

¹⁴ Using mainly the PROTECT tool for assessing the specific needs of asylum-seekers.

CHILDREN IN SAR CENTRES

Conditions for children have improved with the establishment of child friendly spaces¹⁵ in the reception centres in Vrazdebnha, Banya, Kovachevtsi and the Transit Centre in Pastrogor. However, most children still do not have access to the Bulgarian school curriculum as they cannot pass a placement test in Bulgarian, notwithstanding that a vast majority of them have spent more than five months in Bulgaria after their parents claimed asylum. In the absence of government-funded Bulgarian language classes for children in all centres but one, in March 2014, UNHCR initiated, through its implementing partner Caritas, language classes for children (see section. 2.7 for further information). UNHCR has also started Bulgarian language classes for adults.

There is no specific accommodation for the 80 unaccompanied asylum-seeking children in the centres (36 in Sofia, 12 in Banya, 2 in Pastrogor, 21 in Harmanli, 5 in Vrazdebnha and 4 in Kovachevtsi), although Banya has recently been designated as a centre for unaccompanied children (and women with children). Additionally, they still lack an effective representative or guardian. Social workers under the Agency for Social Protection play a limited role in assisting during interviews on their application for international protection and maintaining files. In many aspects of daily life including specialized medical treatment, school enrolment, issuance of identity documents, social workers are not authorized to legally represent the child. After unaccompanied asylum-seeking children are granted refugee status or subsidiary protection, SAR informs the Agency for Social Assistance so that they can be accommodated in the local Children's Medical and Social Care Homes. Some of them are accommodated in specialized institutions after the grant of status in which case the Director of this institution automatically becomes the guardian of the child. This facilitates the issuance of an identity card which is impossible in the absence of a legal representative. Unaccompanied children still accommodated in SAR reception centres cannot obtain identity cards until they reach the age of 18 as they do not have a legally appointed guardian.

A EASO "Asylum Support Team" is providing support to Bulgaria concerning the identification and referral of unaccompanied children (including appointment of guardians and age assessment). A manual on the identification of vulnerable persons was developed by EASO and SAR addressing further needs for reception facilities in this regard.

ASYLUM-SEEKERS LIVING OUTSIDE SAR CENTRES

There are 3,358 asylum-seekers living at external addresses as of 27 March 2014. All have been registered. They are not entitled to benefit from the services offered in the SAR centres. Asylum-seekers at external addresses are covered through the national health care system. On an ad hoc basis, SAR has allowed their access to the medical facilities run by Médecins Sans Frontières (MSF) in the Sofia reception centres. While this exceptional arrangement is based on a general understanding extended by SAR, there is no formal arrangement, guarantees or capacity to include those living outside the centres in the MSF-provided services.

Recommendations

- UNHCR acknowledges the efforts made by the Bulgarian authorities to redeploy staff to SAR as well as to recruit new staff for SAR, and encourages the continuation of such measures beyond April 2014.
- UNHCR remains seriously concerned about the poor living conditions in Vrazdebnha and Voenna Rampa centres and urges the Bulgarian authorities to continue their work on improving these conditions and ensuring proper sanitation and accommodation in a manner which respects human dignity, privacy and family life.
- UNHCR emphasises the need for continued funding for the newly hired SAR staff in order to maintain and strengthen reception conditions and processing capacity.

¹⁵ For example, in Harmanli and Pastrogor, there are rooms for informal education with UNICEF provided materials, in Banya there is a playground. However in Vrazdebnha and Voenna Rampa there are only spaces for informal activities.

