Bulgaria

2018 Annual Border Monitoring Report

ACCESS TO TERRITORY AND INTERNATIONAL PROTECTION
### LIST OF ABBREVIATIONS
(In alphabetical order)

<table>
<thead>
<tr>
<th>Abbr.</th>
<th>Description</th>
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<tbody>
<tr>
<td>AFIS</td>
<td>Automated Fingerprint Identification System</td>
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<tr>
<td>BPM</td>
<td>Border Protection Monitoring</td>
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<td>BCP</td>
<td>Border Crossing Point</td>
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<td>BHC</td>
<td>Bulgarian Helsinki Committee</td>
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<td>BPC</td>
<td>Border crossing point</td>
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<td>BPS</td>
<td>Border Police Section</td>
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<td>GDBP</td>
<td>General Directorate of Border Police</td>
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<td>LAR</td>
<td>Law on Asylum and Refugees</td>
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<td>LARB</td>
<td>Law on Aliens in the Republic of Bulgaria</td>
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<td>MOI</td>
<td>Ministry of Interior</td>
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<td>MOU</td>
<td>Memorandum of Understanding</td>
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<tr>
<td>SAR</td>
<td>State Agency for Refugees</td>
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<td>SCTAF</td>
<td>Special center for temporary accommodation of foreigners (immigration detention center)</td>
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<td>TCN</td>
<td>Third Country Nationals</td>
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<td>TWG</td>
<td>Tripartite Working Group</td>
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<td>UNHCR</td>
<td>United Nations High Commissioner for Refugees</td>
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CHAPTER I

NATIONAL BORDER MONITORING FRAMEWORK

1.1. Memorandum of Understanding (MoU)

The Tripartite Memorandum of Understanding on Modalities of Mutual Cooperation and Coordination to Support the Access of Persons Seeking Protection to the Territory of, and the Procedure for Granting Protection was signed on 14 April 2010 by UNHCR, BHC and GDBP within the MoI. The Memorandum sets out coordination and cooperation mechanisms for the monitoring and support of persons seeking access to the territory and to the asylum procedure in the Republic of Bulgaria.

1.2. Tripartite working group

The Tripartite Working Group (TWG) comprised of representatives of UNHCR, BHC and GDBP has been established to supervise the implementation of the MoU and provide analysis of the border monitoring reports taking in consideration the State’s primary responsibility of ensuring that persons in need of international protection would have access to the territory and asylum procedure in line with assumed obligations under international refugee legislation. The TWG holds at least three regular meetings per year.

This report was drafted in accordance with the Article 4.2, Section IV of the Internal Rules of Procedure of the TWG.

1.3 Monitoring methodology

According to the MoU, the parties have access to any national border and/or 24-hour detention facility at the land or air border, including transit halls at international airports, without limitation to the number of monitoring visits. Access to monitoring shall be granted to monitors without prior permission or conditions set regarding time, frequency, duration or individual circumstances related to the particular detainee/s (Art. 15 of the MOU).

UNHCR and BHC continued to carry out the border monitoring activities under the MoU and the identified protection gaps were addressed during the meetings of the TWG. In 2018 BHC conducted a total of 488 border monitoring visits, of which approx. 87% at the main entry points along the border lines with Turkey and Greece in the area of Kapitan Andrejevo BCP, and Novo Selo BCP in the area of the cross-border triangle Svilengrad-Kapikule-Ormenion. On exit, 61 visits were implemented at the borders with Serbia, Greece and Romania of which 10 visits at ‘green’ borders and 51 visits at relevant detention facilities. Access to the territory of persons in need of international protection, when re-admitted to Bulgaria from non-EU countries was ensured upon arrival at Sofia International Airport, where BHC conducted 14 monitoring visits in this respect. In 2018 no arrivals by sea were monitored or reported.
2.1. General context

In 2018 the migration pressure for Bulgaria remained at the same level as in the previous 2017. The MOI have reported 2,851 new arrivals by third-country nationals, the majority of whom were from the Middle East. The statistics indicated a decrease by 3% compared to 2017 when 2,958 refugees and migrants entered irregularly the borders of Bulgaria.

Out of 2,851 irregular third country nationals apprehended as of 2018, 68% of them applied for asylum, namely, 655 individuals at national borders and 1,221 individuals in the immigration detention centers. In particular, the access to the territory was assisted to 62% of all third country nationals, apprehended at entry and exit borders in 2018.

On this background the national asylum authority reported 2,536 individuals to have applied for asylum in 2018, marking 31% decrease compared to 2017. The top country of origin remained Afghanistan (1,101 applications, 43%) followed by Iraq (635 applications, 25%) Syria (503 applications, 20%), Pakistan (169 applications, 6%), Iran (43 applications, 2%) and 4% other nationalities.

