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*Central and East European countries
as transit or final destinations of migrant
and refugee flows in Europe — trends, causes
and social impact from the Bulgarian perspective*

Summary

Focusing on the case of Bulgaria, this paper examines the trends, causes and social impacts of transitory migration, and especially that of asylum seekers and refugees, in Bulgaria as part of the Central and Eastern European (CEE) region and the broader EU context. It provides a statistical overview of refugee flows since 2012 and indicators of the rates of retention or transition. The paper also describes the legislative frameworks on the EU — and national levels which define the required reception conditions and the procedural treatment of asylum seekers and refugees, and elaborates on their practical application, including deficiencies in the conditions for receiving refugees, procedural flaws and the lack of integration measures. Finally, the paper discusses the impact of these processes on Bulgarian society, including the role of civil society.

Key words: Bulgaria, migration, refugees, asylum policy

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I. Introduction

Freedom of movement, migration and migratory regimes are at the core of the EU value system and its policies. Coming from a common political background of severely limited migration prior to 1990, the countries in the region of Central, Eastern, and South-Eastern Europe have shown similar trends of migratory behaviour, in spite of variations in their socio-economic development in the transition period. The region is generally still marked by a significant rate of emigration and a limited return rate, which, by and large, has not been influenced by EU accession as significantly as expected. Continued emigration trends have had a detrimental effect due to the loss of educated and highly skilled human capital in the region and rapidly ageing societies (Patriutu-Baltes 2014, European Commission 2008, pp. 6–8). Accession to the EU, on the other hand, has had an effect in several directions. The CEE region was gradually transformed from the immediate eastern EU neighbourhood to the guardian of the EU's eastern and southern borders with all the ensuing tensions related to that new responsibility. New significant “pull factors” for economic immigrants from third countries have emerged, but at the same time, the region has become the destination of migrants forced out of their countries for political reasons, together with an increasing number of irregular migrants. Yet, particularly in the case of refugees and asylum seekers — numerically, the most significant type of migrants to Bulgaria in recent years — CEE countries appear to be countries of transit, rather than final destinations. Using the case of Bulgaria, this paper will discuss some basic trends, causes and impacts of the recently radically increased refugee migration flow into the region, and how they have influenced and re-shaped the transitional character of the area over the past years.

This paper argues that in recent years, Bulgaria has become a territory of transit for migrants, and for asylum seekers in particular. It aims to assess the size and nature of these transitory movements and to determine the causes for this phenomenon, including the underlying legal provisions and their application. The paper starts by summarizing the relevant legislative provisions at the international, EU and national levels. It then provides an overview of the trends in several statistical indicators of transitory migration in the region, such as terminated asylum procedures, requests under the Dublin Regulation and illegal border crossings. The probable causes of the transitory nature of recent migration flows through Bulgaria are discussed next, mentioning Bulgaria's asylum policy and the reception conditions it provides to refugees. The paper concludes with a discussion of the impact of the phenomenon on Bulgarian society, including giving rise to citizen activism and the role of civil society.

II. Legislative framework

The 1951 Refugee Convention spells out that a refugee is someone who “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that

country” (UNC Convention 1951). Unlike immigrants, especially economic immigrants, who choose to move in order to improve the future prospects for themselves and their families, refugees have to move in order to save their lives or their freedom.

Bulgaria, just as the rest of the countries in the CEE region, is part of the common EU legal system and is bound by its primary and secondary legislation, namely the founding treaties of the EU² and all regulations, directives and decisions of EU institutions with legislative competencies, including the interpretative decisions of the Court of Justice of the European Union in Luxembourg. Art. 5, par. 4 of the Bulgarian Constitution³ determines that any international treaty which has been ratified, promulgated and which has entered into force for the Republic of Bulgaria shall take priority over any conflicting standards of domestic legislation. The same principle of priority of international over domestic norms is embedded both in the Bulgarian Constitution and in the EU Treaties⁴. As a result, Bulgaria is obliged to comply with the set of norms which at the EU level regulates the minimum standards in the domain of asylum — the so-called *EU asylum acquis*. Since the mid-80s, the EU Member Countries have been developing a Common European Asylum System (CEAS), aiming at levelling out the large differences in the asylum systems and practices in the EU, thus preventing “lottery” movement of refugees within the Union. The system includes three main directives, recently modified, and one regulation, namely: *Directive 2011/95/EU* (Directive 2011) determining the standards for the qualification of international protection and for the content of the protection granted; the *Directive 2013/32/EU* (Directive 2013a) determining the common procedures for granting and withdrawing international protection; *Directive 2013/33/EU* (Directive 2013b), which set standards for the reception of applicants for international protection; and *Regulation 604/2013* (EU Regulation 2013) determining the Member State responsible for examining an application for international protection. The three directives listed above reaffirm and develop the main principles from the 1951 Refugee Convention (UNC Convention 1951) with regard to asylum — the *non-refoulement* principle, which protects refugees from being returned to places where their lives or freedoms could be threatened; the *non-punishment* principle for illegal entry or stay of asylum seekers; the principle of *free access to justice* in asylum proceedings and legal support throughout the process; the application of the “*burden of proof*” principle in favour of the asylum seeker; *individual assessment* of every asylum claim in the light of the specific circumstances and country of origin’s situation; *freedom of movement* for asylum seekers and performing detention only

