BULGARIAN HELSINKI COMMITTEE

REFUGEES AND MIGRANTS LEGAL PROTECTION PROGRAMME

2012 Bulgaria

Bi-Annual Refugee Status Determination Procedure Monitoring Report[1]

1. National arrangements relating to the international protection

In 1992 Bulgaria ratified the 1951 Geneva Convention relating to the Status of the Refugees and the 1967 New York Protocol relating to the Status of the Refugees[2] of the United Nations, acceeding to it and joining those states who already were granting asylum to the individuals in need of it. The institute of the international protection reached its highest development with the adoption of the above mentioned legal acts after the end of the World War II (1939-1945) determined by the political realities and the necessity to regulate by the virtue of the law the civil and administrative status of vast number of people, who fled to other countries in Europe and elswhere after being displaced or banished from their own countires of origin as a result of the war or presecution they have sufferred from the fascist regimes. Both the convention and the protocol set out the basic legal definitions related to the refugee protection as in Article 1A of the Convention, but also the minimum scope of rights, due by the states that recognised the refugee status to a certain individual, leaving in the same time to each government the availability to appoint the recognition bodies and organise the determination procedures in conjunction with their legal specificities and administrative traditions. However, parallel to the material rights, the convention and the protocol also regulate several explicitely stipulated and non-derogable procedural guarantees for the implementation of rights of the individuals to seek and enjoy asylum, such as the *non-refoulement* principle of Article 33, Para 1 of the Convention, the *non-punsihment* prinicple for illegal entry and residence of Article 31 of the Convention and the right to access to court, legal assistance and legal aid (*cautio judicatum solvi*) of Article 16 of the Convention.

[1] This report has been prepared on the basis of Section 2.8.(5) of the Sub-Agrement between the UNHCR Representation in Sofia and the Bulgarian Helsinki Committee from 02.02.2012r. and pursuant Article 3, Para 2 of the Law on Asylum and Refugees.

[2] **Convention relating to the Status of Refugees,** enforced in Bulgaria on 10.08.1993.[2] ratified with the *Law on ratification of the Convention relating to the Status of Refugees from 1951* and *the Protocol relating to the status of Refugees from 1967* (St.G, issue 36 from 05.05.1992) ***Article singular:*** Convention relating to the Status of Refugees from 1951 and the Protocol relating to the Status of Refugees from 1967 (St.G., issue 30/1993) ***Paragraph singular:*** At the end of the sentence of Article singular is added comma and the sentence is amended hereto: "with the following declaration on the basis of Art. 1, B (1) of the Convention: The Republic of Bulgaria herewith accepts that according to this Convention the wording "events, occurring in Europe before 1 January 1951" in Article 1A, shall be read as "events, occurring in Europe and elsewhere before 1 January 1951" and the **New York Protocol relating to the Status of Refugees,** enforced in Bulgaria on 12 May 1993, ratified with the *Law on the ratification of the 1951 Convention relating to the Ststus of refugees and 1967 Protocol relating to the Ststus of Refugees* (St.G., issue 36 from 1992); amended with the *Law on Amendment of the Law on Ratification of the 1951 Convention and 1967 Protocol.* (St.G., issue 30 from 1993)

The underlying provision of the 1951 Geneva Convention relating to the Status of Refugees is Article 1A, which provides the refugee definition. According to it, a ***refugee*** is any person who, as a result of events occurring before 1 January 1951, and owing to wellfounded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or, unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. The adoption of 1967 New York Protocol relating to the Status of Refugees removed the time and geographical limitations[1] of the 1951 Convention, thus widenning the international protection to nationals from any country and on account of events, occuring both before, and, after the adoption of the convention.

National asylum legislation, however, was adopted prior the ratification of the both international refugee acts, as it was regulated in the texts of Article 27, Para 2 of the national 1991 Constitution, according to which Bulgaria grants asylum to aliens, persecuted on account of their beliefs or activity in favor of internationally recognised rights and freedoms under the terms and conditions as set by the law. The national legal arrangements reflects the previous text of the same nature in previous national constitutions with the only difference related to the competent authority to grants the asylum as per the Constitutional definition, namely, the head of state, which in the constitutions before the present one was a collective body[2], but presently is a moncratic one impersonated by the president of the republic.

This national peculiarity, and also the differencies in the legal definitions of Article 1A of the Convention and Article 27, Para 2 of the Constitution did call for a distinction in asylum terminology, from the asylum due to be provided by the state on account of 1951 Convention ratification to the asylum, granted at discretion on account of the national Constitution by the president on the basis of his/her competences as a head of state. Therefore, in 2002 during the drafting and the adoption of the second and presently applicable national refugee law, the Law on Asylum and Refugees[3], the ***term"special protection"*** was introduced as a generic legal term, which to include the different types of protection, provided by the Bulgarian state on account of all separate legal grounds and acts, adopted or ratified by it.

1.1. Types of protection. Jurisdictions.

Pursuant Article 1 of the Law on Asylum and Refugees (LAR) the law regulated the terms and conditons to provide special protection to aliens on the territorry of the Republic of Bulgaria, as well as their rights and obligations, and the protection itself that could be granted under the law is of the following types, namely: asylum, refugee status, humanitarian status and temporary protection.

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[1] Article 1B. (1) of the 1951 Convention: "For the purposes of this Convention, the words “events before 1 January 1951” in article 1, section A, shall be understood to mean either: (a) “events occurring in Europe before 1 January 1951”; or (b) “events occurring in Europe or elsewhere before 1 January 1951”, and each Contracting State shall make a declaration at the time of signature, ratification or accession, specifying which of these meanings it applies for the purpose of its obligations under this Convention.
(2) Any Contracting State which has adopted alternative (a) may at any time extend its obligations by adopting alternative (b) by means of a notification addressed to the Secretary-General of the United Nations.

[2] The Presidium of the Parliament pursuant Article 35, item 5 of the 1949 Constitution and respectively, the State Council pursuant Article 93, item 27 of the 1971 Constitution; nowadays and according to the present arrangements - the President of the Republic, whose competence to grant asylum is regulated in Article 98, item 10 of 1991 Constitution.

[3] Law on Asylum and Refugees, published in State Gazzette, issue №54 from 31 May 2002, enforced on 1 December 2002.; abrogating the Law on Refugees (St.G. issue №53 from 11 June 1999, enforced on 1 August 1999), the latter abrogating the Ordinance for Granting and Regulating the Status of Refugees (St.G. issue №.84 from 14 October 1994, repealed by St.G, issue №40 from 16 May 2000).