- Information provided in Bulgarian at centres should be made more accessible and provided in a language understandable for asylum-seekers, in accordance with the relevant provisions of the recast Reception Conditions Directive¹⁶.
- UNHCR urges the Bulgarian authorities to ensure prompt payment of monthly allowances to asylum-seekers.
- UNHCR notes that the provision of food for persons with special dietary needs depends on donations and is thus not sustainable, nor always sufficient in quantity. UNHCR urges the Bulgarian authorities to provide food for persons with specific needs.
- While Bulgarian law takes into account the situation of some individuals with specific needs, further efforts are required to ensure that the appropriate standards under the recast Reception Conditions Directive¹⁷ are met, in particular for the early identification and continuous assessment of the specific needs of asylum-seekers, including unaccompanied children. This should be carried out throughout the process from registration, reception and during the asylum process, and should address the identified needs through appropriate support, including tailored accommodation and appropriate monitoring. Appropriate sustainable resources need to be made available in this respect.
- UNHCR is concerned by the absence, in practice, of access to formal primary education for asylum-seeking children, and urges the Bulgarian authorities to respond to these needs as a matter of urgency thus meeting the requirements of the recast Reception Conditions Directive¹⁸.
- UNHCR also encourages the Bulgarian authorities to enhance children's access to recreational activities appropriate to their age, in line with Article 23 (3) of the recast Reception Conditions Directive.
- UNHCR urges the Bulgarian authorities to take measures ensuring unaccompanied children are provided with, and receive, assistance from an effective representative or guardian in accordance with Article 24 (1) of the recast Reception Conditions Directive, and that they are housed promptly in Banya which is now designated for this purpose.
- UNHCR recommends that steps be taken by SAR to create tailor-made accommodation in the Sofia reception centre for additional persons with specific needs, such as those with reduced mobility, given that some suitable infrastructure already exists there (ramps, lifts).
- UNHCR recommends that recreational opportunities for adults be provided in all of the centres.

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2.5 Registration of asylum claims

SAR registration staff has been reinforced and by 27 March 2014 there were 33 staff (14 male and 19 female) conducting registration which is carried out in Sofia, Banya, Harmanli and the Transit Centre Pastrogor.

Following EASO's extensive training of, and other support to, SAR staff, the registration process has been streamlined and takes place within 48 hours of the arrival of an asylum-seeker at the reception centres of Sofia, Banya and Harmanli and in the Transit Centre Pastrogor. According to SAR, there is no longer a backlog for the registration of applications for international protection for persons accommodated within SAR facilities, nor is there a backlog for those who have opted to live at external addresses. All those who have applied for international protection have been issued registration cards. In cases of individuals requesting asylum at the border, during the 3-5 day waiting period for full registration, the Bulgarian authorities have given assurances that they are protected against *refoulement* pending complete registration and issuance of a registration card.

¹⁶ Article 5(2) of Directive 2013/33/EU of the European Parliament and Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast).

¹⁷ *Ibid.*, Article 22(1).

¹⁸ *Ibid.*, Article 14.

2.6 Assessment and decision-making on asylum claims

Between 1 January and 31 March 2014, SAR granted refugee status to 1,494 individuals and subsidiary protection status to 1,287 individuals. 61 applications for international protection were rejected. The majority of those who received refugee or subsidiary protection status were Syrians (2,513), followed by Palestinians coming from Syria (223). In addition, SAR has discontinued the examination of an application for international protection in 563 cases, because the individuals had not appeared for interviews during the prescribed period. UNHCR is encouraged by the faster processing and the higher recognition rate of refugee claims, as opposed to subsidiary protection status, following the training by EASO and the increase in the number of interviewers to 38 (20 male and 18 female). UNHCR notes the encouraging balance between men and women interviewers.

In terms of quality control, UNHCR and BHC have reviewed 40 case files and have observed contradictions and inconsistencies in approximately 80% of those reviewed, with no indication of whether the asylum-seeker was given an opportunity to explain these contradictions during the asylum interview. These contradictions have been used as a basis for rejection. In addition, some written decisions fail to make a clear link between statements made during interviews and the basis of the decision, which make an eventual appeal difficult. Audio recording is possible; however, it was not used in most of the cases. SAR has a quality audit unit. The staff of this unit are also tasked with the Dublin procedure.

Since March 2013, the law provides for mandatory legal aid for asylum-seekers in all instances, sponsored through the State budget. However in the absence of a budget, the law remains theoretical. From April 2014, the National Bureau for Legal Aid will provide legal aid during the procedure at first instance thanks to recently received ERF funding managed by SAR. However, the State does not provide legal aid to rejected asylum-seekers who submit subsequent applications unless they provide new evidence. In practice BHC, UNHCR's partner, assists asylum-seekers who receive a negative decision with the preparation and the submission of an appeal, including the documentation required to apply for free representation during the appeal. In some cases, BHC may themselves represent the asylum-seeker during the appeal.