² The Treaty on European Union (TEU, Maastricht Treaty, effective since 1993) and the Treaty on the Functioning of the European Union (TFEU, Treaty of Paris, effective since 1958), texts available at: http://europa.eu/eu-law/decision-making/treaties/index_en.htm.

³ Constitution of the Republic of Bulgaria, text available at: http://www.vks.bg/english/vksen_p04_01.htm.

⁴ The principle of supremacy of Community law over inconsistent law of Member States has been established by two fundamental cases of the ECJ: case *Van Gend en Loos* (Case 26/62 NV Algemene Transport en Expeditie Onderneming van Gen den Loos v Nederlandse Administratie der Belastingen [1963] ECR 1) and case *Costa vs. ENEL* (Case 6/64 Flaminio Costa v ENEL [1964] ECR 585).

as exceptional measure in specific cases; provision of specific guarantees in the treatment of *vulnerable groups* among asylum seekers and *unaccompanied minors*. Determining the mechanisms and criteria for selecting the country responsible for reviewing the asylum claim, the Dublin Regulation has caused a lot of controversy and discussion related to the solidarity principle of the EU and the proportionate distribution among the EU Member States of the responsibility of accepting the increasing refugee flows⁵. Since the general principle of the Dublin Regulation is that the first country of entry is responsible for reviewing the asylum claim, for the time being it obliges the return of large numbers of asylum seekers transiting the CEE region. Despite the progress made with the modification of the described instruments, the EU has still failed to build to the needed degree a single asylum system, as proscribed by the Hague Programme with a deadline extended to 2012.

Related to the basic asylum instruments mentioned above is *Directive 2008/115/EC* (Directive 2008) listing the common standards and procedures for returning third-country nationals illegally staying on the territory of the Member States. The Return Directive applies in cases of failed asylum applications or in controversial cases when genuine asylum seekers are treated as irregular migrants. That is why this *directive* is mainly mentioned in relation to the interpretation and application of the *non-refoulement* principle.

The basic asylum principles and the EU requirements in the listed asylum directives and instruments have been transposed into the Bulgarian national legislation through the Bulgarian Law on Asylum and Refugees (LAR), adopted in 2002, as well as the related Law on Foreigners (LOF), adopted in 1998. The LAR determines the procedures of application and assessment of asylum claims and the rights of refugees and asylum seekers on the territory of Bulgaria, as well as the competent national authority in regard to asylum — the State Agency for Refugees (SAR) at the Council of Ministers. Both the LAR and the LOF were amended several times and the LAR was changed in October 2015 in order to transpose the recast Reception Directive and Procedural Directive. An important recent step forward in this direction was also the amendment of the Law on Legal Aid in 2013, which introduced free legal aid for asylum seekers at all stages of the status determination procedure, including the first-instance administrative stage, to be financed with the state budget⁶. Before the law was amended, state-funded legal aid was only available to asylum seekers for appeals, which are dealt with by courts. Unfortunately, the lack of sufficient state budget dedicated to the expanded provision of legal aid to asylum seekers has left the amendment unimplemented.

The transposition of the minimum standards into the national legislation, although technically in approximate compliance with the set requirements, has demonstrated

⁵ For more on the topic see: *Protection interrupted: The Dublin regulation's impact on asylum seekers' protection* (The DIASP project), The Jesuit Refugee Service, published in June 2013, text available at: https://www.jrs.net/assets/Publications/File/protection-Interrupted_JRS-Europe.pdf; as well as „The Telegraph” News: *Germany drops EU rules to allow in Syrian refugees*, 24 August 2015, text available at: <http://www.telegraph.co.uk/news/worldnews/europe/germany/11821822/Germany-drops-EU-rules-to-allow-in-Syrian-refugees.html>.

