

## BULGARIA

### 1 Arrivals

#### 1 Total number of applications for asylum lodged, with monthly breakdown and percentage variation between years

Table 1:

Month	2003	2004	Variation +/- (%)
January	167	67	-58.9%
February	137	86	-37.2%
March	122	114	-6.5%
April	69	56	-18.8%
May	94	106	+11.3%
June	93	88	-6.3%
July	139	54	-61.1%
August	57	74	+22.9%
Sept.	85	120	+29.1%
October	149	119	-20.1%
November	109	141	+22.6%
December	328	102	-68.9%
<b>TOTAL</b>	<b>1,549</b>	<b>1,127</b>	<b>-27.2%</b>

Source: The State Agency for Refugees, Exh.N 03.04.14/05.01.2005

#### Comments

Owing to the co-operative stance of the national government towards the EU, measures proposed at the EU level have been reflected in national legislation and practice in relation to refugees and asylum seekers. These have often lowered the existing good standards of refugee protection, despite the fact that Bulgaria is not affected by some of the immigration concerns prevalent in other parts of Europe. These measures are most noticeable in the tough border control implemented to prevent universal access to Bulgarian territory of non-nationals, particularly of nationals of refugee producing regions. The result has been a decrease in the number of new arrivals in 2004. In the first half of 2005 384 asylum seekers sought protection in Bulgaria representing 29 countries, this compares to 517 asylum seekers representing 35 countries for the same period of 2004, which marked a 25.7% decrease.

#### 2 Breakdown according to the country of origin/nationality of applicant, with percentage variation

Table 2:

Country	2003	2004	Variation +/- (%)
Afghanistan	28.12%	27.56%	-0.56%
Armenia	9.34%	10.24%	+0.9%
Iran	10.07%	9.37%	-1.33%
Nigeria	7.62%	8.25%	+0.63%
Algeria	8.18%	6.12%	-2.06%
Iraq	4.25%	3.07%	-1.18%
<i>Others</i>	<i>30.69%</i>	<i>35.06%</i>	<i>+4.37%</i>

Source: The State Agency for Refugees, Exh.N 03.04.14/05.01.2005

#### Comments

The percentage numbers represent the proportion of the overall applications received submitted from the countries of origin concerned.

### 3 Persons arriving under family reunification procedure

Figures not available. According to unverified sources, the number of persons arriving under the family reunification procedure was no higher than ten individuals in 2004.

### 4 Refugees arriving as part of a resettlement programme

Bulgaria does not operate any resettlement programmes.

### 5 Unaccompanied minors

233 unaccompanied minors submitted applications for asylum during 2004. Fifty-four of whom were granted a subsidiary form of protection, 14 rejected, 131 had their procedure temporarily discontinued and for 129 minors the procedure was terminated due to their disappearance.

Table 3:

Country	Number
Afghanistan	165
Algeria	2
Bangladesh	8
India	15
Iran	5
Nigeria	26
Palestine	5
Somalia	5
Togo	1
Tunisia	1

## 2 Recognition Rates

### 6 The statuses accorded at first instance and appeal stages as an absolute number and percentage of overall decisions

Table 4:

Statuses	2003		Appeal		2004		Appeal	
	Number	%	Number	%	Number	%	Number	%
No status awarded	1,584	78.4	546	91.4	1,021	78.9	521	90.7
Convention status	19	0.9	12	2.1	17	1.3	10	1.7
Subsidiary status	418	20.6	39	6.5	256	19.7	43	7.4
<b>Total</b>	<b>2,021</b>	<b>100</b>	<b>597</b>	<b>100</b>	<b>1,294</b>	<b>100</b>	<b>574</b>	<b>100</b>

Source: Bulgarian Helsinki Committee / The State Agency for Refugees, Exh.N 03.04.14 / 05.01.2005

**7 Refugee recognition rates (1951 Convention: as an absolute number and as a percentage of total decisions) according to country of origin, at first instance and appeal stages**

Table 5:

		2003				2004			
Country of origin		First instance		Appeal		First instance		Appeal	
2003	2004	Number	%	Number	%	Number	%	Number	%
Afghanistan	Albania	7	22.5	3	9.6	5	29.4	13	21.6
Turkey	Syria	5	16.1	3	9.6	5	29.4	9	15.0
Iran	Afghanistan	3	9.6	1	3.2	2	11.7	5	8.3
Iraq	Iran	1	3.2	1	3.2	2	11.7	3	5.0
Palestine	Palestine	1	3.2	1	3.2	1	5.8	3	5.0
Armenia	Sudan	1	3.2	1	3.2	1	5.8	3	5.0
Syria	Turkey	1	3.2	1	3.2	1	5.8	2	3.3
Other	Other	-	-	-	-	-	-	5	8.3
<b>Total</b>			<b>19</b>	<b>61.2</b>	<b>12</b>	<b>38.7</b>	<b>17</b>	<b>28.3</b>	<b>43</b>

