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THE EUROPEAN UNION**

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**EVAL 16
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NOTE

From : the General Secretariat
To : the Collective Evaluation working party
No. prev. doc. : 10764/1/00 EVAL 37 ELARG 109 REV 1
Subject : Analysis of information on migration and asylum in Bulgaria

Information was gathered from several CIREFI documents, from IOM and ICMPD studies, from the replies of the embassies to the questionnaire sent by the Presidency (January 2002), the Phare report of 2002 (visa module, Module 3 Sub-module A Schengen Acquis), the Answer of the Bulgarian authorities to Presidency's questionnaire (April 2002), the negotiation documents, and former documents i.a. the JHA/PHARE Follow-up mission report of May 1999, the last available report from the Committee on Prevention of Torture of the CoE (1999), and the screening documents.

I Migration

A. Generalities

Bulgarian (illegal) immigration in EU

This analysis doesn't deal specifically on the subject of Bulgarian (illegal) immigration in EU¹. The figures on registered asylum applications by Bulgarians in Western Europe, after having reached a peak in 1991-1993 (12 000 to 34 000 per year, including sometimes multiple applications by the same person) have now decreased to 3200 (1997), 1430 (1998), 1710 (1999) 2730 (2000) 2906 (2001) and 676 in the first quarter of 2002 ². Generally speaking, according to available information, repatriation in Bulgaria doesn't create particular difficulties. (Bulgaria has signed readmission agreements with nearly all the EU Member States. There are no specific problems with readmission of Bulgarian citizens)³. "Art. 76 of the Bulgarian Identity Documents Act (1998)... imposes a prohibition for leaving the country for a one-year period of Bulgarian nationals who have violated the immigration law of another country or have been expelled from another country.

Currently, there are 52 163 legally residing foreigners. 39 650 of these foreign nationals are allowed permanent residence and 12 513 a temporary permit of 1 year.

According to an ICMPD study⁴, 30 000 to 50 000 foreigners could reside illegally in Bulgaria, but this rather important figure is not completely confirmed by other sources. However, Bulgaria reports that there are between 15,000 and 40,000 illegal aliens in the country. (Chief of police, Migration News website, 1998.) Depending on the authority, the number of cases of illegal migration varies from 7744 to over 9000 per year.⁵

¹ In addition, there is a well-known (legal) migration of notably qualified workers in EU.

² UNHCR website

³ Embassies, 2002

⁴ Compilation of national reports on recent migration trends in the CEI States (Central European Initiative), published by ICMPD in December 1997

⁵ (Embassies 2000).

B. Visas

- **Statistics**

In 1998, 37, 689 visa applications were submitted to the Bulgarian Diplomatic Missions abroad. 952 applications were rejected.

The total amount of visas was approximately 180.000 of which 120.000 were transit visas (the vast majority of these given, at the border, to Turkish nationals).

There was a dramatic drop in issued visas as regards 1996 (300.000 visas issued) which can be explained by the stricter rules which apply since 1996 - 1997 and by the abolishment of visa requirements (in early 1997 and in 1998 - 1999) for a number of countries especially of the EU.¹

- **Visa policy**

The Bulgarian visa policy is not fully harmonised with the EU negative list for the following countries: FRY, FYROM, (countries with ethnic Bulgarian minorities, with whom Bulgaria also has close economic ties²) and Tunisia. With regard to FR Yugoslavia, Bulgaria stresses that it should be taken into consideration that the shortest road for the transportation of passengers and goods from Bulgaria to the EU Member States crosses the FRY territory. "The Republic of Bulgaria will introduce visas for the citizens of FYROM and FRY upon accession to the EU."³

The visa requirement for nationals of Russia, Georgia and Ukraine entered into force on 1 October 2001. Negotiations on signing agreements for introduction of a special visa regime for some categories of citizens of these three countries are currently under way.

Concerning the **positive list**, Bulgaria is not in line with the EU acquis for the following countries: Argentina, Bolivia, Brazil, Brunei, Chile, Costa Rica, Cyprus, Ecuador, Guatemala, Holy See, Honduras, Latvia, Malaysia, Mexico, Nicaragua, Panama, Paraguay, Salvador, Singapore, Uruguay, Venezuela, Hong Kong and Macao. Bulgaria makes exceptions for holders of **diplomat and service passports** of the following countries:

¹ Embassies 2000.

² Source: Negotiation Position of the Government of the Republic of Bulgaria on Chapter 24 "Justice and Home Affairs", CONF-BG 9/01, dated 20 February 2001

³ CONF-BG 19/01

Albania, China, FRY, Georgia, Peoples Democratic Republic of Korea, Republic of Macedonia, Moldova, Mongolia, Peru, Russia, Tunisia, Turkey, Ukraine, Vietnam, Zimbabwe.

The Bulgarian note to the CIREFI group (April 1999) stressed the problem of the (visa-free) official Chinese passports. However, visas are required for holders of the so-called Chinese “service passports for public affairs”. (Documents received from the Bulgarian delegation, October 2000.) Although the matter is not strictly regulated by the Schengen consular instructions, it is worthy to note it, since all Schengen Members in practice require a visa for such passports, and since abuse of these passports by Chinese immigrants is well known in Bulgaria. (CIREFI meeting, 19-04-2000).

- **Types of visas**

According to the Aliens Act as amended in 2001 there are the following types of visas

- a) Airport transit visa: validity up to 3 months (still not put into operation.¹)
- b) Transit visa: granted for transit through and up to 24 hours stay in Bulgaria.
- c) Short-term visa: granted for 90 days
- d) Long-term visa
- e) Visas issued at the border: the visa is issued for reasons related to state interests or extraordinary circumstances, or for humanitarian reasons, as well as in emergency cases or if so provided in an international treaty binding for the Republic of Bulgaria.
- f) Group visa: still not used in the practice.