⁶ Law on Legal Aid, art. 22, par. 8.

serious deficiencies, especially during the latest period of increased refugee flows in the country. Bulgaria has been broadly criticized⁷ for inadequate reception conditions provided in 2013 and 2014 and the recovery from the initial collapse of the asylum system is still an ongoing process, both in legislation and in practice.

III. Transitory migration through Bulgaria: statistical indicators

Official statistics on the number of migrants who transit through Bulgaria to continue on to other EU Member Countries are not available, since it is not possible to track their exit through the borders, particularly when such an exit is an illegal crossing through the green borders, and they do not get apprehended. Several other indicators in conjunction with each other can be used to estimate the size and trends of the transitory migration through Bulgaria: the number of people who have asked for asylum, the number of suspended and terminated procedures, the number of people apprehended while attempting to illegally cross the border exiting Bulgaria, and the number of requests that Bulgaria has received under the Dublin Regulation. Before discussing each of these indicators in turn, we should note that the overall picture they paint would necessarily underestimate the size of transitory migrant flows through Bulgaria, as it does not capture the people who manage to cross the borders unnoticed and to settle in the country of destination without being identified there as subject to the Dublin Regulation, or to a readmission agreement.

*Asylum applications*⁸

The enormous increase in the number of asylum applications received by Bulgaria, starting in 2013 and continuing to this day, is likely the most important development in the area of migration in the country, and perhaps one of the most significant social phenomena of the decade for Bulgaria and the region. It was brought on by several key factors such as the crisis in the Middle East, which has produced millions of refugees, primarily from Syria, and Bulgaria's position as the EU's southern border, geographically close to the conflict in the Middle East and sharing a border with Turkey (which receives, but does not grant full protection to asylum seekers from outside of the European continent)⁹. A closer look at the trends in asylum applications in Bulgaria shows that its membership in the EU did not lead to a significant increase in the number of asylum seekers, even

⁷ See, among other, *Containment Plan: Bulgaria's Pushbacks and Detention of Syrian and Other Asylum Seekers and Migrants*, Human Rights Watch, April 30, 2014, available at: <https://www.hrw.org/report/2014/04/28/containment-plan/bulgarias-pushbacks-and-detention-syrian-and-other-asylum-seekers> and *UNHCR observations on the current asylum system in Bulgaria*, UNHCR, January 2, 2014, available at <http://www.refworld.org/docid/52c598354.html>.

⁸ All statistics in this section, unless specified otherwise, were provided by the Bulgarian State Agency for the Refugees (SAR) and/or published on its website <http://www.aref.government.bg>.

⁹ Turkey has not signed the 1967 Protocol to the 1951 Convention and has therefore retained the geographic limitation contained in the original text of the Convention.

though, as a EU member, Bulgaria would be a more attractive destination country and should also provide more robust protection with the transposition of the *asylum acquis*. Nevertheless, in 2007, 975 people filed asylum applications in Bulgaria; 746 did so in 2008; and 653 in 2009. The numbers did not rise significantly until 2013, with 7,144 applications. In 2014, as many as 11,081 people entered Bulgaria and asked for protection, and over 10,000 did so in the first nine months of 2015, which indicates that 2015 will very likely mark the highest ever number of asylum applications since 1993, when records started to be kept. Throughout the period from 1993 to 2012, the top countries of origin of the asylum seekers were typically stateless, Armenia, Iraq, and Afghanistan. The patterns shifted with the conflicts in the Middle East and from 2013 through 2014 and into 2015, the leading countries were Syria, Iraq, Afghanistan, Iran, and most recently, Pakistan, where Syrian applicants have been the predominant group by far.

Refugee status decisions and transitory migration

Whether or not an asylum seeker is granted refugee or humanitarian status in Bulgaria affects the transitory migration patterns of that individual. Even though in both cases there is high likelihood that they will at least attempt to move on from Bulgaria as the first country of entry, the timing and manner, as well as the reasons and the consequences, differ.

