



**Submission by the United Nations High Commissioner for Refugees
for the Office of the High Commissioner for Human Rights' Compilation Report-
Universal Periodic Review:**

REPUBLIC OF BULGARIA

I. Background and Current Conditions

Bulgaria ratified the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol on 22 April 1992. For the past 18 years, Bulgaria has been making steady progress in its efforts to fully develop its capacity and assume its role as a host country for refugees. The country agreement concluded between UNHCR and the Government of Bulgaria on 23 July 1993 has provided the legal basis for co-operation. The actual processing of asylum applications by the Government began in 1994. With the adoption of the 1999 Refugee Law, the Agency for Refugees assumed the functions of the National Bureau for Territorial Asylum and Refugees. Under the 2002 Law on Asylum and Refugees (LAR), the Agency became the State Agency for Refugees (SAR).

According to Article 5(4) of the Constitution, any international instrument, which has been ratified through the constitutionally established procedure, shall be considered part of the domestic legislation and prevail over any domestic legislation stipulating otherwise. The 1951 Convention and its 1967 Protocol are, by virtue of the provisions of the Constitution of the Republic of Bulgaria adopted on 12 July 1991, automatically considered as part of the domestic legislation and supersede any national legislation.

According to Article 6(2) of the Constitution, there shall be no discrimination on the grounds of race, nationality, ethnic identity, sex, origin, religion, education, opinion, political affiliation, personal or social status or property status. In addition, the Law on Protection against Discrimination was adopted in 2003 to provide stronger protection against discrimination. Article 4 stipulates that any direct or indirect discrimination on the grounds of gender, race, nationality, ethnicity, citizenship, origin, religion or belief, education, opinions, political affiliation, personal or public status, disability, age, sexual orientation, marital status, property status, or any other grounds established by the law, or

by international treaties to which Bulgaria is a party, is prohibited. Article 7 provides an extensive list of what shall not be deemed discrimination, such as affirmative action practices and procedures. Foreigners residing in Bulgaria shall be vested with all the rights and obligations proceeding from the Constitution, except those rights and obligations that are attached to Bulgarian citizenship by the Constitution or by another law.

Persons with recognized refugee status have all the rights and obligations of Bulgarian citizens. Article 32(1) of LAR enumerates the restrictions on the rights of refugees: 1) the right to participate in national and local elections and referendums, and to participate in the establishment, or be a member, of political parties; 2) take on positions which require Bulgarian citizenship (most of the administrative bodies as well as other state authorities); 3) become members of the armed forces; and 4) other restrictions expressly stipulated in a law.

The European Convention on Human Rights and Fundamental Freedoms is incorporated into the domestic legislation. Bulgarian Courts provide for the direct implementation of the decisions of the European Court on Human Rights. Bulgaria is also a State party to most international human rights instruments. On 9 December 2005, the Bulgarian Parliament adopted the Law for the Ratification of the European Convention on Nationality with reservations in four provisions and one declaration.

Bulgaria has neither ratified the 1954 Convention relating to the Stateless Persons, nor the 1961 Convention on the Reduction of Statelessness. UNHCR is continuously lobbying for accession to those instruments. In April 2009, the Working Group (WG) on Statelessness led by the then-Deputy Minister of Justice concluded that there were no obstacles for accession. A new WG on Statelessness was established in November 2009 with the task of analyzing existing national legislation and propose actions towards Bulgaria's accession to the 1954 and 1961 Conventions on Statelessness. The process of the country's accession is ongoing. The new Government has shown a clear political will to proceed with the accession to both international instruments in an expedient manner.