The list of countries whose nationals need airport transit visa has still to be elaborated.

- **Change of purpose** The purpose of the travel is stated on the visa and cannot be change after the foreigner has entered Bulgaria except in extraordinary humanitarian cases or in a case of a marriage with a Bulgarian national².

- **Application procedure**

All applicants have to state their reasons for travel and to "substantiate them" and their means of support. Grounds for the issuing of visas are: private or business visit; official visit; work permit; tourism; education; medical treatment; transit passing through the territory of the Republic of Bulgaria.

¹ Airport transit visas shall start to be issued after the necessary facilities at international airports in Bulgaria are in place (separate transit area). A transitional period is requested in this regard by the Bulgarian authorities for the implementation of the airport transit visa. (PHARE report)

² Source: Article 27, Par. 1 of the Aliens Act in the Republic of Bulgaria

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The applicants from the "risk countries"¹ are required to present additional documents (certified invitation, means of support) and to deposit a certain sum of money. Invitations are registered and certified by the municipality of the place of residence of the persons concerned and registered by the notary. Company invitations are registered by the Chamber of Commerce. In principle a visa must be applied for in person, "especially for citizens of "risk" countries"². Application in person is waived in consular offices covering other countries.

There is a computerised system that about 60 diplomatic representations abroad can use, through which the data of visa applicants is transmitted electronically to the Visa Centre which, on the basis of relevant checks, either permits or denies the issuing of a visa. This system automatically points out undesirables, risk-country nationals etc. Daily updating. The system is connected with all border checkpoints. By the end of 2002 all missions will have an on-line connection with the Visa Centre. The computerised system connected with the border checkpoints allows the border officers to check whether the visa has been issued by the respective embassy. " The installation of the new third version of the visa control computer system, developed by the Institute of Computer Technologies at the Ministry of the Interior has been running since mid-2001. The new version includes a data exchange option, which, using a pictorial database, makes it possible to have additional identification of applicants for visas and temporary passports. Each picture will be included in the database, which will be accessed only by the visa control, border and immigration authorities." ³

According to the Visa Regulation the procedure takes no more than 7 days. All cases are decided by the central authority. (Ministry of Foreign Affairs). It is a second control, after the first one made by the computerised system. In the following cases the consular officer can issue the visa by himself without a decision from the Visa Centre: for humanitarian reasons; the visa applicant is a member of a state delegation. In these cases the Visa Centre is only informed that a visa has been issued.⁴ Despite recent efforts, the capacity of the visa centre will need to be strengthened to deal efficiently with the large increase of the number of requests for visas.⁵

¹ - Algeria, Angola, Afghanistan, Bangladesh, Benin, Burkina Faso, Burundi, Bhutan, Vietnam, Gabon, Gambia, Ghana, Guyana, Guinea-Bissau, Djibouti, Egypt, Eritrea, Ethiopia, Zaire, Zambia, India, Indonesia, Iraq, Iran, Yemen, Jordan, Cambodia, Cameroon, China, Congo, Ivory Coast, Liberia, Libya, Lebanon, Mauritania, Madagascar, Mali, Morocco, Mozambique, Nepal, Niger, Nigeria, Pakistan, Papua, Peru, Rwanda, San Thome and the Principies, Senegal, Sierra Leone, Syria, Somalia, Sudan, Surinam, Tanzania, Togo, Uganda, Philippines, French Guinea, Haiti, Central African Republic, Chad, Sri Lanka

² Documents received from the Bulgarian delegation, October 2000.

³ 21 November 2001, BULGARIA, CONF-BG 73/01

⁴ Phare report

⁵ embassies 2002

According to legislation, visas are not issued at the border. The only exception is made for Turkish citizens who are passing in transit through Bulgaria. Transit visas are issued at the border only if the Turkish citizen is in possession of a visa for a subsequent country or who reside in a third European country. (It is unclear whether the documents to be presented by the Turkish citizen are (close to) the ones listed in the Schengen regulations). Transit visas granted at the border for Turkish citizens living in the EU are different (other type of sticker) from those normally granted by the Bulgarian authorities.

"The Law Amending and Supplementing the Aliens Act, dated 27 April 2001, introduces the possibility for issuing visas at the border crossing points by the border passport control authorities in co-ordination with the services for administrative control of aliens or with the Consular Relations Directorate at the Ministry of Foreign Affairs for reasons related to state interests or extraordinary circumstances, or for humanitarian reasons, as well as in emergency cases or if so provided in an international treaty... By the end of 2001, the necessary secondary legislation will be adopted, regulating in detail the procedures for issuing visas at borders"¹. "The number of transit visas issued to Turkish nationals at the border is comparable to the total number of visas issued by the Bulgarian diplomatic and consular missions to all other third-country nationals." ²

As regards the question on equipment at its missions to detect forged or falsified documents, Bulgaria only states that none of its missions possess such equipment. No information has been provided on Bulgaria's intentions in this regard."³

" Currently, under international agreements, the nationals of Albania, Vietnam, Zimbabwe, Cyprus, China and Nicaragua are exempt from visa fees."⁴

¹ Art. 9 of the Aliens Act, as amended by the Law Amending and Supplementing the Aliens Act, dated 27.04.2001.

² 21 November 2001, BULGARIA, CONF-BG 73/01

³ EUDCP

⁴ Schengen Action Plan.