Asylum, pursuant Article 7 of LAR is the protection, granted to aliens persecuted on account of their beliefs or activity in favor of internationally recognised rights and freedoms, as well as by the discretion of the president of the republic, if and when, s/he decided that the national interests or other special circumstances required it. According to the definition, the law literally repeated the grounds for granting asylum of Article 27, Para 2 of the Constitution, which differ from those in the 1951 Convention and the national LAR as they include larger scope of individuals whose activity could be interpreted as an activity in favor of internationally recognised rights and freedoms. On the other hand however, the interpretation of the said text draws the conclusion that the persons who undertook this kind of activities do not have an actual right to be granted asylum on the basis of the Constitutional grounds. This conclusion derives from the type of the competent body that grants it, namely - the head of state, pursuant Article 2, Para 1 LAR in conjunction with Article 98, item 10 of the Constitution. The president is not an executive organ (central or local administration) and therefore is not binded by law to decide on the asylum applications or requests that have been addressed to the presidential institution under the framework of Article 98 of the Constitution. The conclusion is concurred by the text of Paragraph 2 of Article 7 LAR, which explicitely regulate the discretion of the president to grant asylum by enlarging additionally the constitutional grounds, thus stabilizing the discretion as a prinicple, not as an exclusion. Therefore, the president has the right to grant asylum even when the institution has not been addressed with an explicit application in this respect, but in the same time the president has no obligation to give a decision at all, irrespectively positive or negative, neither s/he is obligated with any deadline to say whether the asylum application will be looked at or not. Thus, the asylum on the grounds of the national Constitution does not create an individual right to any alien on the territory of Bulgaria to seek and enjoy it, but only empowers the state represented by its head to grant it as an act of wide discretion on the basis of other, expanded and different from 1951 Convention grounds and definitions.

Refugee status according Article 8 LAR is granted to an alien who has well-founded fear of persecution on account of his race, religion, nationality, membership of a particular social group or political opinion and/or conviction, and being outside of his country of origin for that reasons is unable or unwilling to avail himself of the protection of that country or to return to it. The text of Article 8, Para 1 repeats quite adequately the definition of Article 1A of the 1951 Convention, though in the rest of its paragraphs it also introduces mandatory interpretaton relating to the refugee definition's elements, which was adopted by the 2004/83/EC[1] Directive as an integral part of the common European Union's minimum standards in the area of asylum (acquis communautairre). Thus, the law in Article 8 regulates not only the refugee definition on who and when has to be considered and recognised as a refugee on the territory of Bulgaria, but also provides separate definitions to some of the objective and subjective elements of the refugee definition itself, namely - attributed characteristics (Para 2), agent of persecution (Para 3), acts of persecution (Paras 4 and 5), sur place circumstances (Para 6), agent of protection (Para 7) and internal flight alternative (Para 8). Pursuant Article 2, Para 3 LAR the refugee status is granted from the chairperson of the State Agency for Refugees with the Council of Ministers, who is competent to decide on asylum applications in terms of granting, refusing, revoking or ceasing a refugee status.[2] The State Agency for Refugees with the Council of Ministers (hereinafter referred to as "the SAR") is an administrative agency with special jurisdiction to provide reception, accommodation, social, medical and pshycological assistance to individuals who seek asylum as well as to implement status determination procedures that has been initiated with the lodging of an asylum application on the territory of Bulgaria (excluding the asylum applications, explicitely addressed to the president), and for these reasons to examine and determine the facts and circumstances that have been stated as the grounds to apply for asylum. SAR's decisions are nature administrative acts by nature, therefore they are subjected to a judicial control and revision, both on the basis of Article 120, Para 2 of the

[1] Directive 2004/83/EC of the Council from 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted;

[2] Article 48 in conjunction with Article 2, Para 3 LAR;

Constitution, but also on the asylum law itself[1]. In this respect, when rejected, the asylum seekers has the right to appeal the refusal before the national courts and to contest during the trial those factual and legal conclusions of the decision-maker that deny the need of protection and the right to be granted such protection. If recognised, the refugee status gives his holder the rights and obligations of a Bulgarian national, excluding only the right to vote in parliamentarian and local elections, to establish ot become a member of political parties, hold position in public services, serve as a military officers as well as other exceptions explicitely stipulated by a law.[2] Same scope of right is recognised to the refugee family members - spouse, minor and underaged children, but with condition relating to the spouse that the marriage was concluded prior the recognition, otherwise they can be recognised as refugees only on their own personal grounds[3]. If the family members do not accompany the refugee at the time he is recognised, he has the right to get a permission for reunification with his family on the territory of Bulgaria[4] and in such case an extended definition of a family is applied by the law, and, beside the nuclear family (spouse and undergaed children) it include also the children that has come of age, but who are yet unmarried and unable to support themselves due to serious health problems as well the parents of each of the spouses, who are not able to take care of themselves due to advanced age or grave illness, which necessiates them living together in the domicile of their children.[5]

Humanitarian status pursuant Article 9 LAR is granted to an asylum seeker who is forced to leave and stay outside his country of origin where he is exposed to risk of serious harm consists of serious harm as death penalty or execution, or torture or inhuman or degrading treatment or punishment, or, serious and individual threat to a civilian's life or person by reason of violence in situations of international or internal armed conflict. The humanitarian status like the refugee one is an individual status, however its grounds do not stem from the 1951 Convention, but subsidiary to it and arise from the international human rights obligations that Bulgaria undertook with the ratification of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the European Convention on Human Rights and Fundamental Freedoms. The prupose of this type of status is to ensure on the territory of Bulgaria protection against any harm of life, safety and security of the person[6], which are threatened in the country of origin and habitual residence. As far as it concerns reasons related to the person, the administration that is competent to decide on the need of a humanitarian status is again the chairperson of the State Agency for Refugees with the Council of Ministers (See, footnote 2 at page 3). This approach of the law finds its reasonning in the fact that the applicants are not obligated to give legal assessment of their claim when submitting it, therefore it is an obligation of the administration to decide whether the stated fact, grounds and circumstances, if accepted as credible, tantamount to a refugee or humanitarian status. Thus, when looking at the facts of the asylum application and examinning them the deision-maker, the SAR, has to assess and determine not only the need of protection, but also the type of the protection that is due accordingly. If granted, the humanitarian status brings to its holder the same right and obligatioan as of an alien with granted permanent residence[7] in Bulgaria, but supplemented with the additional right to family reunfication under identical terms and cosnitions such as those, applicable to the rules and regulations relating the recognised refugees[8].