Table 1. Persons Seeking Protections and Decisions Made by the State Agency for the Refugees (SAR)

State Agency for the Refugees						
Information of the persons seeking protections and decisions made						
for the period 01.01.2006 to 31.07.2015						
Year	Persons seeking protection	Refugee status granted	Humanitarian status granted	Refusal	Procedure terminated	Total decisions
2006	639	12	83	215	284	594
2007	975	13	322	245	191	771
2008	746	27	267	381	70	745
2009	853	39	228	380	91	738
2010	1025	20	118	386	202	726
2011	890	10	182	366	213	771
2012	1387	18	159	445	174	796
2013	7144	183	2279	354	824	3640
2014	11081	5162	1838	500	2853	10353
2015*	9217	3222	538	475	4998	9233
Total	33957	8706	6014	3747	9900	28367

* 1.01.2005 to 31.07.2015

Source: adapted from table available on the SAR website, accessed on Aug. 15, 2015.

Refugee status holders

The Law on the Asylum and Refugees (LAR) grants refugee status holders the right to be issued a travel document¹⁰, with which they could legally travel to other EU countries, though it does not grant a right to live and work in the EU, just to visit for a limited period¹¹. Even though Bulgaria does not keep such statistics, it has become widely believed that refugee status is used by asylum seekers as a ticket to Western Europe. In 2015, several protests took place in the reception centres of the SAR where asylum seekers protested¹² against the alleged delays in the issuing of refugee claims decisions on the part of the SAR, with the undertone of discontent for having to stay in Bulgaria longer than necessary. Refugee and humanitarian status holders are not subject to the Dublin Regulation, as it only applies to asylum seekers still in procedure, those with a refusal, or those who never claimed asylum but were fingerprinted upon entry into the country and their data was recorded in the EURODAC database. However, recognized refugees can still return under “safe third country” agreements or readmission agreements, such as the Readmission Agreement between Germany and Bulgaria signed in 2006. No official statistics are kept on the number of refugee and humanitarian status holders who returned specifically under readmission agreements; anecdotal information and observations from the work of practitioners from 2014 and 2015 suggest a small but growing number of cases of such returns, primarily from Germany. Another important consideration in the examining of refugee status holders’ transitory migration is that, due to an apparent policy bias in the claim assessment process, very few applicants from countries other than Syria are granted refugee or humanitarian status by Bulgarian authorities: statistics obtained from the SAR under access-to-information legislation show that for the 2009–2013 period, even though the overall rate of positive decisions by the SAR was relatively high at 48.5%, it was only 22% for non-Syrians and zero or close to zero for nationals of certain countries, particularly from the African continent. These findings paint a profile of asylum seekers who leave Bulgaria legally versus those who must resort to illegal border crossings (whether their procedure is still ongoing or has resulted in a refusal), risking incarceration under the Bulgarian Penal Code.

Persons with refusals of refugee status

A failed asylum seeker in Bulgaria who has exhausted all levels of appeal has very limited options for regularizing his or her status. Many file subsequent refugee status claims, for which the likelihood of success is smaller than for the initial claims, as evidence of new

¹⁰ Law on the Asylum and Refugees, Art. 40 and Art. 42.

¹¹ Holders of humanitarian status are granted the same rights as foreigners living long-term in Bulgaria (Law on the Asylum and Refugees, Art. 36 and Art. 42), and while they are issued a travel document, their ability to enter other EU countries depends on the policy of each country.

¹² See, for example, *Another Refugee Protest at the Ovcha Kupel Centre*, bTV News, April 29, 2015, available at: <http://btvnovinite.bg/article/bulgaria/obshtestvo/otnovo-protest-na-bezhanci-v-centara-v-ovcha-kupel.html> and *The Immigrants in Ovcha Kupel Protest for an Accelerated Asylum Procedure*, News.bg, July 23, 2015, available at: http://news.ibox.bg/news/id_779620544.

circumstances is required¹³, i.e., the claim cannot be based on the same persecution story. If a subsequent claim is not filed and the negative decision enters into force, the migrant is issued a deportation order, may be detained, and is eventually returned to the country of origin. According to the Ministry of the Interior, 250 persons were scheduled for a voluntary return in 2014 and would receive assistance for the return by the International Organization for Migration (MVR 2013). In 2013, 149 people left the country under the voluntary return assistance programme (MVR 2013). Regarding deportations, from the beginning of 2013 to mid-December the same year, the “Migration” Directorate at the Ministry of Interior participated in 15 joint international flights, in which 36 Nigerians, 5 Pakistani, 2 Georgians and 1 Ecuadorians were deported (MVR 2013). In the end of 2013 and beginning 2014, Bulgaria took part in a Frontex-led return mission, deporting another 13 people; another mission, described as particularly successful by the Ministry of Interior, took place in November 2013, when 54 Iraqi citizens were flown back to Iraq (46 from Bulgaria and 8 from Greece) by a charter flight (MVR 2013).