C. Documents security

"In addition to the EU requirements, the Bulgarian visa sticker will have a printed colour photograph of the visa holder, which will allow for the performance of check-ups not only by Bulgarian border and migration control authorities but also by the competent authorities of other states. The new Bulgarian visa sticker will be put into use by the end of 2002."¹

New, modern and secure passports and identity cards were issued in 1998. All Bulgarian nationals must exchange their old Bulgarian passports (easy to forge) and their old service passports (which had created problems, having been widely issued) for modern ID cards; they must obtain new passports for travelling abroad and driving licenses, which shall also be used as identity documents. An information system gives access to the issued documents and to the invalid ones. The deadline for replacement of the identification documents was extended by a parliamentary decision.² At 22-02-2002, all passports and 95% of the ID cards have been replaced.³

D. Legal provisions on the admission of foreigners

The Law on Foreigners in the Republic of Bulgaria of 1998, amended in 2001, regulates entering, residence and status of foreigners in the Republic of Bulgaria. An Immigration Act will regulate the creation of a National Migration Service, which will give permission for and control the stay of foreign citizens in Bulgaria, and the issuing of ID documents to foreign nationals.

"On the basis of the information provided, it is not possible to make a proper assessment of Bulgaria's alignment with the *acquis* in this field.⁴ In addition there is little information on the practical implementation of the provisions, on refusal of residence permits, on the authorities/institutions of migration.

The Foreigners Act of 27 April 2001 introduced non refoulement principle. Two other provisions created problems:

1). The obligation to employ at least 10 Bulgarian nationals in order to be allowed to open a business in Bulgaria. (a planned amendment will have the practical effect to exempt the EU nationals from this requirement.)

¹ 21 November 2001, BULGARIA, CONF-BG 73/01, ADDITIONAL INFORMATION TO ...

² embassies 2002

³ Answer of the Bulgarian authorities to Presidency's questionnaire, April 2002.

⁴ EU DCP

2). The obligation for foreign nationals to register within 48 hours at the services for administrative control of foreign nationals stating their address of residing.

Permanent residence permit may be granted to spouses of Bulgarian citizens (after two years) and to their parents, to foreigners legally resident for five years (except the students), and to their family.

Temporary residence permits may be granted to workers having a work permit, to students, family members, investors (the minimal deposit for establishing a firm has been increased significantly).

There are provisions on the prolongation of stay (and of short-term visas in humanitarian cases) by the police which are not clear and which will need further checking.¹ (Cf. Schengen, decision SCH/Com-ex (93) 21 of 14 December 1993 (strictly) regulating prolongation of visas.)

E. Family reunion

The Law provides for reunification of spouses, children under 18, and parents able to sustain themselves (the level of the minimum income (means of living) required, being much higher than the one of Bulgarians).²

The right to ask for family reunification is open to permanent residents.

Several categories of holders of "long -term" permits (including workers) cannot enter with their family nor submit such an application before a minimum of five years.

Since the work authorisation cannot be extended after three years (see next section), workers are de facto completely excluded from the right to family reunification.

F. Employment

The procedures and conditions for issuing work permits of foreigners are regulated in the Law on protection of unemployment and promotion of employment and the Law on Foreigners.

Both Laws exclude the possibility for a foreigner to start work as self-employed. A working group has been established to draft a regulation for issuing work permits to self-employed persons.

¹ Art 22.2 and 23.2 of the Law for the foreigners.

² Screening oral replies.

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For the rest the regime is broadly in line with the EU Acquis. - Notably, it is not possible for a foreign citizen who has entered the country on one reason to ask for extension of his stay on another reason. Therefore a foreign citizen who wants to work has to obtain relevant authorisation before entrance and it is not possible for him to apply for it once he is in Bulgaria. The authorisation is issued by the Ministry of Labour and Social Policy. As regards the control of the employment situation before granting a work permit, the question of whether its level is national or local is still unclear. Seemingly, checks are done by the regional employment service

The employee cannot sign a contract with another employer. The work contract cannot be extended to more than 3 years.¹ Since the category cannot be changed (except marriage), and since 5 years are necessary before being able to be granted a residence permit, temporary workers cannot (in practice) become permanent residents.

Not more than 20% of the workers of a company may be temporary resident foreigners.

There is an agreement for seasonal workers with Greece.

Persons of Bulgarian ethnic origin (e.g. in Moldova, Former Yugoslavia...) receive preferential treatment (for permanent residence, and for access to citizenship).

G. Students

The provisions concerning students are also broadly in line with the EU Acquis. (However, students are not allowed to work at all.) Taxes for foreign students in the state universities are approved before each school year by a Council of Ministers' decision. The foreign nationals of Bulgarian origin and those with permanent residence in the Republic of Bulgaria enjoy admission and tax concessions.

¹ Screening oral replies.

H. Readmission agreements

Bulgaria has concluded readmission agreements with: Austria, Benelux, Greece, Denmark, Spain, Italy, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, FR Yugoslavia, Hungary, Germany, Finland, France, the Czech Republic, Switzerland, Sweden. These agreements cover third country nationals.¹

There is not much information on their implementation, but for the one with Greece, which functions well (acceptance by Bulgaria of foreigners having illegally entered Greece).

Bulgaria has proposed such agreements to Croatia, Ireland, Latvia, Estonia, Ukraine, Russia and Georgia. Negotiations with Albania are underway. The signing of an agreement with the Ukraine has been announced for autumn 2000. An agreement has been signed with Romania in Bucharest on 23 June 2000, and with FYROM in 2002.²

Transit passage of third country nationals for the purpose of deportation is allowed with the countries with which Bulgaria has concluded readmission agreements.

There is no agreement with Turkey.

I. Expulsion

Statistics (for all the bodies involved, seemingly)

- in 1996 a total of 9615 sanctions were imposed on 6858 persons;
- in 1997 a total of 9969 sanctions were imposed on 8988 persons;
- in 1998 a total of 8718 sanctions were imposed on 5850 persons.

