



## Universal Periodic Review Submission

### Bulgaria August 2014

#### Summary

This submission highlights concerns about Bulgaria's compliance with its international human rights obligations. It focuses on the treatment of asylum seekers and migrants, including concerns about summary returns of refugees, migrants and asylum seekers to Turkey, accompanied in some cases by violent abuses by Bulgarian border guards; abuses and poor conditions in migrant detention centers; lack of specialized protection for unaccompanied migrant children; and the failure to support and integrate refugees.

#### Summary Returns to Turkey and Abuses at the Border

During the past decade, Bulgaria, on average, has registered about 1,000 asylum seekers per year. This changed in 2013 when more than 11,000 people, over half of them fleeing from Syria's deadly repression and war, lodged asylum applications. Despite ample warning signs, Bulgaria was unprepared for the increase in asylum seekers in 2013.

Bulgaria had accepted the recommendation to "adopt a domestic legislation in accordance with the 1951 Convention on the Status of Refugees and the Optional Protocol thereto, guaranteeing efficient access to procedures for determining refugee status to persons requiring international protection" during its previous UPR in 2010.

Instead, as the numbers of people crossing the Bulgarian border irregularly rose from 2,332 in September 2013 to 3,626 in October, the Bulgarian Council of Ministers adopted a "plan for the containment of the crisis resulting from stronger migration pressure on the Bulgarian border." The containment plan included among its main goals "reducing the number of illegal immigrants entering and residing illegally in Bulgarian territory" and "reducing the number of persons seeking protection in the territory of Bulgaria."<sup>1</sup>

The initiatives for reducing the number of irregular migrants and asylum seekers included the construction of a 30-kilometer "barrier wall along the most sensitive sections of the [274-kilometer] State border" with Turkey,<sup>2</sup> and increasing the number of border patrols on the Bulgarian-Turkish border with the deployment of an additional 1,500 police.<sup>3</sup> The containment plan went into effect immediately and succeeded in stopping the influx almost

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<sup>1</sup>Bulgarian Council of Ministers, "Plan for the Containment of the Crisis resulting from Stronger Migration Pressure on the Bulgarian Border," Sofia, Bulgaria, November 6, 2013, p. 2. (On file with Human Rights Watch.)

<sup>2</sup>Although the Containment Plan said that the fence would be 30-kilometers, UNHCR reported that it is 33 kilometers long. See UNHCR "Refugee Situation Bulgaria, External Update," January 20, 2014. See also, Council of Ministers, *Containment Plan*, p. 2, and "Bulgaria Begins Building Fence with Turkey," *Balkan Insight*, January 17, 2014 <http://www.balkaninsight.com/en/article/bulgaria-begins-construction-of-border-fence-with-turkey> (accessed January 21, 2014).

<sup>3</sup> The Containment Plan called for 1,400 additional police, but according to UNHCR an additional force of 1,500 have been deployed to the border area since November. See UNHCR, "Refugee Situation Bulgaria, External Update," January 20, 2014, and, Council of Ministers, *Containment Plan*, p. 6.

entirely. According to information provided to UNHCR, 1,514 irregular migrants arrived at the Bulgaria-Turkey border from January to June 2014, compared to over 3,600 who arrived in October 2013 alone.<sup>4</sup>

Human Rights Watch interviewed migrants who crossed or attempted to cross the Turkey-Bulgaria border before and after November 6, 2013. Migrants told HRW of having been summarily returned—or pushed back— after crossing from Turkey to Bulgaria or at the border even in the weeks before November 6, but combined with other measures, pushbacks accelerated after November 6 and a near complete shutdown of irregular border crossings occurred with the implementation of the containment plan on that date.

In the course of research for our April 2014 report, [\*Containment Plan – Bulgaria’s Pushbacks and Detention of Syrian and Other Asylum Seekers and Migrants\*](#), Human Rights Watch interviewed 41 people in both Bulgaria and Turkey in December 2013 and January 2014 who gave detailed accounts of 44 incidents involving at least 519 people, in which Bulgarian border police apprehended irregular border crossers in Bulgaria, sometimes significantly inside Bulgarian territory, and summarily returned them to Turkey without proper procedures and with no opportunity to lodge asylum claims. They included refugees from Syria. These border pushbacks also sometimes involved border guards using excessive force. The asylum seekers and migrants described being beaten with truncheons, electric shocks, kicked and verbally abused by Bulgaria border officials. Some also told HRW that Bulgarian border officials fired gunshots above their heads to discourage them from crossing into Bulgaria. A Syrian refugee told Human Rights Watch in September that he and 14 others had been pushed back from Bulgaria to Turkey in late August and some of them subjected to beatings and theft by Bulgarian border guards, which suggests that push backs continue at the Bulgaria-Turkey border.