[1] Article 84 and the following of the LAR;
[2] Art.32, Para 1 of LAR;
[3] Art.8, Para 9 and 10 of LAR;
[4] Art.34 of LAR;
[5] §1, item 3 of the Additional Clauses of LAR;
[6] Art. 3 of the UN Convention Against Torture and Art.2 and 3 of the European Convention on Human Rights and Fundamental Freedoms;
[7] Art.36 of LAR;
[8] Art.34, Para 1 and following of the LAR;

Temporary protection pursuant Article 11 LAR is granted in cases of a mass influx of individuals, who have fled their country of origin or habitual residence on account of armed conflict, civil war, foreign agression, gross violation of human rights or major violence that spread either to the territory of the whole country or to a particular region and for that reasons are unable to return to it. In fact, the legal grounds for the temporary protection do not differ significantly from the grounds to provide a humanitarian status pursuant Article 9, para 1, item 3 LAR. The hypothesis of the latter prerequisites risk of serious and individual harm against the life and the personal integrity of a civilian in cases of internal or international armed conflict. In both hypotheses the value at stake is the physical safety and security of the person caused by military operations in most general terms, in which situation the coutry of origin or habitual residence is unable or unwilling to provide protection to its civilian population living on the territory of concern. The only difference lies within the number of the individuals who entered Bulgaria to seek protection on this account, i.e. whether Bulgaria as a host country is faced with predominantly individual claims or there is a mass influx of large number of individuals who flee from the relevant country of origin. As far as in the second hypothesis it is objectively impossible to process each and every asylum claim individually due to the high number of applicants, who sought asylum, the lawmaker opted for a group approach and recognition. Thus, in order to grant a temporary protection the law requires solely a nationality or an origin of the country of concern to be established for a particular individual, if Bulgaria already accepted that this country is in a situation of an armed conflict or gross violence or violation of human rights. Latter is adopted on the basis pf a decision, taken by the Council of the European Union, which can be made following a request on behalf of the Bulgarian government[1]. If and when the decision of the EU Council is produced, the national government (Council of Ministers) can take an internal decision for granting the necessary temporary protection. The individuals under the institute of temporary protection have the right to remain in Bulgaria, a right to work and to have access to professional education; right to proper accommodation or means to find their own accommodation, if necessary, as well as to social assistance, medical aid in cases of emergency and family reunification. As far as the element of the personal threat, risk or persecution are not imminent in the case of temporary protection, therefore the individuals who fall under it have the right to leave Bulgaria freely and to return to their country of origin without a risk of cessation of their temporary protection. This legal solution is substantiated by the fact that there could be many humanitarian causes for this return such as getting a family member who has been left behind, etc. The temporary protection does not exclude the asylum seeker from the right to apply individually for international protection in Bulgaria on the grounds of Articles 8 or 9 LAR[2], however pending the status determination determination the applicants does not have access to the rights attributed to asylum seekers during RSD as far as s/he already has been granted another type of protection with a different scope of rights and it is iconsidered inadmissible these rights to be duplicated.

Mandate status is recognised by the Office of the United Nations High Commissioner for Refugees following the refugee definition of Article 1A of 1951 Convention and under the UNHCR mandate, regulated in its Statute[3]. UNHCR activity in this respect is to examine the facts and recognise a status fo a refugee to individuals who fled to countries of asylum, which have not ratified the 1951 Convention or they lack a national arrangements for status determination and recognition. The legal effect of the recognition under the UNHCR mandate equals to authoritative determination of the refugee quality of a certain individual, which ought to be recognised by all state parties to the 1951 Convention, if and when they appear at their territory. In the national law this obligation is explicitely regulated in Article 10, according to which any alien, presently on Bulgarian territory, who is recognised as a refugee under the UNHCR mandate must be granted a refugee status *ex lege*, i.e. automatically and by virtue of the law.

[1] Art.2, Para 2 LAR in conjunction with Art.80 and following of the LAR;

[2] Art.58, Para 5 LAR;

[3] Statute of the United Nations High Commissioner for Rfeugees, adopted with Resolution 428 (V) from 14 December 1950 by the General Assembly of the United Nations Organisation;

1.2. Methods and scope of the RSD monitoring

RSD monitoring were held in the territorial units of the State Agency for Refugees within the Council of Ministers at every stage of the refugee status determination. The monitoring span from the initial moment of the registration of the asylum application before the SAR or any other administration, which could be addresses with such application under the provision of Article 58, Para 4 LAR. The asylum application's registration could differ from the personal registration of the individual according to the provision of Article 61, Para 2 LAR. The monitoring also focused on the eligibility interviews held during the different stages of the status determination procedure, namely - the procedure for determining the Member State responsible for examining an asylum application lodged in one of the EU member states by a third-country national (so called, Dublin procedure under Council's Regulation 2003/343/EC) arranged in the national law in Part Ia, Chapter Six of LAR; the accelerated procedure under Article 68 and the following of the LAR focused on the admissibility and manifestly unfouded criteria ; as well as the general RSD procedure under Article 72 and the following of the LAR, which assesses the credibility of the asylum claim on the merits. Observers were qualified lawyers specialised on asylum, immigration and human rights law and legislation.

Monitoring methodology included information gathering on the RSD interviewing methods, means and practices, which was recorded in standard forms for interview's assessment (Appendix 1) and decision's assessment (Appendix 2).

Monitoring was held weekly from Monday to Friday on random basis in the registration and reception centers (RRCs) of the SAR in Sofia and in the transit center in Pastrogor, near the city of Svilengrad at the Bulgarian-Turkish-Greek border.

2. Types of determination processes

All stages of the national status determination procedure are arranged in Chapter Six of the Law on Asylum and Refugees.