The police data are different. In 1998 police found 4 284 foreign citizens with invalid stay documents who have overextended their period of stay. Entry restrictions were imposed on 451 of them. Residence permits for stay in the Republic of Bulgaria were withdrawn from 514 foreigners, and 612 foreigners were refused extension of stay. 381 foreign nationals were escorted to the border and expelled.

¹ Schengen Action Plan

² Bulgaria's website

Coercive administrative measures under the Aliens Act were imposed in 1996 on 1137 persons, in 1997 on 978 persons, in 1998 on 824 persons (mainly Romanian, Ukrainians, Russians, i.e. non visa-required nationals who could easily come back again, and Turkish). Thus, most sanctions are mere fines.

The expulsion decision is taken at the ministerial level or by heads of regional directorates (and by "a limited number of senior officials at regional police departments"). An appeal is possible (except if "the security of the country" is at stake). " Expulsion orders are individual administrative acts liable to the *Administrative Procedure Act* and as such they are subject to judicial control before the District Court, except when they are related to the national security."¹

Before deportation, foreigners are accommodated in specialised centres in the towns of Sofia, Plovdiv, Varna and Bourgas. The detention decision is taken without intervention of Justice. The centre for detention in Sofia, at least, is controlled by the Chief Prosecutor's Office. Deportation takes 10 to 15 days on average. Some sources ² indicate that detention can last one month, and in exceptional cases 3 months. But all this is unclear. According to other sources the time limit is "the date of the next plane."³ The (CPT) delegation met one person who had spent over 5 months at the Centre for the temporary placement of adults in "Drouzhba-2", Sofia... No written information was provided to them, and many detainees alleged that they had been left unaware of their legal situation." Living conditions are very poor. ⁴

"According to Article 44, par. 6 of the *Foreign Nationals Act*, the competent authorities can, at their own discretion, forcibly intern a foreigner, subject to expulsion, in a special home for a time until the obstacles for the implementation of the forcible administrative measure have been lifted. Insofar as the placement in these homes does not constitute police custody within the meaning of the *Ministry of the Interior Act*, nor is it a procedural measure under the *Penal Procedure Code*, it is not subject to judicial control."⁵

¹ 21 November 2001, BULGARIA, CONF-BG 73/01

² Information given to the Committee for Prevention of Torture, 1995.

³ Schengen screening, oral replies

⁴ 1999 report of the CPT (Council of Europe)

⁵ 21 November 2001, BULGARIA, CONF-BG 73/01

J. Combating illegal migration

1. **legal aspects**

Illegal border crossing is punishable by imprisonment. Smuggling people illegally across a border (trafficking in human beings across a border) is a criminal offence (new Article 280 of the Penal Code, from 1997). The penalty for this crime is deprivation of liberty for one to six years and a fine of 500 000 to 1 000 000 Bulgarian levs. In several cases the crime is punishable by deprivation of liberty for one to ten years, a fine of 1 000 000 to 3 000 000 Bulgarian levs, and confiscation of part of or the whole property of the perpetrator (special cases). One of the special cases refers to cases where smuggling is organised by a group or an organisation.

By the end of 2002 the Penal Code will include a special provision on trafficking of human beings.¹

With regard to illegal employment, the Law provides for fines for the foreigner and, much more, for the employer. According to the Bulgarian authorities, 13 cases (only) have been initiated by the Inspectorate of the Ministry of Labour and Social Policy.

The Law provides for the liability of officers of aircompanies, travel and tourist agencies for transporting foreigners without the required documents. Transportation of people without valid travel documents is also punishable (Law on the Administrative Offences and Punishments and Penal Code).

"The future amendments to the *Foreign Nationals Act* will include an explicit provision related to the obligation of carriers to cover the costs of returning foreign nationals with invalid documents...

"tour operators must pay a collateral covering the return of at least 15 percent of the tourists in the group coming from "risk" countries from the viewpoint of migration. After the return of the group the collateral may be refunded.." ²

¹ Answer of the Bulgarian authorities to Presidency's questionnaire, April 2002.

² 21 November 2001, BULGARIA, CONF-BG 73/01

2. statistics

According to the IOM 1999 Review ("Migration on central and Eastern Europe" whose sources are questionnaires and also OECD), in 1997:

5,143 migrants were "trafficked"

82 "traffickers" were apprehended at the border, leading to 80 "investigations", of which 46 "arrested" and 20 "convicted". Thus, the figures on pursuits of traffickers are not high by themselves. Moreover, the ratio convicted/apprehended is low. Finally, these figures are much lower than the ones of other applicant countries.¹

"In 1998, 38 channels for trafficking and trade in human beings have been detected and neutralised." (screening) The investigation found out 10 foreign national - organisers and leaders of the illegal trafficking in human beings via these channels - 8 Turkish nationals /4 of which of Kurdish origin/ and 2 Afghans.

According to the statistics of the National Border police Service, in the period 1 January – 20 June 2001. 2 602 foreign nationals were denied entry and 859 foreign nationals were expelled.² The number of readmitted persons was 268. The latter figure does not take into account the high figure of Bulgarian citizens returned from Norway during the summer 2001.³

During 2001 the number of the trespassers detained at the border is 5048:

- 4 315 offenders outside the border check points

- 733 offenders at the border check points.

2 221 people were denied exit, out of which 430 foreign nationals and 1 791 Bulgarian citizens.

9 713 foreign nationals were denied entry out of which 6 763 offenders of the passport/visa regime.

2089 people were remitted to the Bulgarian authorities. 111 people were remitted under readmission agreements.⁴

¹ Czech Rep. 777 traffickers apprehended, arrested and investigated. 209 convicted. Hungary: 390 traffickers apprehended, 271 arrested during the half of 1997.