Just 16% of those who submitted their asylum claims at the entry border had a direct access to status determination procedures without detention. The rest 84%, who applied at the

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2 MOI, Migration statistics
3 2,846 individuals intercepted for the period from 01 January 2018 to 31 December 2018 according to MoI.
4 1939 individuals applied for asylum at the borders or in detention centers, of whom 1256 men, 192 women, 251 children and 240 unaccompanied children. The countries of origin of unaccompanied children were Afghanistan (179), Iraq (37), Syria (9), Pakistan (14), Algeria 1; 5 655 border applicants in 2018 out of 1042 third country nationals apprehended at entry and exit borders; 6 1042 third country nationals in total, of whom 689 third country nationals apprehended on entry border, 353 third country nationals apprehended on exit borders in 2018; 7 State Agency for Refugees with the Council of Ministers (SAR); 8 3,700 asylum applicants in 2017; 9 63 individuals of 394 border applicants on entry with direct access to RSD, intercepted mainly in the area of RDBP-Elhovo, predominantly UAMs, people having national documents or with serious health issues or condition; 10 331 applicants for international protection;
entry border, were sent first to MOI detention centers for deportation of irregular migrants. Altogether 40%\textsuperscript{11} of the asylum applications were submitted after the individuals were prevented by the Border police to exit Bulgaria irregularly, thus turning the trend from previous years when applications on ‘exit’ largely exceeded those on ‘entry’\textsuperscript{12}. However, according to MOI’s statistics only 24% (685) of all 2,851 individuals intercepted in 2018 were apprehended immediately after crossing the Turkish or Greek borders.

In 2018 Bulgaria received 3,448 Dublin information requests from other EU member-states. However, the number of actually implemented Dublin returns of asylum seekers remained very low as it consisted just 3%\textsuperscript{13} of all requests made. The top three countries by return requests submitted were France, Germany and Austria.\textsuperscript{14} All returnees except those having a final rejection from SAR were released by Border Police upon arrival due to a change in national regulations allowing the border authorities to release all individuals with a pending or terminated asylum procedure. Altogether 88 Dublin returnees without final rejections who requested their procedures to be finalized with a decision on the merits were re-admitted to status determination and their procedures re-opened accordingly by the State Agency for Refugees (SAR). Also in 2018 another 98 status holders have been readmitted back to Bulgaria from European Countries.

\subsection*{2.2. Situation on entry}

In the first half of 2018, the national authorities reported a drastic decrease in the new arrivals of 53\%\textsuperscript{15} down. After the end of Bulgaria’s EU Council Presidency on 30 June, 2018 numbers of the new arrivals started to increase exponentially along reporting from various sources about attempted irregular border crossings. Thus, while during the first half of 2018 there were only 718 individuals intercepted, in the second half the numbers surged reaching 2,133, which marked an increase of 196\%.\textsuperscript{16}

Low new arrivals figures in Bulgaria in the first half of 2018 and the triple increase in the second half indicated that the cross-border cooperation between Bulgarian and Turkish governments to prevent the access through this external EU border was effective at least for the duration of the Bulgarian Presidency of the EU Council. Among the new arrivals, 743 individuals were identified at the national border on entry and 2,413 individuals on exit\textsuperscript{17}. For the first time since the end of 2014, the top country of origin on entry became Syria (35\% of all new arrivals) followed by Iraq (21\%), Afghanistan (19\%), Turkey (8\%), Pakistan (4\%) and 13\% other nationalities.

On this background, information from various sources indicated that on entry at least 118 separate attempts have been made to cross the Bulgarian-Turkish border by approximately 1,570 individuals. Reportedly, the majority of new arrivals (1,480 individuals) have been detected through border surveillance systems in proximity to Bulgarian borderline with Turkish authorities being informed through the inter-government border contact center Svilengrad-Kapikule-Ormenion. However, in only 11 cases the Turkish counterparts reported back that groups have been intercepted, while no information was provided on what happened in the remaining 107 cases. One of the pushback incidents involving 21 persons was reported by UNHCR Turkey. According to the report supported by the testimonies of the victims and other evidences including medical examination, on 15 July 2018, 15 Afghans and 6 Pakistanis, were forcibly turned into the Turkish territory on their attempt to enter Bulgaria. Before the group was pushed back, the group was physically abused by the entry officials and attacked by K9. UNHCR addressed the reported incident to the GDBP,