Under the law the key procedural actions/processes are:

- Registration - Articles 58 - 63 LAR;
- Interview - Article 63a LAR;
- Facts and evidence gathering and assessment - Article 63 LAR;
- Discontinuation and termination of the procedure - Article 77 LAR;
- Cessation and exclusion of a recognised status - Articles 78-79 LAR;

2.1. Registration

As the special law, the Law on Asylum and Refugees, does not provide an explicit regulation on the intitial moment of the status determination procedure; therefore general rules on administrative procedures shall be applicable according to the provisions of the Administrative Procedures Code. Under the law[1], in prinicple, any administrative procedure shall commence automatically when initiated either by an authority, competent to decide on the matter of concern, or, when requested orally or in written by an individual or organisation. As an exclusion, the administrative procedure could commence on an initiative of a prosecutor, ombudsman or by an order of a higher adminstrative unit, but only in the hypotheses explicitely regulated by a law. Under the LAR[2] any alien can apply for asylum *in person* before an officer of the State Agency for Refugees. The following provision[3] however forsee that, if and when, the asylum application is made before another administration, different from the SAR, the former is obligated to refer the application immediately to the

[1] Article 24, Para 1 of the Administrative Procedures Code;

[2] Article 58, Para 3 LAR;

[3] Article 58, Para 4 in conjunction with Article 61 LAR;

SAR as the single competent authority ot deal with asylum calims on the territory of Bulgaria. In this respect there is a ***temporal discrepancy*** prerequsited by the law between the moment of the application's registration and the moment of the personal registration of the asylum seeker. This descrepancy was intentional as it was introduced with the amendment of the law in 2007[1] vis-à-vis Bulgaria's accession to the European Union aiming at preventing the direct access of asylum seekers to registration and determination as it was expected that the number of asylum applicants would increase significantly after the accession date on 1 January 2007.

Alongside with the 2007 law amendment another piece of legislation, an ordinance[2], was also adopted to coordinate in this respect the communication among the State Agency for Refugees, the General Directorate Border Police and Migration Directorate witin the Ministry of Interior. According to an imperative provision from the said ordinance[3] all aliens, who stated their asylum claim before the Border Police must be transferred and placed in a detention center for illegal immigrants (SCTAF) under the jurisdiction of the Migration Directorate-MOI, excluding the separated asylum seeking children, pregnant women and disabled persons[4]. In order to implement this mandatory provision, the Border Police was oblihated to refer to the SAR only the asylum application and the copies of the attached documents (detention order, perquisition protocol, interrogation protocol, medical examinations, etc.) as well as the documents, if any, that have been handed over by the asylum seekers, but the asylum seekers themselves ought to be transferred to the detention centers for illegal immigrants of the Migration Directorate, MOI - the one in Busmantsi, near Sofia and the other in Lubimets, near Svilengrad.

The adoption of these provisions was motivated by the government under the pretext of lack of accommodation capacity for the newly arrived asylum seekers. However, this argument was refuted by the statistics which quite evidently marked that in 2011 there were only 890 applications in comparison with 2888 applications in 2002, when detention was not applied. Despite that, the State Agency for Refugees adopted as an intitial moment of the registration the date of the personal registration of the asylum seeekers before the SAR's registrar after his release from the detention center following the provision of Article 61 LAR. The SAR considered the personal registration as an oral "confirmation" on behalf of the asylum seeker of his claim, that has been already submitted and registered by the Border Police or the Migration Directorate. Nonetheless, the SAR kept to accept as the initial moment of the asylum registration the subsequent personal registration, rather than the preceding submission of the asylum application before any of other competent authorities - Border Police, or, Migration Directorate. Thus, in 2012 the newly arrived asylum seekers were largely deprived from their right to liberty and freedom ogf movement as they were transferred to detention centers instead to asylum reception centers, and their access tp refugee status determination procedure was delayed for unspecified period of time in violation of the generally recognised rules and criteria of the international protection. In 2011 the average detention duration was of the asylum seekers was 31 days until the SAR authorised their release, transfer and accommodation in asylum reception centers. This malpractice was challenged before the courts, which adopted that the replacement of the initial moment of registration of the asylum application should not be considered as the

[1] State Gazzette issue 52 from 29 June 2007;

[2] Ordinance for the responcibility division and coordination among the state agencies, implementing activities under Regulation (EC) № 343/2003 of the Council from 18 February 2003 for establishing mechamisms and criteria for determining the Member State responsible for examining an asylum application lodged in one of the EU member states by a third-country national, Regulation (EC) № 1560/2003 of the Commission from 2 September 2003 for establishing the condition for the implementation of for establishing mechamisms and criteria for determining, Regulation (EC) №2725/2000 of the Council from 11 December 2000 for establishing the EURODAC system for the comparison of fingerprints for the effective application of the Dublin Convention and Regulation (EC) № 407/2002 of the Council from 28 February 2002 for establishnment of certain conditions to implement определяне на някои Regulation (EC) №2725/2000 relating the establishment of the Eurodac system за for the comparison of fingerprints for the effective application of the Dublin Convention (Adopted with Council's of Ministers Decree №332 from 28.12.2007, promulgarted with State Gazzette issue 3 from 11 January 2008, amended by St.G. issue5 from 9 Януари 2010, amended by St.G. issue 91 from 18 November 2011)

[3] Article 16, Para 1, item 3 of the Ordinance - as edited until the amendment of 18 November 2011;

[4] Article 16, Para 2 of the Ordinance - as edited until the amendment of 18 November 2011;

moment of the personal registration of the asylum seeker before the SAR, otherwise it has to be found in violation of the law. According to the ***constant judicial practice*** if the administration is authorised to register the asylum seeker in a later moment, which was not explicitely defined in the law, would mean to open the possibility for administrative arbitrariness, which the courts considered unlawuful and unacceptible. The courts also established a violation in respect to the provsison of Article 29, Para 1, item 6 LAR, which regulated the right of the asylum seekers to a registration (identity) card as well as all the rest of the rights due to them under the law during the RSDP. Therefore, the courts accepted without contradiction that the asylum seekers' registration, including those with subsequent applications, should be done with the submission of the application before the administrative agency, which was responcible for the asylum seeker at the time of the submission, as regulated in Article 58, Para 4 LAR; as well as, that all decisions of the SAR, which adopted another initial moment of the RSD procedure should be considered null and void due to the violation of the determination deadlines[1] under the LAR.