Source: Bulgarian Helsinki Committee /State Agency for Refugees, Exh.N 03.04.14/05.01.2005

**8 Subsidiary and other status granted (as an absolute number and as a percentage of total decisions) according to country of origin, at first instance and appeal stages**

Table 6:

		2003				2004			
Country of origin		First instance		Appeal		First instance		Appeal	
(List here)		Number	%	Number	%	Number	%	Number	%
Iraq		226	54.9	-	-	Iraq	85	33.2	-
Afghanistan		99	24.0	-	-	Afghanistan	77	30.0	-
Somalia		22	5.3	-	-	Somalia	37	14.4	-
Iran		21	5.1	-	-	Iran	10	3.9	-
Sudan		10	2.4	-	-	Palestine	9	3.5	-
Russia		6	1.4	-	-	Nigeria	8	3.1	-
Others		27	6.5	-	-	Others	30	11.7	-
<b>Total</b>		<b>411</b>	<b>100</b>	-	-	<b>Total</b>	<b>256</b>	<b>100</b>	-

Source: Bulgarian Helsinki Committee / The State Agency for Refugees, Exh.N 03.04.14/05.01.2005

**3 Returns, Removals, Detention and Dismissed Claims**

**9 Persons returned on safe third country grounds**

Does not apply.

**10 Persons returned on safe country of origin grounds**

791 individuals of whom the greatest number came from Afghanistan (175) and Turkey (107).

**11 Number of applications determined inadmissible**

894 (1127 applicants in 2004 minus 233 unaccompanied children dealt with in the normal asylum procedure) entered the admissibility procedure and 331 were determined inadmissible during 2004.

## **12 Number of asylum seekers denied entry to the territory**

Figures not available.

## **13 Number of asylum seekers detained, the maximum length of and grounds for detention**

Asylum seekers are in principle detained only prior to the registration of their asylum application on the grounds of irregular status or lack of documentation. However, in 2004 the Court overturned its previous position and upheld the administration's actions in detaining individuals post registration.

## **14 Deportations of rejected asylum seekers**

Figures not available.

## **15 Details of assisted return programmes, and numbers of those returned**

No return programmes existed in the country in 2004.

## **16 Number of asylum seekers sent back to the Member State responsible for examining the asylum application under the Dublin II Regulation**

Bulgaria is not a party to the Dublin Convention.

# **4 Specific Refugee Groups**

## **17 Developments regarding refugee groups of particular concern**

Finding a permanent legal solution for the absent system of guardianship for separated asylum-seeking children remained a core problem. In April 2004 the first guardian of an asylum seeking unaccompanied child was appointed during the asylum procedure and thus commenced a regular procedure of guardianship appointment. In this manner a full conformity of the asylum procedure with the requirements of the law on separated children in need of protection was achieved. The Registration and Accommodation Centre (RAC) of the asylum administration in Banya (Central Bulgaria) was designated to work solely with asylum seeking children.

Joint training was organized for local interviewers, lawyers and guardians working with or on behalf of separated children during the RSDP (Refugee Status Determination Procedure) in RAC Banya. However, asylum seeking and refugee children accommodated in the capital Sofia did not enjoy the same treatment. The government got round this problem by pushing for amendments to the law, which would lower the protection standard and replace guardianship with specialized child representation services.

The final vote of the amendments passed in April 2005. Mandatory representation of separated children was officially agreed between the asylum authority and the Bulgarian Helsinki Committee in 2003 and since then NGO lawyers have represented every asylum-seeking child during the RSDP (Refugee Status Determination Procedure) following a request from the State Agency for Refugees. This arrangement represents the initiation of a state sponsored legal aid scheme in the national asylum system. During 2004 the first procedures of age assessment by wrist X-ray took place.