\begin{itemize}
\item \textsuperscript{11} 261 applications at exit borders in 2018;
\item \textsuperscript{12} 394 applications at entry borders in 2018;
\item \textsuperscript{13} 86 Dublin returns to Bulgaria implemented in 2018;
\item \textsuperscript{14} France – 1,103, Germany – 1,007, Austria – 244;
\item \textsuperscript{15} MOI, Migration statistics;
\item \textsuperscript{16} Ibid;
\item \textsuperscript{17} Out of total 2,413 individuals apprehended on exit just 445 were new arrivals (without previous AFS/police registration)
\end{itemize}
however the occurrence of the incident was denied by the latter. In 8 of these cases, BHC has received direct information by detainees in immigration detention centers about push-backs which have affected 71 individuals. In 3 of these cases, the detainees have shared to have personally experienced or witnessed beatings, robbery and intimidation with police dogs before being forced to return to Turkey by the border police patrols, including mixed patrols with the participation of FRONTEX officers. The rest 5 directly reported push-back cases did not involve violence or other incidents, however the affected individuals shared to have never been informed about the opportunity to seek asylum, or to have never been given the opportunity to apply for asylum when requested to so as, well as, to have never been asked whether they would be willing to do so. Similar push-back practices have been reported to also have happened along the Bulgarian-Greek border, although in significantly lesser numbers.

A report by UNHCR Turkey, based on interviews with push-back survivors, corroborated the reports on push-backs, violence and robbery practices as widely widespread along the Turkish borders with Bulgaria and Greece. It should be also noted that the total number of individuals affected by the alleged pushbacks on both entry borders is almost three times the number of all border asylum applicants officially registered in 2018. At the end of 2018, the Turkish Association for Solidarity with Refugees (Mülteci-Der) reported that only in November 2018 Bulgaria and Greece collectively pushed back 11,000 migrants, among them many being stripped, robbed and taken the food and water which they have been carrying with them, before being pushed back to Turkey.

Meanwhile, the fence along the land border with Turkey although officially announced as finished, continued to be recognised both by asylum seekers and government officials as easy to be surmounted by using blankets, ladders or just by passing through its fallen or damaged sections.

Altogether 1,5% out of all border applicants on entry and exit were convicted for crimes related to violations of the border and entry regime, however, just 0,7% of the border applicants on entry were convicted on account of their irregular entry in violation of Article 31.

In 2018 the MOI announced to have prevented 8651 entry attempts along the land borders as well as to have issued 3557 entry refusals (non-admissions) to third country nationals at the official border crossing points.

2.3. Situation on exit

The situation on exit was changing in 2018. Contrary to previous years the number of attempted exits stopped exceeding those on entry and the exit routes have started to gradually shift from Serbia to Romania. The main reason were the joint Bulgarian-Serbian patrols and FRONTEX deployment on both sides of the border. This practice existed for several years, but it significantly intensified since mid-July 2018 entirely on Serbian initiative. Push-back complaints against Serbian authorities, therefore, decreased to zero

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18 2 attempts with respect to 90 individuals along the Bulgarian-Greek border;
19 UNHCR Turkey, Pushback report from Greece and Bulgaria, July 2018;
20 1570 in total;
21 655 border applicants;
22 Offnews, 'В Турция е разбита мрежа за трафик на мигранти', 6 December 2018, available in Bulgarian at: https://bit.ly/2HqS1Kq;
25 10 out of 655 border applicants on entry and exit;
26 E.g. irregular entry, use of false document, hide-out, etc.
27 3 out of all 394 border applicants on entry;
28 394 border applicants on entry, 261 border applicants on exit;
in 2018 since interceptions were happening entirely on Bulgarian territory. For the time being no push-backs from Romanian authorities have been reported, however, readmissions to Bulgaria seemed to be entirely automatic without informing the individuals who have entered from Bulgaria about their right to apply for asylum in Romania or providing an opportunity to do so, neither they have been interviewed about their intention or request.

According to MoI, there were 634 interceptions at ‘exit’ borders with 353 of them having no previous registration in Bulgaria. According to Border police, 100 third country nationals were readmitted to Bulgaria from Romania while only 15 were returned from Serbia and 6 from Greece under readmission agreements.

CHAPTER III

CONCLUSIONS AND RECOMMENDATIONS

3.1. Conclusions

Bulgaria remains a transit country for the majority of the third-country nationals who enter. For the time being no institutional or practical arrangements or measures exist to ensure a differentiated approach to border control that gives access to the territory and protection for those who flee from war or persecution. With few exceptions, asylum-seekers use irregular routes to enter Bulgaria. Though pressure of mixed-migratory flows along Bulgaria’s external borders in 2018 sustained at the same reduced levels as during the previous year, the effective coordination among the partners under the Tripartite Memorandum of Understanding – UNHCR, GDBP-MOI, and BHC – remains critical in order to safeguard the effective access to the territory for foreigners seeking international protection. In March 2018 a joint monitoring mission was conducted at the Bulgarian-Turkish border in the area of Elhovo, Zvezdets and Rezovo. In September 2018 a joint cross-border mission was conducted at the Bulgarian-Romanian border in the area of Ruse-Giurgiu. In addition, during the course of 2018 three trainings for the border guards were organized and conducted. The MoU remains an effective framework of partnership and collaboration which contributes to assisting the Government of Bulgaria in fulfilling its national, regional and international obligations on international protection.