² discrepancy with the figure of 4803 aliens "removed" in 2000, according to Cirefi-Eurostat statistics (folder first quarter of 2001.)

³ Embassies' answers, February 2002

⁴ Embassies' answers, February 2002

In 2000, "It is reported that 6631 violators of the border and 204 people (mainly Bulgarians¹) attempting to organise channels for taking people out through a border were arrested. 6653 foreign citizens were not permitted to enter the country, mainly from Turkey, Romania, Moldova, Bosnia and Herzegovina and Armenia. 3 503 foreign citizens were expelled and the right of long-term or permanent residence in Bulgaria of 385 foreigners was taken away."²

In 2001, 811 offenders of the green border were detained in 102 cases. 1182 persons were detained in 338 cases of attempt to cross the border through organised networks. 183 human smugglers and traffickers were arrested.³

3. trends

Illegals are arrested every year when crossing the Bulgarian border, and many others (about 700 per year) are arrested in routine police controls inside the country, but there are not reliable statistics about the number of trials and sentences. The border police has nevertheless registered a high number of acquittals in border related cases, allegedly because of a lack of evidence. The organised illegal channels are used for the trafficking of people as well as of drugs, weapons, etc.

Persons entering the country illegally most often come from Iran, Iraq and other Arab countries, southeastern Asia (Bangladesh, Pakistan, etc.) and North Africa. The basic routes for illegal entry into the country include the southern border (Turkey, road/rail), the sea border, and by air - the Sofia airport border checkpoint. The Southern or the so-called "freezer trucks" channel, is used especially by Iranian, Irakian and Turkish immigrants who are organised in Turkey and are transiting Bulgaria and Romania. The migrants are transported in trucks in well-known conditions. The Bulgarian note to the CIREFI group (April 1999) stressed lorry channels (as well as hiding in trains.) However, according to the documents received from the Bulgarian Delegation in October 2000, as regards "information on freezer truck use for trafficking of human beings", "the Bulgarian authorities do not have any information of channels for trafficking of human beings operating through the country. "

¹ CIREFI-Eurostat, statistics of first quarter of 2001

² Embassies' answers, February 2002

³ Answer of the Bulgarian authorities to Presidency's questionnaire, April 2002.

Other migrants, who become illegal, enter with student or business visas (notably the Chinese). As regards the latter, the conditions have been strengthened: approval from the Bulgarian Commerce and Industry Chamber, higher minimum investment... (It is always possible to have false documents made and have them registered legally.¹)

Several Member States have indications that Chinese networks organise the illegal migration of Chinese nationals to Western Europe, using Bulgaria as a bridgehead.

Bulgarian police noted that Bulgarian guides in Petrici charge foreigners DM200 to DM500 to take them to Greece, either through Macedonia or via the mountains on the Bulgarian-Greek border. (Migration News website).

Where air entries are concerned, Bulgarian police noted the use of falsified passports of visa-free countries, as well as corruption of officials.²

4. **trafficking in women**

According to IOM, ("Victims of Trafficking in the Balkans", 2001), Bulgaria is an important transit country for Ukrainian, Romanian and Moldavian women trafficked towards western Balkans and Greece, and also a country of origin for trafficking of women, notably towards Greece.

"It is widely believed that a certain percentage of law enforcement offices or other government authorities are complicit in human trafficking. Relevant authorities and NGO observers reported that thousands of Bulgarian women, as well as women from Romania, Moldova, Russia, Ukraine, Armenia, Azerbaijan, and Georgia are trafficked for sexual exploitation to Macedonia, Greece, Turkey, Yugoslavia (including Kosovo), Bosnia, Italy, Poland, and Western Europe. La Strada reports that Bulgarian women constitute one of the largest groups of victims of forced prostitution in Western and Central Europe. Approximately 10,000 Bulgarian women, many under the age of 18, may be involved in international trafficking operations, but no official statistics are available. The Government investigates cases of trafficking; however, no suspected traffickers have been brought to trial, possibly because victims are afraid to confront their former criminal controllers in the absence of government-sponsored programs to assist or protect victims of trafficking. Some judges and prosecutors also report that they feared reprisals from organized crime figures.

¹ Embassy's reply, 2000.

² (CIREFI, answers to the questionnaire, meeting of 19 April 2000).

There are two police units that specifically address the problem of trafficking in persons. One is part of the border police and the other is in the Ministry of Interior's organized crime fighting agency. The Government introduced reforms into its Customs Service that address trafficking. The Government also has increased its international cooperation in this area through the Southeast Europe Cooperation Initiative (SECI) Anti-Crime Center in Bucharest and in bilateral efforts. In April 2000, the International Organization for Migration (IOM) launched a trafficking awareness campaign in the country. The Government cooperated to display posters and distribute cards and brochures at border checkpoints, police stations, schools, and other government facilities. " ¹

5. institutional

The main effort should be aimed at improving co-operation between the services responsible for fighting human trafficking.² A task force is expected to draft a MOU on this subject, and an "Operational Coordination and Intelligence analysis centre has been established within the NSCOC, with all policing services within the MOI (and other services once the MOU is signed.)³ This Coordination center has already launched operations against i.a. persons controlling places of prostitution (26 persons arrested, 125 women "saved"). According to reliable sources, the fight against human trafficking is not very active.⁴

K. Institutional. SIS

The embassies had no information on cases of corruption in the field of issuance of visas or residence permits, ⁵ contrary to well known corruption in customs. (Greek trucks and buses, entering or transiting Bulgaria, are frequently "asked" by toll post officials (in pavilions close to the Border Crossing Check Points) to "pay" a 500 US dollar "fee" per passage. Such reports, originating from Greek road transport companies and tourist agencies, reach frequently the Greek Ministry of Transport and the Embassy of Greece in Sofia.)