Asylum claims are being processed in a timely manner, including for non-Syrian applicants, as indicated by the previously mentioned statistics of those granted status in 2014. The legal time frame for a first instance decision is three months and there has to be one eligibility interview within two months of registration. The law allows for a further three month extension.

EASO has provided updated country of origin information as well as training to SAR staff on international, European and Bulgarian asylum law, interviewing techniques, interviewing vulnerable people, working with interpreters and preparation of written decisions and is providing support to improve the quality of the Bulgarian asylum procedure. Since January 2014, SAR set up a country of origin information unit to support case workers.

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- UNHCR urges the Bulgarian authorities to take into account UNHCR's eligibility guidelines, protection considerations and other sources of information, particularly regarding asylum-seekers from countries other than Syria. UNHCR is ready to support the Bulgarian authorities with regard to this.
- SAR staff needs further training in credibility assessment and UNHCR is ready to provide support in this respect.
- UNHCR recommends that SAR staff in the quality audit unit receive further training.
- UNHCR welcomes Bulgaria's law providing for mandatory legal aid for asylum-seekers in all instances and urges the authorities to implement this law, in particular to effectively provide for free legal aid to asylum-seekers in appeals procedures.
- Funding needs to be made available to continue and strengthen the provision of quality legal aid and representation.

2.7 Protection and other rights of those qualifying for refugee or subsidiary status

Since the previous National Programme for Integration of Refugees (NPIR), ended in December 2013, there is no integration programme in place. The Government is working towards the establishment of a new integration programme involving local municipalities. The new plan is expected to cover 2,000 status holders in 2014 with its main priorities supporting refugees and subsidiary protection beneficiaries with specific needs. However, the State budget to fund this programme has not yet been approved.

There continues to be a gap with regard to access to health care when asylum-seekers are recognized as refugees or are granted subsidiary protection, due to the change in their health care status which can take up to two months. In the meantime, they may appear as “uninsured” in the electronic systems of the National Insurance. Additionally they have to pay a monthly instalment of approximately 17 BGN (8.7 euros) in order to access the services of the national health insurance, as do nationals. Medicines are not covered and neither is psychological care.

Refugees have difficulties securing stable employment not only due to the adverse economic situation in Bulgaria; but also due to some structural obstacles and lack of targeted support to overcome barriers. Among the obstacles noted are lack of recognition of previous qualifications; absence of the means to secure adequate housing; and the lack of language support. Other barriers which adversely impact on the search for employment include health issues following experiences of flight; the time spent in the asylum system; absence of and concern for family members, coupled with lack of facilitated family reunification; and lack of a support network. SAR is trying to help beneficiaries of international protection through job fairs, including one that took place in March 2014 in Voenna Rampa and Sofia.

Lack of adequate and affordable housing is another area seriously affecting the integration of beneficiaries of protection in Bulgaria. In the absence of support to find suitable accommodation, those granted status have to stay in reception centres with no, or very limited, ability to integrate into Bulgarian society.

Another key element for successful integration is education. The government has only been able to provide language classes in one reception centre.

According to the LAR¹⁹, beneficiaries of international protection and asylum-seekers under 18 years of age have access to education according to the same conditions applicable to Bulgarian citizens. However, an Ordinance issued by the Ministry of Education and Science (MOE) in 2000 on the admission of refugees in state and municipal schools in Bulgaria provides that before being enrolled in Bulgarian municipal schools, refugee and asylum-seeking children must successfully complete a language course at SAR under a programme approved by the Ministry of Education and Science. Subsequently, children wishing to be enrolled in school from grade 2 have to take an exam held in Bulgarian in order to determine the grade in which they will be enrolled under the Bulgarian public curriculum.