The prerogative of the decision-maker to postpone the asylum registration by detaining the applicants in detention centers for illegal immigrants was abrogated[2] at the end of 2011. Notwithstanding, the average ***detention duration*** during the first half of 2012 increased to 51 days in comparison to the detention duration in 2011. The main reason was the insignificant nember of maximum 10 (ten) individuals per week, released from each of the detention centers in Busmantsi and Lubimets. Besides, in the beginning of 2012 the SAR started regularly to fingerprint the asylum seekers in the detention centers for the purposes of the Dublin procedure for determining the Member State responsible for examining an asylum application lodged in one of the EU member states by a third-country national. Thus, Dublin procedures were held in conditions of detention without an access to the rights[3] guaranteed to the asylum seekers under the law. Implemenation of Dublin and accelerated procedures under Sections Ia and II (Chapter Six, LAR) in places, different from the territorial units of the SAR, was authorised by the law[4], but only prior the opening of transit center/s. Thus, after the opening of the SAR's Transit Center in Pastrogor on 3 May 2012 any RSD process or procedure that has been held in a detention center for illegal immigrants would be in violation of the determination rules and therefore, entirley illegal. Additionally, alongside the infringements as stated above, the detention of asylum seekers задържането also violates the right[5] that correspond the obligation of the asylum administration to *instruct the asylum seeker in a language s/he understands* on the determination procedures that follow, rights and obligation pending as well as the organisation that provide legal and social assistance not later than 15 days from the submission of the asylum application. The continuing absence of ***24 hours registration service*** at the SAR's units is among the most serious reasons for continuing discrepancies in the registration processes.

In 2012 the decision-maker, the SAR, continued to register and determine ***subsequent asylum applications***, disregarding whether they have been supported by new facts, circumstances or evidence[6]. This practice was critised by the UNHCR and refugee-assisting since 2007 onwards based on the argument that in this way the RSD procedures can be misused by individuals whose claims were finally rejected. Having no new circumstances, the subsequent applications overload the asylum system with groundless claims, but in the same time the SAR continue to delay the release of asylum seekers from detention for unspecified period of time under the pretext of lacking registration and accommodation capacity. According to the common position of the refugee-assisting NGOs[7] the main reason for this administrative policy is the significant decrease of the new asylum applications, which after

[1] Article 70, Para 1 LAR;
[2] St.G., issue 91 from 18 November 2011 amending Article 16 of the Ordinance (as quoted above, see footnote 5 at page 7);
[3] Article 29 LAR
[4] §5 from the Additional Clauses of LAR;
[5] Article 58, Para 6 LAR;
[6] Article 13, Para 5 LAR;
[7] Advocacy paper on Access to International Protection, Bulgarian Council on Refugees and Migrants, 2010;

the introduction of detention practices in 2007 vary at about 1000 applications annually. This conclusion is supported by the fact that the proposed by the NGOs legal amendments in this resepct that would limit the possibility for endless re-application, were not accepted by the SAR. Again, in its statistics the SAR does not make any diffrence between the new and the subsequent asylum applications. Thus, and considering the impediments for direct access to registration and RSD, it could be presumed with sufficient certainty that among all aplications registered by the SAR throughout the year, the new ones were only those that have been registered at borders, or, in detention centers. Thus, the subsequent applications were almost 50% of alla sylum applications registered annually. In the same time, the Sar's practice relating to registration of the subsequent applications was not identical as far as some of them were registered almost imediately, but others were delayed registration repeatedly without any obvious criteria for this different treatment. It generated doubts on the real reason for the delay, violated the administrative principles for equality and identical treatment[1] and did not coresspond to the good practices for the prevention of corruption.

2.2. Interview

According to the law[2] a date for an initial interview should be set immediately after the registration and the asylum seeker should be properly and timely informed about any consecutive interviews to follow. During the interview asylum seekers are obligated to submit to the decision-maker all the existing evidence in support of the asylum claim, otherwise they cannot be taken into account. All interviews should be properly protocoled and signed accordingly by the interviewer, the claimant and the interpreter, who assisted him. The monitoring however showed that interviewers do not ***protocol*** in principle the submission of evidence, written or otherwise, that was made by asylum seekers. In this way, the asylum administration create legal opportunity to avoid its mandatory obligation[3] for considering and taking them into account when determining the claim. By law, it is a blank ground for judicial revocation of the administrative decision, as the courts consistently rule out that not considering the submitted evidence violate substiantially the determination procedure to the effect of incorrect and ill-founded final act. Additionally, inproper protocoling prevents asylum seekers from means to prove before the courts that they indeed have submitted the evidence in concern. Thus, the judicial control cannot be full, comprehensive and corresponding to all relevant facts and circumstances. Finally, not having a protocol for submission of evidence deprive asylum seeskers from having means to request them back when the determination procedure has been completed and the obligation of the SAR to keep them has been ceased[4].

Another major problem during the RSD interviewing is the lack of ***interpreters from rare languages***, if the asylum seeker cannot speak or understand any other. According to the law[5] the interview should be interpreted to asylum seekers in a language they requested, and only if this is not objectively possible the interview can be conducted in a language that can be fairly presumed as known or familiar to them. The objective lack of interpreters from rare languages in the country sometimes coerces the decision-maker to conduct the interview using an interpreter from a language that is spoken and understood by the asylum seeker in lesser that the average level for the sake of having an interview at all. Notwithstanding the objectiveness of the situation still this practice conditions unsatisfactory level of communication between the interviewer and the asylum seekers and from there on - incorrect reflection and recording of the statements and facts, which reflects on the credibility of the assessed claim.

[1] Article 8 of Administrative Procedures Code;
[2] Article 63a LAR;
[3] Article 63a, Para 2 LAR in conjunction with Article 36, Para 3 of the Administrative Porcedures Code;
[4] Article 60, Para 1 LAR;
[5] Article 63a, Para 6 LAR;

Finally, the monitoring during the frst half of 2012 demonstrated that the interviewing with very few exceptions have been held schematically and in a formal approach following the interviewing forms to the letter without giving the asylum seekers the opportunity for an ***open description*** of the refugee story, neither they were asked specific or precise questions if their narration or answers were uncomplete, inaccurate or contradictory. In this way the interviewers predicated rejection of the stated facts and circumstances as far as they can be easily considered contradictory, unlikely or incredible, thus substantiating non-credible refugee story and a refusal of the asylum claim. Therefore, it is mandatory to introduce a procedural rule to test the level of asylum seeker's non-native language knowledge and understading before interviewing him with interpretation in that particular language as well as to give him as a rule the opportunity to tell freely and without interruption the reasons and circumstances, which motivated him to flee from his country of origin and seek protection elsewhere.