3.1.1. In 2018, Bulgaria experienced low migration pressure similar to the levels in 2017 with just a 3% decrease.

3.1.2. Persons who might be in need of international protection were subject to denial of entry from Turkey to Bulgaria, and potential push-backs, on the grounds of irregular entry or the irregular presence or lacking valid identity documentation.

3.1.3. General compliance with the principle of non-penalization of asylum-seekers on account of their irregular entry was observed, with only 3 of the border applicants on entry (0.7%) convicted on account of irregular entry.

3.1.4. Significant progress towards prevention of detention of unaccompanied children was made in July 2018. Amendments to the LARB Regulations29 were adopted introducing rules and procedure for referral of unaccompanied migrant children to child protection services. It resulted in a positive change in the practice

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29 State Gazette №57/2018, enforced on 10 July 2018;
as the police started to refer unaccompanied children below age of 14 directly to the respective child care services. However, undocumented children from 14 to 18 years, whose age could not be evidently established by their appearance continued to be detained by using either attachment to unrelated adults or registration as adults. Medical age assessment has been applied to them prior to their referral to child care services. Efforts in this respect should continue to eliminate entirely the reasons for detention of unaccompanied children, including by development of multi-disciplinary age assessment methodology.

3.1.5. Only a small number of those who submitted their asylum claims at the entry border (16%) had direct access to status determination procedures without detention.

3.1.6. For over 20 years the border and immigration authorities have been lacking and continue to lack sustainable translation/interpretation services from specific languages at their disposal which leads to, among others, limiting the ability of asylum-seekers to communicate their needs in a timely manner to the border and immigration authorities.

3.2 Recommendations

3.2.1. Border management mechanisms shall be protection sensitive, respecting fundamental human rights, including the principle of non-refoulement, non-penalization for irregular entry and the right to seek asylum.

3.2.2. Legal channels to enter the territory shall be promoted, including humanitarian visas, family reunion and resettlement.

3.2.3. The Government should ensure that third-country nationals who arrive at the border, including airport transit zones, and may be in need of international protection are provided effective access to information on when and how the applications for international protection may be lodged, including and the provision of adequate interpretation.

3.2.4. The Government should ensure that individuals, who have expressed their wish to apply for protection, are not transferred to an immigration detention facility, but are directly registered as asylum-seekers and transferred to a SAR reception facility.

3.2.5. The Government, with support from UNHCR, should ensure that child friendly information materials are produced and distributed in all border areas. The BHC and the UNHCR should ensure that protection information materials are regularly updated and available in multiple languages, including rare ones.

3.2.6. The Government should ensure that social workers of child protection services are available and present at any time during the procedures conducted with UAMs at the border, including by maintaining and promoting the good practice of BPS Svilengrad where social workers’ presence during the procedures and appropriate accommodation and care within the national child protection system, where necessary, is ensured.

3.2.7. The Government should ensure sustainable translation/interpretation services for the relevant border and migration authorities including in the border areas so that persons in need of international protection can communicate their needs promptly.
3.2.8. The Government should allocate sufficient resources to provide regular training and capacity building support to the border police officials, to allow for a workforce adapted to the realities of mixed migration flows and the rights of asylum-seekers and refugees.

3.2.9. In collaboration with GDBP, UNHCR and BHC should provide at least 1 training to the prosecutors in the most active border region neighboring Turkey.

3.2.10. The Tripartite Working Group should hold its regular meetings on a monthly basis as well as regularly exchange information and ensure follow up.

3.2.11. The Tripartite Working Group should undertake three joint monitoring missions a year.

3.2.12. The Government should promote, in close collaboration with UNHCR and the BHC, the establishment of cross-border cooperation and monitoring mechanism concerning Bulgarian-Turkish, Bulgarian-Greek, and Bulgarian-Serbian and Bulgarian-Romanian borders.

3.2.13. The Government should ensure sufficient funds are available to continue to renovate and conduct maintenance work on all border police detention facilities so that conditions are conform to international standards.

3.2.14. The government should take all necessary steps to combat smuggling and trafficking, including by prosecuting and punishing crimes related to smuggling and trafficking in border areas.

Sofia, 30 April 2019