In practice, children only have access to one language course provided by SAR in one of the reception centres in Sofia. This course is only available to a small proportion of children, namely those who are or have been accommodated in the centre in Sofia. As of March 2014, children who are accommodated in the other six SAR reception centres, mainly asylum-seekers but including some beneficiaries of international protection, have access to UNHCR-funded informal Bulgarian language courses provided by CARITAS, as previously noted. These informal courses are not certified under a programme approved by the Ministry of Education and Science (MoE). SAR has supported the provision of these courses.

¹⁹ Art. 26 of the Bulgarian Law on Asylum and Refugees (LAR).

Recommendations

- UNHCR welcomes the Bulgarian authorities' work towards the establishment of a new integration programme for beneficiaries of international protection and urges its rapid implementation, especially as regards access to education, housing and livelihood opportunities.
- UNHCR also welcomes the commitment of the Bulgarian authorities to provide access to family reunification in Bulgaria, and encourages them to facilitate the process.
- UNHCR is concerned about the gap with regard to access to health care for beneficiaries of international protection once they have been granted such protection. UNHCR urges the Bulgarian authorities to ensure continued access to health care for beneficiaries of international protection.
- UNHCR reiterates the urgent need for asylum-seeking children and children found to be in need of international protection to be provided with access to education without further delay within the Bulgarian school curriculum.
- UNHCR recommends that MoE promptly certifies the language classes provided by CARITAS in the six SAR reception centres.
- In parallel, UNHCR urges that the Ordinance of 2000 be amended in line with Article 26 of the Law on Asylum and Refugees (LAR).

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2.8 Treatment of people transferred to Bulgaria under the Dublin Regulation

As a matter of principle, where the asylum claim of a person transferred under the Dublin Regulation to Bulgaria has not been decided substantively, the asylum procedure is re-opened at the stage where it left off, provided the person gives consent to continue his/her asylum procedure in Bulgaria. There are no additional requirements and an examination on the merits is ensured. Should the transferred individual wish to continue his/her asylum procedure in Bulgaria and depending on the stage of his/her procedure, the person will most likely be transferred to a SAR centre and will enjoy the same entitlements as other asylum-seekers.

If the application has been suspended and the applicant fails to appear before SAR within three months following the suspension of the procedure, the law stipulates that the applicant's procedure (not the claim) be terminated *in absentia*.²⁰ However in practice, upon return following a transfer under the Dublin Regulation, if an interview on the merits was not yet conducted, access to such an eligibility interview will be ensured. Decisions cannot be considered in accordance with the law if the interview was omitted, unless it concerns a "medically established case of insanity or other mental disorder, or any other objective reason" in accordance with the provisions of Bulgarian law²¹.

If the asylum claim of the person returned to Bulgaria under the Dublin Regulation was already decided on its merits and s/he received a final negative decision which has entered into force, the person is re-admitted to the country, but then treated as an asylum-seeker whose application for international protection was rejected in a final decision unless he/she introduces a subsequent application.

Only asylum-seekers whose claims were rejected through a final decision and who do not make a subsequent application can be held in a detention centre under the Directorate of Migration in order to carry out the removal process.

According to SAR and Border Police data, between 1 January and 27 March 2014, 11 asylum-seekers and two beneficiaries of humanitarian status were transferred to Bulgaria from Hungary, Sweden and Switzerland under the "take back" provision of the Dublin Regulation.²²

²⁰ Art. 15 of the LAR.

²¹ *Ibid.*, Art. 63 (a).

²² Data communicated by SAR or obtained through the protection monitoring conducted by UNHCR and its partner.

In one case, the asylum-seeker was notified about the final rejection of his asylum application following his transfer under the Dublin Regulation back to Bulgaria, and he was sent to a detention facility under the Directorate of Migration pending removal. The decision on his application for international protection had been issued in *absentia* under Article 76 paragraphs 4-6 of the LAR.

The other individuals were not detained and were transferred to SAR reception facilities where their asylum cases have been re-opened with their consent. The transferees have had access to written information about the asylum process²³ and they have been (re)-issued a registration card to protect them against *refoulement*.