Given the threat of deportation and lack of regularization opportunities, undocumented persons have a strong incentive to leave the country illegally and to try settling elsewhere. In 2013, the SAR issued 354 refusals (9.7% of all decisions) — as pointed out above, almost all of them to non-Syrian applicants, such as applicants from African countries, Iran and Afghanistan, received refusals; in 2014, there were 500, or 4.8% of all. The partial data for 2015, for the period for the first nine months of the year, shows 442 refusals out of 9742 decisions, which represents 4.5%. The small share of refusals reflects the fact that in the years 2013–15, the majority of applicants were Syrians, who are considered *prima facie* genuine asylum seekers and are granted status nearly uniformly, while most others are refused across the board. The trend of a decrease in the percentage of refusals, observed in 2014 and continuing into 2015, was due to a steep rise in suspended and terminated procedures, which are discussed next.

Terminated asylum procedures

According to the LAR, a procedure for the assessment of a refugee status claim may be suspended if the applicant misses interviews scheduled at the SAR, or is not found at the address declared to the authorities¹⁴. If the applicant does not provide a satisfactory explanation within three months of the suspension, the procedure is terminated and the asylum claim is considered closed¹⁵. The most common factual reason for suspended and terminated procedures is that the applicant has left the country while his or her case is still under review. Data provided by the SAR shows that the number of suspended and terminated asylum procedures in Bulgaria rose sharply over the last 1.5–2 years: of the final 10,353 final decisions on asylum claims made by the SAR in 2014, 2,853 (27.5%) were terminations (compared to 22.6% in 2013); from January 1 to September 30, 2015,

¹³ Law on the Asylum and Refugees, Art. 13, point 5.

¹⁴ Law on the Asylum and Refugees, Art. 14.

¹⁵ Law on the Asylum and Refugees, Art. 15.

over half — 5,464 (56%) of the 9,742 decisions — were terminations. This increase clearly indicates a shortening of the amount of time spent on Bulgarian territory by asylum seekers. It also speaks of their pre-determination to continue on to other EU countries — perhaps combined with a lack of belief in the likelihood that their claim will be successful in Bulgaria — before they have given staying in Bulgaria long-term a chance. The trend of asylum seekers increasingly leaving the country while still in procedure is confirmed by a monitoring report for 2014 by the Bulgarian Helsinki Committee (2014). According to the report, in the beginning of January 2014, the SAR listed 4,694 asylum seekers residing in its reception centres and 4,421 living at external addresses¹⁶. By the end of June 2015, the number of those at external addresses had decreased to 2,664, presumably due to almost 40% having left the country (in most circumstances, it is not possible to return to a reception centre having once moved to an external address)¹⁷. The SAR admitted that the percentage could be as high as nearly 70%, since they had not been able to contact about half of the 2,664 asylum seekers at the addresses stated as they had likely left Bulgaria in the winter of 2014¹⁸.

“Dublin” returns

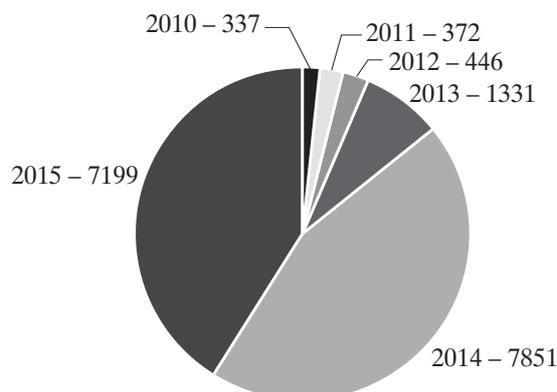
Under the Dublin Regulation, asylum seekers who are still under procedure in Bulgaria, as well as those with a refusal, which has come into force, are in most circumstances subject to being returned to Bulgaria, if they file a new asylum claim in another EU Member State. The same applies to migrants who are found on the territory of another EU state without the required documents and a check in the EURODAC database determines that they have passed through Bulgaria first, even if they have not filed an asylum claim there. In 2013 and 2014, the requests made by other EU Member States to Bulgaria for possible returns of migrants were, respectively, 1,331 and 7,851, according to the SAR; for the first nine months of 2015, the requests were 7,199, indicating a significant increasing trend. The actual returns to Bulgaria under the Dublin Regulation were just under 100 in 2013 and 174 in 2014, according to Eurostat (Eurostat 2014). The reason the numbers of Dublin requests are important to assess and understand the transitioning migratory patterns through Bulgaria is that each request corresponds to a person who has used Bulgaria's territory as a transitory route. According to information from the SAR, the EU countries with the highest number of Dublin requests to Bulgaria were Germany, Hungary and Austria¹⁹.