2.3. Establishment of facts and circumstances and evidence gathering

Under the law[1] the State Agency for Refugees has the right to collect data relating to the asylum seekers who requested protection in Bulgaria in order to establish their identity, then the EU member state responcible to determine the asylum claim and to ascertain as much as possible the circumstances, substantiating the claim. The only limitation is that the data cannot be collected from authorities, organsiations or sources of the country of origin, of which the asylum seekers had fled from. The hypothesis of the law is in fact incorrect as far as it outlines not a right of the decision-maker, but rather an obligation, based both on the general[2], and special[3] administrative rules. The final decision is issued after all facts and circumstances are collected, considered and all explanations and objections made are reflected, including those of advocating organistaions or infdividuals, if such have been made. The special Law on Asylum and Refugees introduced as am additional condition to also assess during the determination all relevant facts, which derived from the personal situation of the applicant, his country of origin or third countries. In this respect, the assessment of the country of origin information and situation is a mandatory element of the refugee status determination. Therefore, the SAR ought to discuss and consider in its decision the situation in the country of origin or habitual residence in attempt to juxtapose the claimant's statements and available objective information. However, the monitoring established that the decision-maker quote only the date, number and conclusion of the COI as stated in the official ***reference***, made by the SAR itself, instead of considering all the related information and its sources that substantiated the COI reference. The information reports that have been quoted in the reference were never attached as an integral part of the refugee file and subsequently, they were never referred to the court, if the decision is appealed.

SAR's references by their legal nature represent unofficial evidence as far as although issued by a member of the administrative staff in its official capacity they do not verify statements made in front of the officals, neither they certify the official's activities as regulated by the law[4]. SAR's references usually represent a compilation of infromation from different sources - news networks, international human rights reports, country reports of foreign government agencies, etc. Under the law[5] these sources could be used as an evidence, if only they have been collected, considered and assessed within the administrative procedure as a whole. Otherwise, the decision would be motivated with partial data and conclusions taken outside of their general context. In this respect, SAR's references are to be treated as unofficial statements without mandatory validity relating their findings as far as they consist a binding evidence only relating their author and the date of preparation. The doctrine stipulate that

[1] Article 63 LAR;
[2] Article 35 LAR;
[3] Article 75, Para 2, sentence 1 LAR;
[4] Article 179 of the Civil Procedures Code;
[5] Article 187 of the Civil Porcedures Code in conjucntion with Article 144 of the same code;

unofficial documents have binding effect only relating facts that compromise against the author of the doccument - so called, *scriptum pro scribente nihil probat sed contra scribentem* principle. Therefore, the decision-maker, the SAR, cannot validly substantiate its determination decision solely on the basis of its own COI references. The decision-maker is obligated to collect and enclose in the asylum file all the reports and other information sources used in order to prepare the reference. Otherwise, determination decisions would be unsubstantiated and ill-founded, and in breach of the asylum seeker's right to contest not only the legal, but also all factual conclusions in the decision and to prove the contrary. Therefore, the ***court practice*** consistently revoke determination refusals, if they were based solely on references, and particularly those of them that were outdated. This, however, instead of leading to correction of this malpractice, lead to a new infringement of fabricating old references dated as of today, yet again outdated and irrelevant as a period of time, in some cases - with years before the events stated or referred to as by the asylum applicant. This substituted a violation of Artilce 75, Para 2, sentence 1 LAR in conjunction with Article 35 of the Administrative Procedures Code.

2.4. Discontinuation and termination of RSD procedures

Refugee status determination procedure can be discontinued, if and when the asylum seeker has not appeared for a personal interview in a period of 10 days after he was properly invited to do so, unless the applicant demonstrated within a reasonable time that his failure was due to circumstances beyond his control; absconded or left without authorisation the place where he/she lived or was held, without contacting the competent authority within a reasonable time, or he/she has not within a reasonable time complied with reporting duties or other obligations to communicate; or, if he failed to respond to requests to provide information essential to his application[1]. Outside the explicitely enumerated cessation clauses[2] the refugee status determination procedure can be also terminated, if and when the asylum seeker failed to appear before the State Agency for Refugees in a period of 3 months after he failed to appear for a personal interview, or, if he appeared within this period of time, but failed to present evidence that he had objective reason for ***address changing*** without prior authorisation or other objective ground for his failure to appear and respond the requests of the asylum administration. The monitoring established several cases, in which asylum seekers requested from the SAR an authorisation to change the address, have been granted a permission to do so, their i.d. cards were respectively corrected, and yet, in the same time all communciation for next interview dates were sent to the old address and having not found the asylum seekers there, determination procedures were firstly discontinued and then terminated after 3 months. In this respect, practical arrangements need to be undertaken to enhance and streghthen the coordination between the different administrative units within the SAR in order to avoid such miscommunication and to prevent unjustified discontinuation and/or termination of RSD procedures on account of the incorrect information about the asylum seeker's whereabouts.

2.5. Cessation and exclusion of a recognised status

A procedure for cessation and exclusion (withdrawal) of a recognised status can be started either by the initiative of the asylum administration if new facts relating to the status holder were established, or, by a request of the status hoder himself. In case of initiative of the asylum administration, cessation or exclusion grounds should be established with reasonable certainty, or, it has to be established that the status holder was recognised under false identity or on account of forged or fabricated documents or other counterfeited evidence.

Procedures for cessation or exclusion (withdrawal) of a recognised status under Article 17 of the LAR were not monitored during the reported period.

[1] Article 14 LAR;

[2] Article 15 LAR in conjunction with Article 1C of the 1951 Convention;.

3. Specific issues relating to the stages of RSD procedures

3.1. Dublin procedure

The purpose of so called Dublin procedure is to establish whether the asylum application should be determined by Bulgaria or it is of the responcibility of another EU member state. Criteria determining the responcible state were envisaged in the EU asylum legislation[1] and transposed into the national law. Under the law[2] immediately after the refugee startus determination procedure is commenced before the asylum administration, the SAR, verification of the evicende and circumstances relating to the lodging of the asylum application should be undertaken. Interview with the asylum seeker can also be made if needed in order to clarify some of the circumstances relating the route to Europe, destination country, previous visits to the EU, relatives living in other member states, etc. After the verification is completed and the answer of the requested member state is received, the SAR issues a decision to determine whether the asylum seeker should be sent to another EU member state or the national RSD procedure will continue. Since 2007 the main group of asylum seekers who fall under the Dublin Regulaion procedures were those that entered Bulgaria from the territory of neighbouring Greece. Irrespective to their status in Greece - registered asylum seekers or illegal migrants, these asylum seekers ough to be returned back to its territory under anu of the both Dublin processes, respectively - taking back procedure in case of a registered applicants and taking the responcibility porcedure in cases of irregular migrants that passed through the Greek territory, but applied for the first time in Bulgaria. However, due to the situation in Greece and the lacking national asylum arrangements in particular, the UNHCR Bureau of Europe issues a Position Relating the Return to Greece of Asylum-seekers with "interrupted claims"[3]. According to the position, the termination of RSD procedures in Greece that was applied largely by the relevant local immigration and asylum authortities constituted a denial of access to international protection. As a result of it, since 1 August 2011 thereon[4] the decision-maker, the SAR ***terminated the Dublin returns to Greece*** on the basis of Article 3, Para 2 clause of the Dublin regulation, allowing the EU member-states to to determine an asylum application despite the fact that under the Dublin criteria it was of the responcibility and the jurisdiction of another member-state.