Bulgaria grants four types of protection as stipulated in the national legislation: 1) asylum is granted by the President of Bulgaria to aliens who have been persecuted due to their beliefs or activities in support of internationally recognized rights and freedoms; 2) temporary protection is granted by virtue of an act issued by the Council of Ministers for a certain period, in the event of a mass influx of aliens who have been forced to leave their country of origin due to armed conflict, foreign aggression, large scale violence or violation of human rights; 3) refugee status is granted by the President of the SAR and in line with the criteria of the 1951 Geneva Convention; and 4) humanitarian status is granted by the President of the SAR to an alien whose life, security and freedom are threatened due to an armed conflict or danger of torture or other forms of inhuman and degrading treatment, as well as for other humanitarian reasons in line with the grounds established in the conclusions of the Executive Committee of UNHCR. Asylum, refugee status and humanitarian status are granted on the basis of an individual examination of

the case, while temporary protection is determined on a group basis, each member being considered as a *prima facie* refugee.

Beneficiaries of humanitarian status have the same rights and obligations as aliens holding permanent residence permit in Bulgaria. The Law on Asylum and Refugees provides that aliens who have been granted temporary protection are entitled to the right of residing in the country throughout the duration of the temporary protection, an identity document, social security, food, shelter, medical care and services.

For the period 1993 until 31 March 2010, a total of 18,248 asylum applications are registered. 1,496 persons were recognized as refugees, and humanitarian status (subsidiary protection) was granted to 4,346 persons. From 1 January 2010 to 31 March 2010, 283 asylum claims were registered, of which 5 persons received refugee status and 35 persons humanitarian status. In 2009, a total of 125 stateless persons were registered as asylum-seekers. Palestinian asylum-seekers are generally registered as stateless persons by the authorities. Refugee status was granted to three, and humanitarian status to 11 persons. According to the Ministry of the Interior, there are approximately 2,200 stateless persons in Bulgaria, of which 200 were granted permanent residence, and in 2009, 51 stateless persons received Bulgarian citizenship. The national legislation does not provide a legal definition of a 'stateless person'. No legal framework or practical mechanism exists to determine whether a person is stateless. Existing data on stateless persons may not be fully reliable. A person without citizenship can acquire Bulgarian citizenship under certain conditions, specified in the Law for the Bulgarian Citizenship.

In January 2007, the Republic of Bulgaria became a Member of the European Union (EU). The Government completed the process of transposition of the EU asylum *acquis* in July 2007, when the amendments to the Law on Asylum and Refugees (LAR) entered into force. LAR is the main national legislation dealing with refugees and asylum-seekers. UNHCR was actively involved in the legislative process.

II. Achievements and Best Practices

Bulgaria has developed a favourable time frame for recognized refugees to apply for naturalization. Article 13(a) of the Law on Bulgarian Citizenship (in force since 1999 and the last amendments came into force in October 2009) stipulates that a person granted refugee status or asylum can apply for naturalization after three years from the date of acquiring refugee status or asylum in Bulgaria, while the general requirement for foreigners and humanitarian status holders is five years. In 2009, a total of 12 refugees and humanitarian status holders obtained Bulgarian citizenship.

III. Challenges and Constraints

1) Access to territory and detention

Access to the territory of Bulgaria is generally granted and there have been no reported cases of *refoulement* from the border in 2009. Asylum-seekers from third countries (non-EU Member States) mainly pass illegally through the Turkish border of Kapitan

Andreevo in Bulgaria where they are detained by the border police for 24 hours at a detention center. Due to the lack of capacity and due to the sub-standard, reception and living conditions at SAR's registration and reception centers (RRCs) in Banya, Municipality of Nova Zagora, and Sofia, asylum-seekers are transferred from the border to the Special Center for Temporary Accommodation of Foreigners (SCTAF) located at Busmantzi near Sofia. The waiting period for asylum-seekers to be transferred to the SAR's RRC is between two weeks and two or three months. While in detention, they may face the risk of *refoulement*, because SCTAF mainly accommodates illegal aliens who are subject to deportation and asylum-seekers are mixed with them. Thus, the Government does not sufficiently distinguish between asylum-seekers who were forced to leave their home countries in search of international protection, from illegal migrants.

The inadequacy of the safeguards for the respect of the *non-refoulement* principle was illustrated by one case of a Turkish asylum-seeker, who had been accommodated in the SCTAF. In January 2009, UNHCR and the Bulgarian Helsinki Committee intervened twice successfully to prevent his deportation, but he was nevertheless returned to Turkey in May 2009. His asylum claim had still been pending at the time. UNHCR expressed concern about this incident of *refoulement*.