## 5 Legal and Procedural Developments

### 18 New legislation passed

In 2004, the asylum authority presented draft amendments of the Law on Asylum and Refugees within the obligations undertaken under Chapter 24 JOHAN of the EU accession negotiations. The amendments were largely adopted in December at the second hearing of the leading Parliamentary commission on Human Rights and were expected to be adopted by Parliament early in 2005. Alongside many positive changes, as in Article 13 on the grounds for which claims can be rejected as manifestly unfounded and the re-establishment of the original version of Articles 14, 15 and 16 drafted in 2002, there have also been proposed changes in the law that restrict the protection of beneficiaries. The amendment narrows the definition of family member and abolishes the derivative status for spouses according to Article 8 of the law, and in Article 25 guardianship is replaced with an advisory counsel for unaccompanied asylum-seeking children during the RSDP. Finally, Article 73 on single interview as a principle for the RSDP promotes lower protection standards than the amendments now adopted, which set a standard of at least two interviews having been conducted by the court in order to consider the case assessment process correct and legal.

### 19 Changes in refugee determination procedure, appeal or deportation procedures

Access to RSDP: In 2004 there was an alarming tendency for the border police to refer people who were due to testify in human trafficking cases to the RSDP, despite the fact that they had not applied for asylum. This avoided making costly witness protection payments under the Law on Combating the Trafficking of Human Beings. It was also revealed that the asylum administration had made a confidential agreement with the border police for the police not to refer anyone to the RSDP unless it had been pre-agreed by the asylum administration. The construction of the transit centre for accelerated RSDP in Pastrogor, near Kapitan Andreevo planned by the government and financed by the EU has not yet started. The government announced its plans to start the construction of this and a second Transit Centre (to be built in Busmantzi area at Sofia Airport), but have not yet announced a start date. It is very likely that both will not be operational prior to 2007. During 2004 the asylum authority again started to conduct an accelerated procedure in Droujba Detention Centre in the capital Sofia, although the court had previously ruled this illegal.

Accelerated procedure: The accelerated procedure should take no longer than 43 days according to legal provisions.<sup>1</sup> Despite this, the actual length of the accelerated RSDP has normally varied from between eight to ten months and in some cases the RSDP has taken longer than 14 months. In 2004, the asylum administration persistently failed to meet its legal obligations<sup>2</sup> in registering asylum applications submitted before it in due course. Registration was regularly postponed for a period of between one and two weeks during which period asylum seekers remained undocumented, without accommodation and deprived of their due rights. The asylum administration discontinued the practice of accommodating asylum seekers outside the premises of the Reception Centre in Sofia by denying registration and accommodation of new arrivals on the basis of the lack of vacancy. The most serious of all violations however, was the late issuing of identification documents to new arrivals.

General procedure: The most serious problem in the implementation of material legal provisions was the abolition of the Law on Refugees<sup>3</sup> which abrogated the adopted administration's policy to grant humanitarian protection status. Another problem with the asylum authority was its inability to differentiate between multiple applications and *sur place* applications<sup>4</sup>. The decision maker in breach of the law treated all *sur place* applications as manifestly unfounded consecutive applications. At the same time, however, the administration still continued to make second or consecutive registrations of

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<sup>1</sup> Pursuant to Section 70(1) LAR in conjunction with Section 84(2) and 85 the accelerated procedure should take not longer than 43 days altogether, 7 days of which are dedicated to the administrative stage of the procedure, rest – to the court stage.

<sup>2</sup> Art.58, Para 2 of the LAR.

<sup>3</sup> State Gazette N54 of 31.05.2002

<sup>4</sup> Art.16, Para 8 of LAR.

asylum applications from rejected asylum seekers in spite of the sub-project's suggestion of a legal remedy to overcome the multiple applications phenomenon. In 2004 the disturbing tendency of the government to quash liberal interpretations of the law delivered by the court by changing the law itself in a restrictive manner also became evident.

## **20 Important case-law relating to the qualification for refugee status and other forms of protection**

\*Decision issued on 9.02.2004 / Case NB-46/2004 - Abdusalam / Sofia City Court, 3-g department / Legal ruling: The administrative body must consider the merits of an individual case, it can not base a negative decision purely on the fact that the country of origin is considered a safe country.

\*Decision issued on 01.06.2004/Case NB-604/2004 - Dai Dzyu Huang/ Sofia City Court, 3-g department/Legal ruling: If the applicant has given coherent and plausible statements and has made a genuine effort to substantiate their story, the application should be referred to the general RSDP for further consideration as the manifestly unfounded criteria should not be legally applied purely on the basis of lack of evidence (the benefit of the doubt principle).

\*Decision N108 issued on 26.04.2004 / CaseN4168/2003 - Gul Azin /Sofia City Court, 3-j department / Legal ruling: There is no legal limitation that requires that an asylum application must be submitted in person or by referral from another governmental institution. An application can be submitted by any other individual or legal entity, including non-governmental organizations on behalf of the asylum seeker provided this is done in a valid and legal manner.