¹⁶ Art. 29, par. 6 of the Law on the Asylum and Refugees allows asylum seekers to live at an address they choose instead of a reception centre, whereby the asylum seeker forfeits the right to housing, food and other supports.

¹⁷ Bulgarian Helsinki Committee, see footnote 15 above.

¹⁸ Ibid.

¹⁹ News from 05/01/2015, SAR, available at: <http://aref.government.bg/?cat =13&new-sid=866>.

Graph 1. Numbers of requests under the Dublin Regulation received by Bulgaria (to Sept. 30, 2015)

Source: State Agency for the Refugees, 49th Coordination Meeting, 08.10.2015.

Illegal border crossings

According to media quoting the Ministry of Interior, responsible for border management, from the beginning of 2015 until the end of July of the same year, 4,420 individuals were apprehended while trying to cross the border illegally to leave Bulgaria, which represents a fourfold increase compared to the same period in 2014 and is 46% higher than the entire number for 2014 (Blitz 2015). Other media sources state that the number of people stopped at Bulgaria's external border in 2014 was 3,009 (bTV, Sega, 2015). These numbers suggest a rapid growth of the irregular migration flows transiting the country and indicate that the trend and impact discussed in this paper will only gain in scope and importance in the near future. According to the 2014 risk analysis report by the Bulgarian Border Police (MVR 2014, p. 4), in 2013, the main entry point into Bulgaria, which is on the so-called Eastern Mediterranean migration route as a transit country on the way to the Western Europe, with Istanbul serving as a distribution hub for migrants from the Middle East and Africa into the EU, was the land border with Turkey. The number of migrants intercepted at that border reached a peak in October 2013, when 3,657 were arrested while trying to cross illegally (MVR 2014, p. 4). According to the report, the usual plan of the migrants is to avoid being intercepted by Bulgarian border police and to try to reach the inside of the country, where contact is made with organizers of the journey onwards to other EU countries (MVR 2014, p. 8). The most common exit point was the land border with Serbia, with 1,975 people stopped at exit there in 2013 (five times more than in 2012), followed by the land border with Romania with 501, also with about a five-fold increase for the same period (MVR 2014, p. 9). According to the report, in the interviews conducted by border police with the intercepted migrants, Syrian nationals, the most numerous of the illegal entrants (57%), stated that they were fleeing the war in the home country and intended to ask for asylum (MVR 2014, p. 8). Afghani nationals (17%) gave both socio-economic and political reasons; most of them wanted to receive refugee status in Bulgaria and then move on to Germany, Norway, Austria, Holland or Sweden (MVR

2014, p. 8). North African migrants crossing into Bulgaria (from Morocco and Algeria) typically gave economic reasons for their journey and had no intention of asking for asylum in Bulgaria or to remain in the country, but planned to move on to France, Italy, Sweden or Switzerland (MVR 2014, p. 8). Sub-Saharan Africans (from Ghana, Eritrea, Nigeria, etc.), on the other hand, gave socio-economic and religious reasons for leaving their countries of origin, and increasingly claimed the intention of asking for asylum and remaining in Bulgaria, but tried to leave the country illegally later on (MVR 2014, p. 8).