UNHCR strongly recommends that detention should be used as a last resort and for as short a period, where necessary. In May 2009, with amendments of the Law for the Foreigners, a time limit for the detention in the SCTAF was introduced for the first time in the national legislation. The amendments set a six to 18 months deadline for administrative detention and provides for judicial review. While it is a positive development that indefinite detention is no longer an option, it has to be mentioned that during the negotiations of the EU Directive on Returns, which introduced the time limit of 18 months, UNHCR was highly critical of the maximum length of detention proposed by the Directive. 18 months detention can still be considered a prolonged detention.

2) Access to RSD Procedure

Generally, asylum-seekers have access to the RSD procedure conducted by SAR's interviewing body. However, it is impeded, mainly as a result of detention as well as delays in transfers, processing of asylum applications and time of registration. Moreover, the quality of RSD interviews and decisions is not in line with the international standards.

UNHCR is concerned by the adoption of the Ordinance for the Responsibilities and Coordination between the SAR and Directorate Migration and Border Police for the Implementation of EC Regulations on Dublin II, and on EURODAC. It allows the SAR to conduct the asylum procedure under the Dublin II procedure and following fingerprinting under EURODAC in the SCTAF in Busmantzi. Since September 2009, claiming the lack of capacity in the RRC of SAR, all asylum-seekers have been initially transferred from the borders to the SCTAF in Busmantzi. As of 25 March 2010, a total of 134 persons were detained at the center, of which 101 were asylum-seekers.

The provision of Article 16 of the Ordinance is of serious concern as it introduced as a rule that all asylum-seekers who lodged an asylum application at the borders and who appeared to have entered Bulgaria illegally, should be transferred by the border guards to

the SCTAF, but not to the SAR's RRCs. Exception from this rule is made only in respect of vulnerable asylum-seekers such as separated children, pregnant women, and physically or mentally disabled individuals. This provision strips the SAR from its responsibility to accommodate asylum-seekers upon their registration and shifts it to the Ministry of Interior. This secondary legislative act violates the rights of asylum-seekers to enjoy accommodation, documentation, access to health care and social assistance, education and language training as provided by Articles 29 and 30(a) of the LAR.

3) Quality of RSD Procedure

In 2009, UNHCR implemented the Asylum System Quality Assurance and Evaluation Mechanism (ASQAEM) Project. Through this Project, a number of gaps in the system were identified and 53 recommendations were made to the SAR. Results are already noticed in some areas including amendments to an asylum-seekers registration form, training of interpreters, and the development of a Code of Conduct for Interpreters under contract with SAR, which is in the process of adoption.

UNHCR raised its concern on the following areas: 1) the RSD procedure only starts when the applicant is physically present at SAR. It puts the asylum-seekers in a legal limbo from the moment they apply, until they are formally registered while; 2) there is a considerable delay from submitting an initial application before a different state authority to the *de facto* registration at SAR; and 3) the professional and ethical conduct of interpreters and interviewers and quality of Country of Origin Information (COI) reports prepared by SAR are not in line with the international and EU standards. For instance, the LAR *de lege lata* does not provide for audio recording of the RSD interviews and the applicants and their legal representative do not have access to the personal file, until a decision is served. Furthermore, there is a need to implement Article 8 (2) (a) of the APD and Article 4(3) of the Qualification Directive directly into the LAR to stipulate an explicit provision on individual, impartial and objective examination of applications.

In addition, the following problematic areas were identified: 1) the lack of provision regarding the requirement for a specialized training for SAR officials; 2) the definition of a refugee, which is not consistent with that of the 1951 Convention; 3) inconsistencies in the structure of the law and its logic, which may also lead to practices in contradiction to the EU Directives; 4) that if the LAR explicitly stated that applications may be submitted through an authorized representative, this would limit the effect of other state authorities' conduct to not forward applications immediately; 5) the problem caused by the requirement for an explicit request for international protection to the Republic of Bulgaria. The problem is related to the terminology, asylum and protection and is created by the narrow interpretation of a legal provision; and 6) some parts of the concepts of safe country of origin and safe third country are omitted in what appears to be a literal transposition; etc.