¹ U.S. Department of State Country Report on Human Rights Practices 2001 - Bulgaria - March 2002

² Embassies 2002.

³ Answer of the Bulgarian authorities to Presidency's questionnaire, April 2002.

⁴ Embassies 2002.

⁵ Embassies 2002.

60 to 70% of the prefectures are connected to the AIS system, which contains notably

- Population register including photographs and signature
- Register of foreign nationals granted permanent or temporary (over three months) residency;
- Register of all identity documents;
- Wanted persons
- Bulgarian and foreign nationals with restricted eligibility to leave or enter the country;
- Invalid identity papers
- Persons and vehicles (Bulgarian and foreign) entering and leaving the Republic of Bulgaria;
- Visas issued (data is received on-line at central level and at the border checkpoints from the Visa Centre;
- Fingerprints of registered criminal offenders (the AFIS system).

Information is still confusing in this matter, since, according to the last Progress Report (2000) there is still a need to establish a national information system.

The "Automated Border Control Information System", available at all border checkpoints, contains notably data on wanted persons and on individuals who are banned from entry or exit...¹ Access to the central databases (Register of population, of aliens and refugees, register of documents issued to nationals and to aliens, of visas issued and rejected) is also available. "Despite all these improvements, the system is not always efficient, and break-downs and accident prone communications have been observed."²

The PHARE report recommends that "All residence permits and work permits should be issued by one Agency (the envisaged Migration Service)" and that "Detailed written instructions should explain which bodies are responsible for which kinds of permissions in the procedure (coordination between bodies under the Ministry of Interior and the Ministry of Labour and Social Affairs). A Draft Ordinance on the Terms and Conditions for Issuing Work Permits for Foreigners in the Republic of Bulgaria is being prepared by the Ministry of Labour and Social Affairs.

L. Data protection

The art.73 of the Bulgarian Identity Documents Act (possibility to ask for a correction of the registered data) is in the process to be implemented.³

¹ Answer of the Bulgarian authorities to Presidency's questionnaire, April 2002.

² Embassies, 2000

³ Article 73 "The authorities, the physical and the juridical persons, having received data from the information funds, shall have the possibility to demand their correction by the authority which has submitted them, in case an inaccuracy within has been established."

A Bill on Personal Data Protection has been adopted by the National Assembly on 21 December 2001 and entered into force on 1 January 2002. Art (4) states that "The processing and access to personal data for the purposes of defence, national security and public order as well as for the enforcing of criminal law by the executive power and the judiciary, may be provided for in special Acts." (which is rather unclear).

"The act establishes of an independent authority — Personal Data Protection Commission — to supervise compliance with the *Personal Data Protection Act*. The Commission will be an independent legal entity funded by the state budget. It will be established as a collegiate body of five members appointed by the National Assembly upon the recommendation of the Council of Ministers. The Personal Data Protection Commission will be authorized notably to issue mandatory instructions to administrators, to review complaints against administrators etc...

"The Republic of Bulgaria reaffirms its commitment to ratify the *Council of Europe Convention 108 for the Protection of Individuals with regard to automatic processing of personal data* shortly after the enactment of the *Personal Data Protection Act*. "¹

II Asylum

A. Statistics

There were 401 asylum applications in 1994, 257 in 1995, 231 in 1996, 378 in 1997, 646 in 1998, 1346 in 1999, 1755 in 2000, 2427 in 2001. (340 in January 2002 as well as in February.)

The main nationalities of asylum seekers are Afghanistan, Iraq, Yugoslavia, and Iran.

"At the end of 2000, Bulgaria hosted about 3,000 refugees and asylum seekers in need of protection. These included 267 persons granted asylum, 507 individuals issued residence permits on humanitarian grounds, and about 2,227 asylum seekers with pending claims.

¹ 21 November 2001, BULGARIA, CONF-BG 73/01

During 2000, the Agency for Refugees, responsible for adjudicating asylum claims in the first instance, decided the cases of 2,211 applicants. Of these, 267 individuals received refugee status, an approval rate of 12 percent. Some 507 applicants received residence permits on humanitarian grounds for varying lengths of time. The Agency denied the applications of 509 individuals during the year. In addition, the Agency terminated the protection statuses of 928 persons. In most cases, the authorities terminated the status of persons believed to have left Bulgaria.

As of 30 June 2001, in total 1 122 asylum seekers have been granted refugee status and 1 404 humanitarian status while 1 302 were rejected.¹ The recognition ratio was 13% in 2000, and even 35% when including "humanitarian status."² The main entry points are the border check point of Kapitan Andreevo and Sofia International Airport.

B. Asylum procedure

Despite the Constitution of 1991, which foresaw that laws should regulate asylum, the procedure was governed by mere governmental regulations of 1992-1993. The (first) Law on Refugees entered into force on 1 August 1999. Its aim was to adapt all the existing regulations to the Acquis, and even beyond (humanitarian residence permits).

According to the Constitution and to the aforementioned Law, there are three kinds of asylum:

- Political asylum, provided by the President of the Republic of Bulgaria;
- Conventional refugee status (under the criteria of the 1951 Geneva Convention);
- Temporary humanitarian status.