The summary, and sometimes violent, returns of migrants at the Bulgaria-Turkey border violates the principle of non-refoulement under the 1951 Refugee Convention which prohibits the return of refugees “in any manner whatsoever” to places where their life or freedom would be threatened.<sup>5</sup> The principle of non-refoulement as it relates to the return of anyone to a place where they would be in danger of being subjected to torture is included in the Convention Against Torture or Other Inhuman or Degrading Treatment (CAT).<sup>6</sup> The Universal Declaration of Human Rights also enshrines the right to seek and enjoy asylum.<sup>7</sup> Cases of violent returns at the border contravene the prohibition on ill-treatment under the International Covenant on Civil and Political Rights (ICCPR) and CAT.<sup>8</sup>

### **Abuses and Poor Conditions in Migrant Detention Centers**

During its previous UPR, Bulgaria had accepted a recommendation to “Take all necessary measures to ensure that detention conditions fully meet international human rights standards, in accordance with Bulgaria’s international obligations.” There are two detention centers for irregular migrants operated by the Ministry of Interior: Lyubimets, located about 30 kilometers northwest of the Turkish borders, and Busmantsi, on the outskirts of Sofia. During Human Rights Watch’s visit in December 2013, both centers were operating at full capacity. The centers held migrants primarily from north Africa. Both detention centers are locked and guarded prison-like buildings surrounded by high walls and barbed wire.

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<sup>4</sup> UNHCR, “Syrian Refugees in Europe – What Europe Can Do to Ensure Protection and Solidarity,” July, 2014, p. 8.

<sup>5</sup> Convention Relating to the Status of Refugees (Refugee Convention), 189 U.N.T.S. 150, entered into force April 22, 1954, Art. 1.A.2.

<sup>6</sup> International Covenant on Civil and Political Rights (ICCPR), 16 December 1966, U.N.T.S., vol. 999, Art. 14 and the Convention Against Torture or Other Inhuman or Degrading Treatment, 10 December 1984, UNTS vol. 1465, Art. 3.

<sup>7</sup> Universal Declaration of Human Rights, 10 December 1948 [General Assembly resolution 217 A \(III\)](#), Art. 14.

<sup>8</sup> ICCPR, Art. 7 and CAT Arts. 3 and 16.

Detainees in both facilities complained to Human Rights Watch about abusive, sometimes violent, treatment by guards, overcrowding and noise, tension among various nationality groups, dirty and insufficient toilets, inadequate ventilation, and the poor quality of the food. Detainees also complained that they had limited means to communicate with the outside world, as well as a lack of communication with guards and other authorities. This resulted in ignorance and confusion about procedures relating to release or to seeking asylum.

Abuses in migrant detention centers violate Article 10 of the ICCPR which requires that persons deprived of their liberty be treated with humanity and with respect for the inherent dignity of the human person. This also means that conditions in which migrants are held should take into account their status and needs.

### **Detention and Lack of Specialized Protection for Unaccompanied Migrant Children**

Bulgaria had not received any recommendation on the protection of unaccompanied migrant children during its previous UPR in 2010.

Bulgarian authorities have not published official data on the total number of unaccompanied migrant children in Bulgaria. According to the Ministry of Interior, Bulgarian border police apprehended 34 unaccompanied migrant children during 2013.

Human Rights Watch found at least three cases where unaccompanied migrant children were held together with adult detainees during 2013 in Lyubimets detention center in southern-central Bulgaria. The commander of the Lyubimets detention center also acknowledged to Human Rights Watch that no legal guardians were appointed for these unaccompanied children.

Detention of unaccompanied migrant children is contrary to Bulgaria's obligations under the Convention on the Rights of the Child, which states that the detention of children "shall be used only as a measure of last resort and for the shortest appropriate period of time."<sup>9</sup>

Bulgaria's Law on Asylum and Refugees provides that unaccompanied minors should be appointed a legal guardian in accordance with the general procedure prescribed in the Family Code or the Law on Child Protection. If guardians are not appointed, the law states that children should be represented in asylum proceedings by the Directorate of Social Support at the Social Assistance Agency in the Ministry of Labor and Social Policy. The UN Committee on the Rights of the Child has stated that countries should appoint a guardian or adviser as soon as an unaccompanied child is identified.<sup>10</sup> Such assistance does not happen in practice in Bulgaria, leaving children without assistance to ensure their basic needs are met and interests are protected. None of the unaccompanied children interviewed by Human Rights Watch in 2013 had been assigned a legal guardian. Without legal guardians, unaccompanied children in Bulgaria lack legal capacity, and therefore even when they receive refugee or humanitarian status, they are prevented from accessing social assistance, which puts them at further risk of exploitation and homelessness.