\*Decision N 4350/14.05.2004 / Case N 631/2004 - Tagui Gasparyan / Supreme administrative court, 2nd instance / Legal ruling: Separation of family members from a recognised refugee should not be allowed on the basis of a limited interpretation of Art.19 (Law on Refugees), which is now Art.22 of the Law on Asylum and Refugees. The interpretation of the concept of 'accompanying family members' should not be restricted to those family members that have entered the territory of the accepting country together with the refugee. This would violate the purpose of the law, which is to give universal protection to the individual in need of it and, his/her family under art.8 ECHR in particular.

## **21 Development s in the use of the exclusion clauses of the Refugee Convention in the context of the national security debate**

The first case ever applying Art.1F's exclusion clause to a refugee already granted protection took place in 2004. The court at the appeal stage ruled that rejection or cessation of status or discontinuation of determination procedures based on the grounds of an exclusion clause under Art.1F could only be legally applied in the general procedure not in the accelerated procedure, and quashed the abolition of the status.

## **22 Developments regarding readmission and cooperation agreements**

No developments.

## **6 The Social Dimension**

### **23 Changes in the reception system**

The decrease in the number of applications received continued in 2004. The majority of refugees and asylum-seekers were accommodated in Sofia. One integration centre for refugees and two open reception/registration centres for asylum seekers were in use (one in Sofia and one in Banya, near to the Turkish border). The capacity of the two reception/registration centres is approximately 600 in total. Given the smaller numbers of asylum seekers, it has been sufficient for all new arrivals. Therefore the additional renting of private houses in the suburbs of Sofia which was practised in previous years was not necessary.

## **European Council on Refugees and Exiles - Country Report 2004 - Bulgaria**

In 2004, the Bulgarian Red Cross (BRC) continued to provide hot food and medicines to foreigners, who had declared their intention to seek asylum in the country, prior to entering into the determination procedure.

The idea of creating a sustainable infrastructure (i.e. of two new transit centres near the border checkpoints with the highest workload - Sofia Airport and Kapitan Andreevo at the Bulgarian-Turkish border) to implement an accelerated procedure for manifestly unfounded applications was not implemented in 2004. This was partly due to strong opposition from the local population, particularly near Sofia Airport.

### **24 Changes in the social welfare policy relevant to refugees**

Throughout 2004, asylum seekers received the same benefits that Bulgarian citizens on low incomes are entitled to from the State Agency for Refugees. Asylum seekers were also entitled to social counselling, free basic medical care, primary and secondary education, Bulgarian language tuition and vocational training provided by the State or in some cases, in cooperation with Caritas Bulgaria.

The BRC continued to offer psychological counselling to asylum seekers living in the Banja reception centre, counselling and free medicines for psychiatric cases in Sofia as well as assistance in kind. Psychological help at the reception centre in Sofia is provided by the State Agency for Refugees.

Recognised refugees were included in the BRC Regulations for the distribution of humanitarian aid to persons on a low income. This included baby food, hygiene materials, wheel chairs, medicines and other facilities for people with a disability. The BRC tracing service was opened to both asylum seekers and recognised refugees who wished to contact/trace their separated relatives.

### **25 Changes in policy relating to refugee integration**

The lack of free state provided accommodation to all<sup>5</sup> newly recognized refugees remained a substantial gap in the asylum system. At the end of 2004, the 9th round table on Bulgaria's EU accession with a focus on comparative assessment of the progress made in Bulgaria and Romania in protection and integration of refugees reinitiated the discussion on and reaffirmed the need to elaborate a national integration policy. As a result, an inter-ministerial task force was set up. It worked out a national Integration policy for the period 2005 – 2007, which was adopted by the Council of Ministers in May 2005.

In 2004, the BRC continued to fill in the gap in provision of integration services by the State, by providing counselling in Farsi, Arabic, Bulgarian, French and English; facilitation and support for registering at the National Employment Agency, Social Welfare Centres, health and mental health services; material and organisational support to children in primary and secondary education; preschool day care and provided scholarships to a number of refugees studying in Bulgarian universities. BRC implements the main integration project for refugees in the country, funded by UNHCR. Humanitarian-status holders benefited from the same integration services offered to Convention refugees.

Benefits are provided for a period of ten months after recognition, provided refugees meet the requirements set out in the Regulations Concerning Assistance to Low Income Bulgarians and have resided in Bulgaria for less than three years. Refugees attending language and vocational courses are entitled to an increase of 50% for the period of study, to allow them to better cover their basic needs.

### **26 Changes in family reunion policy**

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<sup>5</sup> According to the Law on Asylum and Refugees, free accommodation is available only to vulnerable refugees for a maximum of six months after recognition. In implementing this article, the State Agency for Refugees allowed people with a disability, large families, elderly people and single parents to stay on in their reception centre in Sofia for a period of six months.