Where conventional refugee status is concerned, if someone enters the Bulgarian territory legally, he/she has 72 hours to lodge an asylum request. If one enters illegally, the request must be lodged immediately. The consequence of the failure of these conditions lead (unless "good reasons") to the refusal of the application (within the normal procedure seemingly, and not the accelerated one.)³

¹ UNHCR

² UNHCR

³ Art. 14. Refugee status may not be granted to a foreigner, who:...8. has illegally entered the country and has failed to state forthwith before a competent authority his wish to be granted refugee status unless he has been prevented from doing so for good reasons;

Generally speaking, the grounds for refusal of the status are very widely defined, in broad terms. Legislation includes extensive exclusion clauses under which asylum seekers may be denied refugee status if they: already hold residence permits (not protection statuses) in Bulgaria or another safe country; fail to apply within 72 hours of legal entry; or upon illegal entry, fail to submit a claim immediately. Bulgarian authorities may also deny asylum to an alien who, "having had ample opportunity earlier to submit an application, submits an application to forestall an impending administrative measure such as withdrawal of right of temporary residence, expulsion or extradition."

The Refugee Law explicitly excludes the application of refoulement measures against asylum seekers.

- **Normal procedure**

The Agency for Refugees is a legal person, financed through the State budget, managed and represented by a President who shall be appointed and released from office by the Prime Minister. Its President has the main role since he appoints and removes from office the staff, and since he grants and refuses refugee status and temporary protection.

A suspensive appeal may be lodged with the Supreme Administrative Court. In the normal procedure, applicants have seven days to appeal negative decisions. Submitting an appeal suspends deportation proceedings. This Court examines the case materially and legally (first instance). It can send back the appeal with obligatory instructions for review in substance. The decision of this chamber is not final and can be appealed. In this case the five-member chamber of the Supreme Administrative Court, as a cassation instance, supervises the lawfulness (formally) of the decisions of the three-member chamber.¹

- **Accelerated procedure**

The Law creates an accelerated procedure. The refusal of the status is taken within 72 hours by Police, (or more precisely, by the "specialised bodies" to be created/assigned at the Border Police and the State Police), notably when the applicant comes from a safe third country, or in case of Manifestly Unfounded Application. Police has to send its decision to the Agency.

¹ PHARE Mission reports.

RESTREINT UE

If the President of Agency for Refugees finds the decision of the first instance incorrect, the expulsion decision shall not be enforced until the entry into force of the decision of the President of the Agency for Refugees. Thus, decisions made in the accelerated procedure are subject only to administrative, not judicial, review. Bulgaria adopted in 2000 a list of 105 "safe" countries that included Yugoslavia, Indonesia, and India.¹

" According to Article 44, Paragraph 1 of the Refugees Act, the Border Police authorities shall be competent to accept applications for refugee status when the application is lodged within the border area. The Border Police officials are authorised to perform the initial interviews... The interviewers under Article 44, Paragraph 1 who are authorised to make a decision, are designated by an Order of the Minister of the Interior in co-ordination with the President of the Agency for Refugees."² "When the competent interviewing authority finds grounds to reject the application... the interviewer makes a reasoned decision.. The decision must pronounce on the security of the country where the person is to be returned. The decision can be appealed before the President of the Agency for Refugees within 24 hours...The President pronounces on the appeal within 7. The decision of the President ... is subject to immediate implementation.

In the cases where the refugee files an application at the border upon entering the territory and it turns out that the request is manifestly unfounded, the Border Police may decide not to admit the person in the country until the procedure has been completed. The non-admission decision is made by the Minister of the Interior on the basis of the reasoned proposal of the President of the Agency for Refugees following the notification of the interviewing authority. The decision of the Minister is not subject to appeal.

Accelerated procedure is not applied to unaccompanied minors.

- **planned amendments**

In order to remedy the situation and other smaller shortcomings of the Law of State Agency Refugees, UNHCR in close co-operation with the Bulgarian Helsinki Committee launched drafting of amendments on 30.01.01 which passed in first reading at the National Assembly EU Integration Committee on 16.01.02, Human Rights on 17.01.02 and the Legal Affairs Committee on 31.01.02.³

¹ U.S. Department of State Country Report on Human Rights Practices 2001 - Bulgaria - March 2002

² 21 November 2001, BULGARIA, CONF-BG 73/01

³ embassies, 2002

RESTREINT UE

The *Draft Asylum and Refugees Act* provides for temporary protection, improves the provisions on humanitarian (subsidiary) protection, better distinguishes between exclusion and cessation clauses, envisages a new mechanism for approval and amendment of the lists of safe countries of origin and safe third countries, improves the regulations regarding vulnerable groups of refugees and persons with special needs, and thoroughly modifies the accelerated procedure at the border: it "fully establishes the principle that the Public Agency for Refugees /PAR/ is the only administrative structure entrusted with the implementation of the matter" ; the PAR will be granted the power to pronounce as a first instance in the accelerated procedure on manifestly unfounded applications, and the corresponding cases and the type of decisions will be clearly defined. The draft introduces a short, 3-day period for pronouncement in the accelerated procedure. Border police officials will (only) transmit applications to the PAR. In the accelerated procedure, an appeal will be possible "before an independent body, such as the respective district court, the court will pronounce within one month of the opening of the proceedings and the decision of the court will be final. Under the general procedure, the Sofia City Court will be competent to examine the appeals. The Supreme Administrative Court remains to act as a cassation instance. The period for contesting the decision will be extended to fourteen days; december

- **Implementation**

Embassies are "particularly pleased" about the quality of decisions made by the Supreme Administrative Court, which at times however, could be a little faster and about the precedent setting decisions such as in the safe third country questions."¹

The most serious problem in the field under 1999 Refugee Law is the non- functioning of accelerated procedure to be implemented by the Border Police with decision making power due to lack of reception Centres in the border area. This has in certain situations led to difficult access to the territory and protection in Bulgaria.² More than 5000 persons were not allowed to enter the Bulgarian territory in 2001 which is particularly connected with the application of visa policies. UNHCR is discussing this matter with the competent authorities.³ "During 2000, domestic and international humanitarian organizations continued to criticize Bulgarian detention methods (particularly at the borders), the denial of entry and access to the asylum procedure at borders, and the summary deportation of potential claimants to third countries.