IV. Causes for transitory migration in Bulgaria

The described trends in the refugee flows in Bulgaria and, similarly, in the CEE region, can be partly explained with long-standing economic reasons, as well as personal ones. The majority of migrants to the region, not excepting asylum seekers and refugees, use the Eastern border region of the EU as an entry point towards the Western, more economically developed countries, where they can receive better opportunities and social supports. The long-existing and much larger diasporas from the migrants' countries of origin in the West European countries are also a substantial pull factor for migrants and asylum seekers who try to join their family members and to exercise in a legal or illegal way their granted right of family reunification. But beside these well-known and long-standing causes for transitory movements in the region underlies a deeper and more disturbing tendency. The last 2–3 years have clearly shown that the goal of reaching the common EU area with open borders and freedom of movement where countries share the same fundamental values and the Member States provide uniform high standards for the protection of refugees would be much more difficult to achieve than expected. The CEAS and its fundamental objectives of “solidarity” (achieving a more balanced distribution of asylum seekers across Member States) and “fairness” (uniform decision-making across the EU on asylum cases)²⁰ has faced some unresolved challenges, particularly evident lately in the uneven reception and treatment of asylum seekers from Syria. The case of Bulgaria is an example in this regard.

In the face of one of the world's biggest refugee crisis in recent times Bulgaria, as many other European governments, failed to respond adequately to the challenges raised. On 20 December 2013 the Council of Europe Human Rights Commissioner called for a stop on returning Syrian refugees to Bulgaria from other EU countries under the Dublin Regulation (COE HR Commissioner 2013). On 2 January 2014, due to observed systemic deficiencies in the reception conditions and asylum procedures in the country, the UNHCR also called for the suspension of all transfers to Bulgaria under the Dublin Regulation (UNHCR 2014a). On 15 April 2014 UNHCR lifted the temporary suspension, but it noted that serious gaps in the system still remained, and that there might be reasons not to transfer certain groups or individuals, in particular those with specific needs or vulnerabilities, encouraging countries to individually assess every case (UNHCR

²⁰ The solidarity and fairness principles are defined in the TFEU, art. 80.

2014b). The latest report of the COE Human Rights Commissioner, following his visit to Bulgaria from 9 to 11 February 2015 (COE HR Commissioner 2015a) reports continuous pushbacks of asylum-seekers and migrants at the border with Turkey, prolonged detention of asylum seekers at the initial stage of their entry due to legislative gaps and delay in their registrations, lack of legal aid at any stage of the administrative procedures, lack of early identification, assessment and referral system of vulnerable asylum seekers and unaccompanied minors again due to gaps in the law and practice of institutions. The annual report of the Bulgarian Helsinki Committee for 2014 (Bulgarian Helsinki Committee 2014) elaborates further on the procedural flaws in the asylum system and discrimination in the assessment of non-Syrian asylum seekers; Dublin and accelerated procedures being carried out in conditions of detention. The situation of refugees with granted status appear to be even more serious than the situation of asylum seekers, as for the year 2014 there was no integration plan adopted by the Bulgarian authorities. The year 2014 became known as the “zero integration” year (MultiKulti 2014) and the lack of integration measures continued into 2015. Correspondingly, there have been no institutional or policy grounds for the social support of foreigners with refugee or humanitarian status. Thus the motivation for leaving the country remains stronger even after receiving status, or exhausting the routes to do so.

At the end of May 2015, the European Commission proposed a new migration agenda for the EU, which envisioned the redistribution of 40,000 refugees from Italy and Greece to other Member States, and the resettlement of another 20,000; Member States would receive EUR 6,000 for each refugee redistributed or resettled (European Commission 2015). Bulgaria’s quota of 1.25%, calculated on the basis of factors such as gross domestic product and number of refugees already accepted, would amount to 788 people. The Bulgarian government’s initial reaction was one of disagreement with the assigned quota, and a demand that Bulgaria is accorded the same special status as Italy and Greece, as its geographic location close to the sources of migration made it particularly vulnerable (Darik News 2015). Later on Bulgaria supported the proposed quotas, approved by the EU interior ministers on 22 September 2015. Considering that the number of asylum seekers that Bulgaria has already received — without additional financial support per person from the EU — is much greater than the quota, Bulgaria’s initial statement and concerns should be seen as a position on principle, rather than one based on practical considerations. It speaks of the way the current Bulgarian government sees the country’s role within the EU’s migration policy: a passive position for a country, victim to its geographic location, who should be relieved of the refugee burden, rather than a leader or active participant in shaping the migration policy agenda. In this sense, it is hardly surprising that asylum seekers receive the message, directly or indirectly, that the appropriate thing to do would be to move on to another destination country, better suited and more rightfully responsible for their accommodation.