As of 31 March 2014, there are 1,628 pending incoming requests for information (195) and/or transfers of persons under take back (614) and take charge (819) provisions of the Dublin Regulation to Bulgaria sent to SAR by other Dublin participating States. This number of incoming Dublin requests being addressed to Bulgaria may increase in the coming months. Only the effective expansion of the SAR reception capacity to 6,000 persons by the end of April 2014 may avoid that the reception system be again overstretched in case of effective transfers of those pending Dublin requests. Asylum processing capacity will also need to be expanded or at a minimum maintained after April 2014 with the same amount of caseworker staff in case of effective Dublin transfers or a new influx of arrivals.

Recommendations

- In view of the potential number of incoming requests to take back and take charge asylum-seekers under the Dublin Regulation, UNHCR encourages SAR to reinforce its capacities to handle these requests.

2.9 Anti-foreigner and anti-refugee sentiment

With the decrease in arrivals and the improvement of conditions, the media has moved on from the 'refugee' issue and the reporting has become more balanced. Furthermore, the Bulgarian authorities have taken steps to address instances of anti-refugee and anti-foreigner sentiment, including through statements of the President and the Prime Minister publicly condemning racist attacks and rhetoric. On 14 February 2014, following the attack on the Dzhumaya Mosque in Plovdiv, they published a second joint declaration calling for guarantees of civil, ethnic and religious peace, and the police detained over 120 people in connection with the attack.

Despite these positive steps, anti-foreigner political parties are enjoying rising popularity. On 19 February, an Iraqi asylum seeker was assaulted by three unidentified men in Sofia. The Canadian billionaire Yank Barry abandoned his plans to populate "ghost" villages in the northwest of the country with Syrian refugees by purchasing houses and land, claiming that his charity 'Global Village Champions' was bombarded with hate mail. Refugees and asylum-seekers continue to be harassed and fear hostility from the public. Albeit small in scale, recent public protests show discontent about the presence of refugees. In Harmanli many local residents are against the 'open' policy of the centre.

Recommendations

- UNHCR welcomes and encourages the efforts of the Bulgarian authorities to counter xenophobic incidents and stands ready cooperate with further efforts in this regard.

²³ Article 58(6) of LAR.

3. Engagement to improve the response: Bulgaria, UNHCR, EU bodies, civil society and others

On 14 October 2013, Bulgaria asked for support from EASO and signed, on 17 October, an Operating Plan on the provision of technical support to the Bulgarian asylum and reception system. Since November 2013, EASO has deployed 22 Asylum Support Teams, comprising of 51 experts, to provide technical and operational support to the Bulgarian authorities. The European Commission and Member States also provided support to Bulgaria.

Following the visit by the High Commissioner for Refugees to Bulgaria in November 2013, and the support offered by UNHCR to Bulgaria as a result of this visit, UNHCR also undertook a number of measures to improve the situation of asylum-seekers and refugees in Bulgaria. These included: deployment of a multi-functional emergency team in December 2013; enhancing staffing capacity; setting up of three rubhalls in Harmanli, Voenna Rampa and Vrazdebnna to create child friendly spaces; support to SAR in establishing a response coordination mechanism with other UN agencies, BRC and NGOs; provision of training, including on camp management and camp coordination; support for information to asylum-seekers and refugees and psychosocial care through BRC; presence of UNHCR staff in all centres for monitoring purposes, but also to identify cases in need of special follow-up; opening of an information centre in Sofia; setting-up an outreach programme for refugees and asylum-seekers living outside SAR centres; and direct support for some of the refurbishment works needed in SAR centres.

Several countries, among including Austria, the Czech Republic, Hungary, Poland, Slovakia, the Netherlands and the USA have provided bilateral financial or in-kind assistance to the Bulgarian authorities in the spirit of solidarity and have greatly contributed to improve conditions for the asylum-seekers and refugees. Civil society has played and is continuing to play an essential role.

UNHCR acknowledges Bulgaria's positive steps to improve the situation, strengthen its capacity to provide protection, and fulfil its obligations in the short and longer term. This is a clear acknowledgement of the responsibility that Bulgaria bears to afford international protection and access to rights under international, European and national legal instruments.