¹ embassies, 2002

² embassies, 2002

³ embassies, 2002

RESTREINT UE

According to official government statistics for 2000, 137 asylum seekers were detained and 30 deported. However, BHC reported that border guards detained an estimated 3,439 "foreigners" during the year, and would not allow an additional 6,635 foreigners to enter the country.¹

Anyway, 80% of the current cases could be dealt with under this accelerated procedure, the implementation of which will in practice require very fluent and rapid relations between Border Police and the State Police, who take the decision, the Agency for Refugees, who may review it before its enforcement, and the Ministry of Interior. It will require services (translation, legal assistance) and much expertise at the police bodies, which conduct the first examination.

- **Institutional**

The National bureau (predecessor of the Agency for Refugees) was properly staffed and organised (information on countries of origin) in 1998, time where the number of application was lower. The backlog has become important: about one year activity, mid-1999.

The Bulgarian authorities and UNHCR, in cooperation with Bulgarian Helsinki Committee have been active in providing training opportunities on refugee protection in Sofia, the border area of Svilengrad together with Greek border officials, and in Russe with Romanian border officials with sources from UNHCR instruments and translated material in Bulgarian, specially prepared for those purposes. More comprehensive training is required, with other partners.² A "Centre on Human Rights" has been created within the police academy. According to the last Progress Report (2000), specialised training is envisaged for officials from the National Border Police Service with the assistance of the Police Academy and "instructions to government authorities involved in the procedure for granting a refugee status are currently being drafted." This means that implementation is still ongoing.

Despite their prominent role in the accelerated procedure, Border Guards have no specific training in this field.³ NGOs don't have much access to the Border⁴, although, at times, UNHCR officials visit border areas where/when larger number of asylum seekers arrive.⁵

¹ "U.S. Committee for Refugees World Refugee Survey 2001 - Bulgaria

² embassies, 2002

³ ECRE, study on legal assistance in EU countries, November 2001.

⁴ ECRE

⁵ UNHCR

C. Accommodation

The Law is ambitious insofar as it provides for the official creation of Transit centres, of registration Centres, of Reception Centres and of Integration centres.

Currently there are two reception centres - one in Sofia and one in Banja, near the town of Nova Zagora. 350 beds are available.¹ "Bulgaria has stated (CONF-BG 19/01) that at present, only one reception centre exists in Sofia. By the end of 2005 Bulgaria intends to open two new centres for refugees, at the Bulgarian-Turkish border and near Sofia Airport. In the meantime, one temporary reception centre has been set up with the help of UNHCR at the Bulgarian-Turkish border and another one near Sofia Airport was to be set up by the end of 2001."²

" A major concern is the lack of reception centres at entry points."³

There is a quarantine period during which asylum seekers cannot leave the centres.

During the procedure, only the employment organised by the Agency for refugees is allowed.

"Foreigners with recognized refugee status in Bulgaria have the right to work without a special permission." ⁴

The State is assuming a relatively high degree of responsibility for refugees and asylum seekers. A National Integration Program is still being developed in a concerted effort following the organising of the UNHCR International Conference on Integration in October 2000, with financing hoped to come from different sources, including the State and for the moment being continued from UNHCR.⁵ The BAR and the UN High Commissioner for Refugees (UNHCR) share the costs of housing refugees and asylum seekers. According to UNHCR, integration measures formally provided for by legislation, lack of consistent procedures and are not implemented: recognised refugees leave the country towards the EU, as applicants do.

" Foreign nationals entitled to asylum and holding a refugee status have the right to social assistance, which is entrusted with the municipal social care services, under the terms and conditions in force for Bulgarian citizens." ⁶

¹ ECRE, study on legal assistance in EU countries, November 2001.

² draft EUCP

³ UNHCR

⁴ 21 November 2001, BULGARIA, CONF-BG 73/01

⁵ embassies 2002

⁶ 21 November 2001, BULGARIA, CONF-BG 73/01

Co-operation with UNHCR and with Member States is active. In addition, all or most part of legal assistance, translation, leaflets... is paid by UNHCR, as well as part of the daily allowances of the applicants.

" The question of qualified interpreters for rare languages has been a small problem and the State Agency for Refugees, with the Bulgarian Helsinki Committee supported by UNHCR have gone out of their way to solve the situation with some financial input. Most asylum appeals receive free legal assistance by the Bulgarian Helsinki Committee, financed by UNHCR. There is to some extent state financial aid for appeal procedures at the court." ¹ The government does not provide asylum seekers with any legal aid, and reportedly often fails to inform asylum seekers of the legal counsel available from UNHCR and local NGOs. Only 5 to 7% of applicants are accompanied by legal advisers at interviews.²

D. Preparation for the Dublin Convention

A central register of foreigners and a central visa database exist now. The collection, storage and processing of data (identity documents, fingerprints of asylum seekers) still have to be created. " Both the current act that is in force and the *Draft Asylum and Refugees Act* incorporate the basic criteria under the *Dublin Convention*. Both the above provide conditions for implementation of the Convention requirements: there is an option for fingerprint taking; the creation of a dedicated database is envisaged as well as the provision of access, when necessary, to the central databases set up on the basis of other statutory acts."³

¹ embassies 2002

² U.S. Department of State Country Report on Human Rights Practices 2001 - Bulgaria - March 2002

³ 21 November 2001, BULGARIA, CONF-BG 73/01