The implementation of a number of issues remains to be monitored by UNHCR after the completion of the ASQAEM Project. Improvement of quality should be approached in a comprehensive, systematic and sustainable manner.

4) Reception and living conditions of asylum-seekers and refugees

SAR does not operate across the territory of Bulgaria. There are only two RRCs (in Sofia, for up to 400 asylum-seekers and in the village of Banya, east of Bulgaria, for 80 asylum-seekers). The opening of the Transit Centre at Pastrogor (close to the Bulgarian-Turkish border) has been delayed for about three years and is expected to start operating by mid-2010. This has created impediments for the timely transfer of newly arrived asylum-seekers from the borders to the SAR and has established a worrisome detention practice of asylum-seekers with very few exceptions.

The reception conditions of the RRCs in SAR need serious improvement. Although some refurbishment has already taken place under the European Refugee Fund (ERF), the living conditions are still inadequate. The purchase of some new furniture has preceded the internal renovation of the buildings. The water and electricity systems are still to be repaired. A monitoring and control mechanism for the stricter implementation of the Internal Regulations for Residing in the RRC in Sofia should be enforced. The deplorable state of reception conditions might amount to a violation of the right to an adequate standard of living under the International Covenant on Economic, Social and Cultural Rights. .

The inadequate reception capacity with inadequate living conditions at RRCs in SAR in Banya and Sofia will continue to be a challenge.

5) Effective integration of refugees in Bulgaria

Of the three durable solutions available to refugees in Bulgaria, local integration has been considered as the preferred solution. SAR continues the implementation of the National Programme for Integration of Refugees (NPIR), but most of the identified gaps in 2008 have not yet been eliminated. They are as follows: 1) lack of information among the newly recognized refugees about the possibility to enroll in the programme; 2) the programme is operational only in Sofia; 3) no provision of financial aid for minors of parents who enrolled in the NPIR as well as lack of care facilities for the children under the age of 5 whose parents are attending Bulgarian language courses as part of the integration programme 4) no special arrangements in place for refugees coming from social institutions for children without parental care; 5) lack of specialized support for vulnerable refugees who are unable to attend compulsory language courses; and 6) delayed access to healthcare because of incompatibility of the information on health insurance. Furthermore, the increase of rents in the recent years did not correspond with the increase of the accommodation benefits for rent and utilities in the NPIR. Due to the requirement of Bulgarian citizenship in the Ordinance for Municipal Housing, refugees are unable to access housing provided by the Municipality of Sofia.

There is a clear need to improve the quality of the Bulgarian language training for recognized refugees in and outside the NPIR and offer alternative forms of the training. It is also important to provide an adequate Bulgarian training class for refugee children to facilitate their future enrolment in schools. SAR's Integration Center has organized basic

Bulgarian language course for six months or a total of 600 hours. During the time, refugees attend the language course are given a scholarship of four Leva (equivalent to two Euro) per attendance day. However, the allowance they receive is not enough to cover the daily basic needs of a refugee family. Therefore, heads of families drop out of the language course to find work, and often end up doing illegal work (no contract) such as construction workers, vendors and porters in local markets. The lack of a school certificate or diploma to establish their level of academic and professional capacity from their country of origin poses a serious hindrance to secure an employment. Furthermore, based on their present level of proficiency in Bulgarian language, refugees, especially those who dropped out of the language course and those with special needs, and therefore, could not attend the language course, cannot acquire Bulgarian citizenship regardless of the length of their stay in Bulgaria. Without Bulgarian citizenship, they cannot effectively integrate and, in many cases, refugees have moved to other European countries. UNHCR has raised this issue with SAR in meetings, round table discussions and the issue was also reflected in a survey evaluating the integration programme by an independent consultant in 2009.