UNHCR also welcomes the contributions made by EU bodies, in particular the European Commission with its generous funding, and EASO which, through its Operating Plan, has provided training on Registration, Asylum Procedures, EU Asylum *Acquis* and Country of Origin information and has deployed Asylum Support Teams.

Recommendations

- More support will be required as Bulgaria strives to ensure that asylum-seekers and beneficiaries of international protection have access to the rights and assistance to which they are entitled, and UNHCR calls upon all stakeholders to continue with their efforts in support of the Bulgarian authorities.

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4. Sustainability and consolidation of efforts undertaken

While UNHCR welcomes the efforts undertaken by the Bulgarian authorities, mainly by SAR in co-operation with civil society and acknowledges improvements, UNHCR remains concerned over the sustainability and the consolidation of these endeavours in the medium and longer-term.

UNHCR notes that some initiatives were undertaken on an *ad hoc* basis, mainly by NGOs and Bulgarian civil society, in response to a crisis, without ensuring SAR's capacity to take over, for example in the areas of support for people with specific needs and the monitoring of their situation, provision of recreational activities for children, and sustained provision of legal aid and representation at all instances.

UNHCR positively acknowledges the increase in the number of those recognised as in need of international protection, particularly Syrians. However, UNHCR remains concerned that in the absence of a solid strategy and sustainable programme to ensure access to livelihoods, affordable housing, language acquisition, and effective access to formal education for children, beneficiaries of international protection may not have effective access to self-reliance opportunities and thus may be at risk of poverty and homelessness.

UNHCR reiterates its concern over the measures undertaken by the Bulgarian authorities, as of November 2013, to restrict access to the territory along the Turkish border, which has resulted in drastic decrease of arrivals since December 2013. Although a decrease in the number of new asylum-seekers has enabled the authorities to focus on addressing shortfalls in the reception and asylum system, measures to deter entrance cannot be regarded as an appropriate response to address an influx of people in need of international protection. This needs to be addressed by developing and implementing a strategy to prepare for, mitigate and respond to pressure on the asylum system.

While the Bulgarian authorities' efforts to address the gaps revealed by the previous influx in 2013 has been possible in this short time-frame, UNHCR notes that the Bulgarian authorities may face additional challenges in the future should the number of asylum-seekers increase, through either effective transfers under the Dublin Regulation or an influx of new arrivals.

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5. Conclusion

Between 1 January and 31 March 2014, UNHCR has observed significant improvements in Bulgaria with regard to registration, the processing of requests for international protection and the overall reception conditions for asylum-seekers in the reception centres. It is essential that these improvements, and the ones that are underway at the time of writing, are consolidated and rendered sustainable. It is also crucial that the Government designs and implements a comprehensive integration programme for beneficiaries of international protection.

UNHCR would however like to underline the continuing weaknesses in the Bulgarian asylum system in particular with regard to access into Bulgaria at the border; inadequate reception conditions in two of the seven centres; lack of provision for the identification of people with specific needs, in particular the needs of children generally and unaccompanied children in particular; lack of systems in place to address those needs; the continuing need to improve the quality of the asylum adjudication process, including the provision of information in a language asylum-seekers understand; and an urgent need to provide access to education, health care and integration support to people who are recognised as in need of international protection.

On this basis, UNHCR would therefore like to highlight that, while deficiencies are no longer such as to justify a general suspension of Dublin transfers to Bulgaria, there may nevertheless be reasons precluding transfers under Dublin for certain groups or individuals. UNHCR recommends that Dublin participating States conduct an individual assessment as to whether a transfer would be compatible with States' obligations to protect an individual's fundamental rights under EU²⁴ and international law, in particular with regard to asylum-seekers who have specific needs or vulnerabilities.²⁵

UNHCR hopes that the Government of Bulgaria will implement the recommendations contained in this report and stands ready to support the authorities in this respect, together with partners.

UNHCR will continue to closely monitor developments in Bulgaria and will issue further observations if and when it may be warranted.

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²⁴ See footnote 3.

²⁵ See footnote 4.