V. The impacts of the transitory migration processes on Bulgarian society

In the summer of 2013, when the first sizeable wave of asylum seekers reached Bulgaria, the Bulgarian institutions were unprepared to receive them and provide even for their immediate needs, such as food and shelter. Bulgarian society responded by stepping in with unparalleled levels of civic initiative and volunteerism, through material and monetary donations and volunteer work at the reception centres. Notably, the informal group Friends of the Refugees²¹ was formed, now numbering over 4,500 members and serving as the main hub for exchange of information on migrants in Bulgaria, organization of events and campaigns and broad-based advocacy on issues of migration and asylum. The National Coordinating Mechanism under the initiative of UNHCR was also formed in 2013. Within it, representatives of NGOs working with refugees, international organizations such as the UNHCR and the Red Cross, and the SAR have been meeting every two weeks since the autumn of 2013. The forum provides an opportunity for consultation, exchange of information and resolving issues arising from working in the field, directly with the authorities. Thus, the transitory nature of the asylum seekers' migration through Bulgaria does not seem to have deterred civil society and regular Bulgarians from providing support to the refugees; on the contrary, in some instances, Bulgarian volunteers have even assisted in connecting relatives of refugees living elsewhere in the EU in family reunification cases. It seems, however, that the transitory character of the migration flow has an impact on policy implementation and on official discourse. While it cannot be disputed that implementing an integration programme without being able to rely on the participating individuals' commitment to remaining in the country long enough to complete it would be challenging, it has also served the responsible institutions as an excuse for failures to provide any integration supports, not even language classes²². It has also provoked pejorative discourse on the part of officials: for example, in November 2014, the then-chair of the SAR Nikolay Chirpanliev commented before the media that *the refugees in Bulgaria are worse than the Roma: they are segregated, they don't want to learn Bulgarian; the rich ones want to go [to other EU countries] and [Bulgaria is] left with the Kurds, who are much worse than [the] Gypsies* (Dnevnik 2014). Lastly, the change in policy in 2014 to award refugee rather than humanitarian status to large numbers of asylum seekers fleeing the conflict in Syria, evident in the SAR decisions statistics (see Table 1 above), is rumoured (and anonymously admitted by officials) to have been aimed at facilitating their moving on and out of Bulgaria so that the Bulgarian state is not responsible for their integration. There have also been accounts, albeit difficult to investigate or prove, on the part of asylum-seekers from the African continent that any requests they make to reception

²¹ Friends of the Refugees, Public Group, Facebook: <https://www.facebook.com/groups/585850168115019>.

²² For instance, according to information, provided by the SAR in the 44th Coordination meeting on July 30, 2015, 901 of the 1,268 children and youth under 18 years of age in the reception centres were "uncaptured", i.e., not attending school or otherwise engaged in any educational activities; there were no Bulgarian classes offered in any of the reception centres.

centre management are met with hostility and urges to leave for another country; there is a perception among these asylum seekers of a deliberate policy to make the reception conditions so unbearable for them, that they choose to go elsewhere.

Conclusion

The transitory nature of the increased refugee flow through Bulgaria, and the region more generally, has important policy implications at both the national and EU levels. Domestically, with the support from EU and UN institutions, EASO and the European Refugee Fund (ERF), Bulgaria was able to improve its asylum system significantly since 2013. In spite of the still existing legislative and practical deficiencies, accommodation for up to 6,000 asylum seekers was created, technical and sanitary conditions were improved, the administration capacity of the State Agency for Refugees was increased and thus the registration and assessment process of asylum applications was accelerated. Nevertheless, the improvements in the national asylum system are very fragile and unstable, and the prognosis of a continuous increase in refugee flows, including executed “Dublin returns”, might bring a repetition of the crisis from 2013. If all EU asylum mechanisms are strictly applied, more and more people must be forced to remain in Bulgaria or the region and not use it just for transit.

Within the existing realities, will the CEE region remain transit or rather be turned forcibly into a final destination for passing refugee flows, and what would the social implications of such imposed integration be? The answer to this question is increasingly a matter of a pressing need for new interpretation of how the “solidarity” and “fairness” principles should be applied within the entire EU. The migrant crisis might be turned into a good opportunity for the re-establishment of basic values and principles of the European Union. It can provide an opportunity for positive legislative developments, but even more so for a stronger emphasis on practical co-operation and exchange of experience and expertise among Member States, in which the European civil society will play a vital role.

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