The monitoring of the Dublin procedure identified some problems when necessary to prove the descent of separated asylum seeking children, who were registered in Bulgaria in order to be able to reunite them under Dublin procedure with their parents or other adult family members, whose resided in another EU member state. Under the law[5] in cases like these the EU member state responcible to determine the asylum application of the separate child was the member state, where was residing the adult family member of that child. In all monitored cases, several member-states requested as a precondition for the Dublin reunification a ***DNA test*** to be made in order to establish with certainty the blood relation between the adult and the child of concern. Such testing proved to be a significant difficulty in terms of taking blood samples from individuals, living in different countries, who in most of the cases were undocumented or using temporary i.d.documents that did not allow them to travel abroad. Additionally, costs for DNA testing were not planned in the budget of the SAR, therefore asylum seekers ought to meet them on their own, which proved extremely difficult for most of them as they this type of medical costs were quite high in principle. Adoption of unified approach is necessary as well as planning of additional means and resources in the asylum administration's budget in order to meet such expenses in future.

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[1] Regulation 2003/343/EC of the Council together with Regulation (EC) № 1560/2003 of the Commission, Regulation (EC) № 2725 / 2000 of the Council and Regulation (EC) № 407/2002 of the Council;

[2] Article 67a and the following of the LAR;

[3] The Return to Greece of asylum-seekers with "interrupted claims" from 15 April 2008, exh. Code № PRL 24-02/11.04.2008, for more information: http://www.unhcr.org/482199802.pdf

[4] Order №419 from 19 July 2011 of the Chairperson of the State Agency for Refugees;

[5] Article 6 of Regulation 2003/343/EC;

3.2. Accelerated procedure

The accelerated procedure is the first stage of the national RSD that deals with the grounds of the asylum claim. The present regulation[1] of the assessment criteria applied within the accelerated procedure is a *compilation of grounds* for inadmissibility and for rulling out the claim as manifestly unfounded. The first group of criteria[2] regulate the discontinuation of the asylum procedure and its following termination, if the asylum seekers has failed to report to the decision-maker and dissapeared for a period of 3 months. These criteria[3] are remainder from the Resolution 1282 from 1 December 1992 of the Council, later replaced by 2005/85/EC Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status. They have to be abrogated as outdated and to be replaced by the directive's criteria. Additionally, having in regard the fact that "country of origin" and "third safe country" concepts[4] remained unused as the EU has never adopted a common list to be mandatory for all member states, these provisions were either never applied since their introduction. Finally, during the last several years the asylum administration attempted in practice to discontinue determination on the substance of subsequent applications, if they were not supported with new evidence or chanding of circumstances in the country of origin. However, due to a present provision in the law[5], stipulating explicitely that subsequent applications should be dealt on the substance and, if not supported by new evidence and circumstances, to be rejected as manifestly unfounded, the court found this practice in violation of the law. Therefore, the law should be amended in a way that allows the procedure on subsequent application in these hypothesis to be discontinued as inadmissable leaving the determination on the substance[6] only when there were supported by proofs or if the situation in the country of origin changed significantly.

As a whole accelerated RSD procedures were not implemented during the period January-June 2012. The main reason was a provision in the law[7], which required the State Agency on on National Security to submit a written position to the asylum file immediately after the application's registration. However, the deadline for the decision-making in accelerated procedure is very short - the interviewer ought to take a decision in 3 days[8] from the beginning of the procedure. The court practice adopted quite consistently that any decision produced after this imperative deadline should be considered null and void, as far as on the forth day the jurisdiction of the interviewer (to rule whether the application as inadmissible or manifestly unfounded) expires and the RSD procedure automatically[9] is transformed into the next RSD phase - a general procedure on the merits of the claim. From the other hand, the requirement of the law a ***written position of the National Security Agency*** to be collected is a mandatory one, therefore if not fulfilled it could again cause a revocation by the court. That is why, since the beginning of 2012 the number of accelerated procedures fell drastically and even subsequent asylum applications were admitted and dealt in a general RSD procedure. The requirement for collecting this position at such an early stage however is premature and stripped from any logical reasons as far as even if exclusion clauses are identified with respect to a certain applicant, they cannot be considered earlier than the status determination on the substance within the general procedure. Only then the application can be assessed as credible, and only in this case an exclusion clause[10] can be applied as far as under the law the exclusion from international protection can be done only after the inclusion.

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[1] Article 13 LAR;
[2] Article 13, items 6-10 LAR;
[3] Article 13, items 11,12 and 14 LAR;
[4] Article 13, item 13 LAR;
[5] Article 13, Para 1, item 5 LAR;
[6] Article 70 LAR;
[7] Article 58, Para 7 LAR;
[8] Article 70, Para 1 LAR;
[9] Article 70, Para 2 LAR;
[10] Чл.12, ал.1, т.1-3 от ЗУБ във връзка с чл.1F от Конвенцията от 1951г.;

3.3. General procedure

In the general procedure asylum applications are assessed on their credibility and the need of international protection in one of the two individual forms of it - refugee or humanitarian status. The monitoring exercised over the decisions taken within this stage of the RSD procedure[1] demonstrated two main problems relating to claim assessment - from factual and legal point of view. The assessment of facts, cirsumstances, evidence and the statements of asylum seekers made by the decision-maker suffer from ***lack of logical connection*** between the fact findings and legal conclusions, sometimes at such level of disconnectedness that the decision sounds completely irrational. Quite often in decisions the interviewer described the asylum seeker's statements, which evidently tantamount to persecution - threats, physical agression or harm, murder or violent death of a relative, friend or individuals from same ethnicity, religion or social group or of the claimant himself. In the same time, the conclusion was that the asylum seekers did not state any facts or circumstances that indicated for persecution or risks to his life, safety and security. Additionally, the evidence, if submitted, are usually distrusted, if they in copy, and are not discuss neither in relation to their authenticity[2], nor regarding their content[3] as the law requires.