No developments.

**Comment**

The draft amendments of the Law on Asylum and Refugees passed in December 2004 in the Parliamentary Commission on Human Rights and Religious Beliefs were voted by Parliament on 24 March 2005 and entered into force on 12 April 2005. Art.8 amendment narrowed the family member definition abolishing the derivative status for foreign spouses, if they married after recognition. Another amendment of the same text excluded elderly parents from the circle of family members with whom recognized refugees could reunite.

**27 Developments in resettlement policy**

No developments.

**28 Developments in return policy**

The Migration Directorate of MOI intensified deportations and for 2004 reported 791 forcible returns of illegal aliens, 175 of these were to Afghanistan and 107 to Turkey.

**29 Developments in border control measures**

During 2004 the tendency to impose severe border control measures was noted. The subsequent drop in the number of asylum applications in Western and Northern Europe is no doubt a result of the new member states' policing of their borders and Bulgaria-Romania's obligations undertaken vis-à-vis the 2007 accession, to operate as the union's external border. This had a negative impact on the access of asylum seekers to Bulgarian territory.

**30 Other developments in refugee policy**

No accelerated or any other RSD procedure was performed at the Bulgarian borders, none of the planned transit centres in Pastrogor or Sofia Airport were in operation. Monitoring of border detention facilities was not permitted to NGOs or legal counsellors, although the monitoring of detention facilities inside the territory of the country was permitted without any obstacles. No practical guarantees were adopted to ensure non-refoulement at the border. The asylum administration only dealt with border cases if referred to them by the border police. According to official statistics there were 151 cases in 2002, 95 cases in 2003 and 59 cases in 2004, 30 of which were granted access to the territory, which represents only 50.8% of all border access cases. The absence of an agreement with the border police resulted in 8 registered cases of refoulement, 4 of which were of unaccompanied asylum seeking children.

**8 Political Context**

**31 Government in power during 2004**

In 2004 the government was composed of a coalition between the centre-right NDSV (National Movement Simeon the Second), a party established in 2001 by the ex-tsar Simeon Saxe-Coburgh-Gotta and the DPS (Movement for Democracy and Freedom), which is an ethnic party of the Turkish minority, led by Ahmed Dogan. The coalition proved to be very stable and finished its mandate in May 2005 when the general elections were scheduled to take place.

**32 Governmental policy vis-à-vis EU developments**

In 2004 the situation in the field of asylum in Bulgaria reflected global trends in industrialised countries in general, and Europe, in particular. This is explained by the fact that Bulgaria is heavily politically dependent on EU developments in the area of asylum and immigration as it is a transit



country and is not in a position to develop its own policy in this respect. Thus, the factors that influenced Bulgaria during 2004 were those that influenced the aforementioned regions, namely, the concern over numbers, low recognition rates, cost of asylum systems and welfare, failure to return rejected cases, public hostility and the link between restrictive measures of governments and the growth of human trafficking and smuggling. At the same time Bulgaria does not yet share these problems to the degree characteristic in industrialised countries. This meant there was a large discrepancy between the measures adopted and the public need for them.

### **33 Asylum in the national political agenda**

See above.

## **Biography**

Iliana Savova: Bulgarian Helsinki Committee

Tatyana Valchanova: Bulgarian Red Cross

### **BULGARIAN HELSINKI COMMITTEE**

Meet the basic protection needs of refugees, asylum seekers and other individuals with human rights needs, achieved through the provision of legal and integration related counselling, representation and advice to the beneficiaries as well as monitoring, influencing and interacting with all relevant institutions and organizations involved in the field to promote the development of a fair asylum system in Bulgaria.

[WWW.BGHELSINKI.ORG](http://WWW.BGHELSINKI.ORG)

### **BULGARIAN RED CROSS**

The BRC is a volunteer organisation, which is a part of the International Red Cross and Red Crescent Movement and is guided by its fundamental principles: humanity, impartiality, neutrality, independence, voluntary service, unity and universality. Through its network of volunteers in the whole country, the BRC provides assistance to vulnerable people in disaster and crisis situations. Through training programmes and activities for the benefit of the society, the BRC contributes to alleviate and prevent suffering in all its forms, protects health and life and ensures respect for the human being.

The RMS of BRC is committed to facilitating refugee integration, to preventing the isolation of migrants, and to promoting tolerance towards both groups in Bulgarian society.

[WWW.REDCROSS.BG](http://WWW.REDCROSS.BG)