6) Racism and xenophobia

Refugee issues received a wider coverage in 2009, but were subjected to hate-filled xenophobic remarks and messages. The general public continued to treat refugees and asylum-seekers on par with illegal migrants, thereby, hindering effective integration mechanisms.

Concern is aggravated by right-wing politicians, who pronounced xenophobic and racist speeches and comments, but were not cautioned by authorities as to the harmful impact of political hate-speech and intolerant rhetoric. Legislation on incitement to hatred exists, but is not enforced. A television network, associated with an extreme rightist political party, broadcasts programs targeting ethnic minorities and foreigners. To date, there has not been any action taken against the channel, despite the repeated complaints lodged by representatives of ethnic minorities. Of particular concern are reports of racially-motivated attacks and harassment, in particular on persons of African origin, without decisive action on behalf of the authorities. The most common perpetrators are associated with groups of skinheads.

Recent manifestations of public intolerance towards religious minorities may contribute to unfavourable perceptions of persons of concern. There have been 110 cases of reported vandalism against mosques and several anti-semitism-related vandalism during the general election campaign in July 2009.

7) Resettlement

A Working Group (WG) on Resettlement was established under the leadership of the SAR. In October 2009, a recommendation to the Council of Ministers was made that Bulgaria could start in 2011 a small scale resettlement programme by accepting 20 to 25 persons. In March 2010, the Vice Prime Minister requested the SAR to revitalize the WG in order to make an impact assessment of a possible resettlement program. It should, however, be noted that the establishment of a resettlement program needs to be

encouraged on the assumption that the SAR fully understands the related obligations on the part of the Government to guarantee adequate reception and living conditions for all refugees, improves the delivery of integration activities and promotes a conducive integration environment for recognized refugees in the country. There has been no case of resettlement from Bulgaria since 2004. Furthermore, there is a need to find a durable solution for rejected asylum-seekers who would like to voluntarily return to their country of origin. Due to the lack of matching funds to be provided by the Government, the European Return Funds is not operational. Currently, there is no legislative provision or state mechanism for granting tolerated status in Bulgaria, when return is not possible.

IV. Recommendations

- To accede to the 1954 Convention relating to the Status of Stateless Persons and to the 1961 Convention on the Reduction of Statelessness;
- To amend the Law on Asylum and Refugees in the following main areas of 1) access to RSD Procedure from the opening of the proceedings to the registration of the claim; 2) access to education of asylum-seeking and refugee children; 3) guardianship of unaccompanied minors; 4) grounds for refusal, cessation and withdrawal of protection and for RSD procedure suspension and discontinuation;
- To amend the Ordinance of Cooperation between SAR, Border Police and Directorate of Migration to regulate the transfer of asylum-seekers from the borders to the SAR;
- To take all necessary steps to introduce substantial improvements in the reception and living conditions of asylum-seekers and refugees at the SAR's registration and reception centers in Sofia and Banya with a view to achieving the full realization of the right to an adequate standard of living for asylum-seekers and refugees;
- To take all necessary steps to support the effective integration of refugees in the Bulgarian society with the view to achieving the full realization of all basic socio-economic rights protected under the International Covenant on Economic, Social and Cultural Rights (ICESCR). To ensure access to basic services including education and health care, adequate housing., and provide efficient and flexible Bulgarian language courses accessible to all categories of refugees and vocational skills trainings and employment opportunities;
- To take all necessary steps to facilitate the naturalization of refugees by providing intensive, not merely basic, Bulgarian language courses to enable refugees applying for Bulgarian citizenship to pass the written examination in Bulgarian language as one of the requirements for acquiring Bulgarian citizenship.

V. Capacity Building and Technical Assistance

UNHCR has expressed its readiness to provide advice and support to the Government of Bulgaria, as it is preparing to become a resettlement country in 2011. In its intention to accede to the Statelessness Conventions, UNHCR has contracted an external expert to undertake a legal analysis of national legislation with the aim to assist the Government in the accession process. The survey should be ready by 31 May 2010.

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