Another issue of concern is the interpretation of *Article 9, Paragraph 1, item 3 provision on humanitarian status* which is applied in contradiction with its wording and rationale. The asylum administration applied the provision differently towards individuals sharing the same country of origin, nationality and even circumstances as far as to some of them protection was granted, but to others rejected without clear criteria or reasons for this different treatment. It meant that to those who were granted protection the asylum administration accepted that they were fleeing from an armed conflict situation in the country of origin, but rejected the same treatment to the rest of the applicants notwithstanding their identical situation. This approach was in dire violation of the law. The provision of Article 9, para1, item 3 LAR transposed into the national legislation Article 15c of 2004/83/EC Qualification Directive, tha latter interpreted by the European Court of Justice in Decision from 17 February 2009 on Case №C-465/07 Meki Elgafaji and Noor Elgafaji vs. Staatssecretaris van Justitie of the Netherlands. According to the ECJ's interpretation, mandatory for all EU member-states, a serious and individual threat to the life or person of an applicant for subsidiary protection is not subject to the condition that that applicant adduce evidence that he is specifically targeted by reason of factors particular to his personal circumstances. The court rule that the existence of such a threat can exceptionally be considered to be established where the degree of indiscriminate violence characterising the armed conflict taking place reaches such a high level that substantial grounds are shown for believing that a civilian, returned to the relevant country or, as the case may be, to the relevant region, would, solely on account of his presence on the territory of that country or region, face a real risk of being subject to that threat. In this respect, the said practice of the national asylum administration violated both the provision (lettera legis), and also the reason of the law(ratio legis), and contradicted the mandatory interpretation of the ECJ relating the community legislation.

According to the law[4] unaccompanied minor or adolescent children seekeing asylum should be appointed legal guardians following the provisions, conditions and procedure of the national Family Code. In the same time, another text from the law[5] regulated the right of the the administration to disregard this standard and obligation and to conduct the RSD procedure without appointed guardian, if the ***separated asylum seeking children*** were

[1] Monitoring was exercised only over the decisions for rejection under Article75, Para 2 and 4 LAR, as far as the SAR refused to give the BHC access to the files and positive decisions;
[2] Article 179-180 of the Civil Procedures Code;
[3] Article 193 of the Civil Procedures Code;
[4] Article 25, Para 1 LAR;
[5] Article 25, Para 5 LAR;

represented during the interviews by a social worker from the respective territorial unit of the Social Relief Agency (Ministry of Labor and Social Policy). The monitoring proved that this legal opportunity was applied largely and in most of the cases the separated asylum seeking children's applications were dealt without the appointment and the assistance of legal guardians. Irrespective to the legal arrangement, the social worker can act only as a special representative, but cannot and may not replaced entirely the guardian's function, therefore an RSD implemented in guardian's absence do not meet the standard for the best interest of the child. The special Law on Child's Protection explicitely envisage[1] that any administration that conduct any type of hearing with a child should do it in the presence of a parent, guardian or other person who provides direct care and who is familiar to the child of concern. Notwithstanding, the law require[2] also the assistance of a social worker during the hearing. Therefore, the law separated explicitely the institute of the guardian and the social worker, whom the law assigned with different tasks in respect to the protection of the child's rights and interests pending administrative and court procedures. Their specific functions and obligations are also distinguished aiming again at the best interest of the child[3]. For that particular reason the lawmaker explicitely provided the assistance of both social worker and the guardian together at the same time. Additionally, according another provision in the law[4], the child was given also the right to ***legal aid*** and assistance, including in order to appeal any administrative decisions, and it was assigned among the obligations[5] of the State State Agency for Refugees to ensure conditions for legal aid provision to asylum seekers in Bulgaria. Non-fulfilment of this obligation with reagrd to separated asylum seeking children constitute a serious violation of the law, as far as the right of the child's legal representative to ask questions during the interview is explicitely provided. In this particular aspect the necessity of legal aid and a representation by a lawyer is transparent. However, the monitoring demonstrated that irrespectively to measures undertkaen by the State Agency for Refugees to endure legal aid during the RSD procedures to all asylum seekers, yet some unaccompanied children were left withot representation of a lawyer by the interviewer who did not ensured it in practice.

4. Recommendations

4.1. Maximum 30 days deadline to be introduced - in practice and then in the law - for the personal registration of asylum seekers under Article 61, Para 2 LAR, if the application was submitted on the basis of Article 58, Para 4 LAR before another administrative agency, not the State Agency for Refugees;

4.2. Registration of asylum applications to be organised by the State Agency for Refugees on 24-hours duty;

4.3. Provision of Article 13, Para 1 and 2 LAR to be amended and Para 1, item 5 ground to be re-arranged in a new paragraph 2 as an admissibilty ground;

4.4. Protocoling the submission of evidence and other documents handed over by asylum seekers to become an explicit and mandatory rule and obligation of the staff under the SAR's Internal Regulations;

4.5. Mandatory tests to establish the level of knowledge of non-native languages spoken by asylum seekers to be introduced as a standard for application of Article 63a, Para 6, sentence 2 LAR;

[1] Article 15, Para 5 of the Law on Child Protection;
[2] Article 15, Para 4 of the Law on Child Protection;
[3] Article 3, Para 3 of the Law on Child Protection;
[4] Article 15, Para 8 от of the Law on Child Protection;
[5] Article 23, Para 2 LAR;

4.6. Reports and other sources of information to be added to the asylum file, if they were used to substantiate the fact findings of the determination decision in order to ensure full and proper judicial control;

4.7. Communication among the SAR's units to be organised in relation to inform on time about any changed in the actual address of the asylum seekers and avoid undue RSD discontinuation, termination and subsequent court revocations;

4.8. Cost for the DNA testing to be arranged and planned under the budget of the SAR when necessary to implement the family reunification clause of Article 6 of the 2003/343/EC Dublin Regulation with regard to separated children;

4.9. Article 58, Para 7 LAR obligation a written position on behalf of the National Security Agency to be collected in asylum files to be re-arranged as a part of the general RSD procedure under Section III, Chapter Six of the law on Asylum and Refugees;

4.10. Separated children's special representatives under Article 15, Para 7 of the Law on Child Protection to be included as additional ground for *ex lege* guardianship in Article 173 of the Family Code;

4.11. SAR's obligation to ensure a lawyer to separated asylum seeking children during the RSD procedures to be explicitely regulated in the law.

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31 July 2012 **Bulgarian Helsinki Committee**