UNHCR in Bulgaria confirmed to Human Rights Watch that it is common practice that unaccompanied children are not appointed legal guardians and added that UNHCR had raised this issue on several occasions in meetings

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<sup>9</sup> Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, art. 37(b).

<sup>10</sup> UN Committee on the Rights of the Child, General Comment No. 6, para. 33.

with Bulgarian authorities. An analysis by a Bulgarian asylum law expert indicates that there are no explicit criteria or procedures set out for the appointment of legal guardians for foreign children in Bulgarian law.<sup>11</sup>

Unaccompanied children in Bulgaria are routinely accommodated together with adults in reception centers in poor conditions. The only center with accommodation for unaccompanied children is in Ovcha Kupel, in Sofia, but is not exclusively for unaccompanied children. Access to education is non-existent in the open reception centers for unaccompanied and accompanied children alike, in violation of Bulgaria's obligations under Article 22 of the Refugee Convention, Article 28 of the CRC, and Article 13 International Covenant on Economic, Social and Cultural Rights.

Bulgarian authorities do not have any specialized measures to conduct age verification or age assessment of people who appear or claim to be children. The absence of such procedures leaves unaccompanied children vulnerable to detention with adults.

### **Failure to Support and Integrate Refugees**

Despite an explicit provision in Bulgarian law for providing financial support for housing for six months after a person has been granted refugee or humanitarian status, residents of open centers were being told in 2013 that they had to leave open reception centers within five days of being granted refugee or humanitarian status, and were told they would be evicted after 14 days. However, establishing a residential address with the municipality where one resides is a prerequisite for civil registration, identity documents, and eligibility for social assistance.

This becomes a Catch-22 as major Bulgarian municipalities, such as Sofia and Plovdiv, discriminate against refugees and prevent them from obtaining permanent addresses, for example in Sofia, by setting as a requirement for municipal housing that at least one member per household should be a Bulgarian national having address registration and permanent address in the municipality for the past 10 years. By March 2014, the State Agency for Refugees (SAR) showed greater flexibility in allowing people to remain in reception centers after being granted protection.

Although a National Program for Integration of Refugees (NPIR) exists on paper, only relatively few refugees or beneficiaries of humanitarian status have been able to access the program; a total of 83 people started in the NPIR in 2011, but only 37 partially completed it. At the time of the Human Rights Watch visit, funding for the program had run out and new funding has not yet been approved.

SAR also fails to provide basic assistance in finding fair and low-cost housing. Nor does it give any guidance to those with refugee or humanitarian status regarding tenants' rights; laws and expectations with regard to rental contract; the importance of establishing permanent residency for purpose of obtaining national identification documents and a host of other social benefits. Article 21 of the Refugee Convention and Article 11.1 of the ICESCR require Bulgaria to ensure that refugees and beneficiaries of subsidiary protection have access to accommodations under equivalent conditions as other legally present third country nationals. Article 23 of the Refugee Convention requires Bulgaria to provide refugees and beneficiaries of subsidiary protection necessary social assistance at the same level as is provided for Bulgarian nationals.

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<sup>11</sup>Valeria Ilareva, Dublin II Regulation, National Report, European Network for Technical Cooperation on the Application of the Dublin II Regulation, Bulgaria, May 2012

In July 2014, the government adopted a 2-year strategy for the integration of people granted protection in Bulgaria which includes access to social and healthcare services and a 6-month language course. According to the strategy, municipalities are tasked with implementing the rights of persons to access such services.

## **Recommendations**

*The Government of Bulgaria should be urged to:*

- Immediately end summary returns from Bulgaria and at the Turkish border;
- Stop beatings, use of electric shocks and other abuses against migrants at the border with Turkey; investigate and hold to account Bulgarian officials who abuse migrants;
- Provide irregular migrants at the Turkish border access to formalized procedures, including the opportunity to lodge claims for protection in Bulgaria.
- Stop routine detention of asylum seekers and instead provide open accommodation.
- Ensure that all detainees in the custody of the General Directorate of the Border Police and the Ministry of Interior are treated in a humane and dignified manner and that their detention fully complies with Bulgaria's international obligations governing the administrative detention of migrants.
- Stop detaining unaccompanied migrant children or children with their families. Detain children only as a measure of last resort dictated by their best interests. Do not detain children with unrelated adults. Provide all unaccompanied children with appropriate legal guardians, as required by Bulgarian law, to ensure their basic needs are met as children and their best interests protected.
- Guarantee the right to education by enrolling all migrant children into mainstream Bulgarian schools and provide necessary language support classes to facilitate their integration.
- Fully fund and implement the National Program for Integration of Refugees to enable proper integration for all recognized refugees and beneficiaries of humanitarian status.