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Notat om forhold for asylansøgere og flygtninge i Bulgarien. Udarbejdet på grundlag af møder med bulgarske NGO'er den 26. og 27. august

Som følge af det stigende antal sager vedrørende Dublin-overførsel fra Danmark til Bulgarien i løbet af 2014, afholdt Dansk Flygtningehjælp den 26. og 27. august møder med NGO'er, der arbejder med asylansøgere og flygtningebeskyttelse, i Sofia, Bulgarien. Møderne blev afholdt i Sofia, Bulgarien. Indeværende notat indeholder udtalelser fra Bulgarian Helsinki Committee (BHC), og Bulgarian Red Cross (BRC), som Dansk Flygtningehjælp mødtes med. Alle udtalelser er blevet godkendt på engelsk af de omhandlende organisationer, og gengives dermed på engelsk.

BHC og BRC er UNHCRs primære implementerende partnere i Bulgarien. BRC yder blandt andet social og finansiel støtte til anerkendte flygtninge og asylansøgere og har personale tilstede i de statsdrevne asylcentre. BHC yder juridisk rådgivning til asylansøgere i forskellige faser af asylproceduren i Bulgarien. De indgår tillige en treparts aftale med immigrationsmyndighederne og grænsepolitiet omkring Dublin-returnees.

Access to the asylum procedure for Dublin-returnees and risk of detention

According to the BHC Dublin-returnees usually arrive at Sofia Airport, where they are met by the Bulgarian Border Police. Prior to their arrival the State Agency for Refugees (SAR) informs the Border Police of the expected arrival, and whether the returnee should be transferred to SAR or to the Ministry of Interior, e.g. a detention facility.

The BHC states that the procedure for the returnee depends on the RSDP (refugee Status determination procedure) stage of his or her asylum case in Bulgaria:

- If the returnees have a pending asylum application in Bulgaria they will be transferred to SAR. The SAR usually stops the procedure when an asylum seeker leaves Bulgaria during the asylum procedure. Previously, Dublin-returnees had great difficulties in getting their case reopened once it had been closed. But according to the BHC this is currently not a problem.
- If the asylum application was rejected before leaving Bulgaria the returnee will be transferred to one of the detention facilities – usually Butsmansi. Parents with children are either detained with their children or separated from their children, who are then placed in child care/orphanage institutions while their parents are detained.

- If the returnee have received a rejection of his/her asylum application in absentia, they will be served with this decision in the airport, and thus have the normal two-week timeframe to appeal the decision. The BHC therefore considers that applicants in this situation will not be transferred to detention facilities in spite of the rejection of their asylum application.
- If the returnee has never lodged an application in Bulgaria, but is returned under the Dublin Regulation due to his or her illegal entry into Bulgaria, BHC considers it most likely that the returnees will be transferred to the Elhovo detention facility for physical registration of the asylum application. BHC stresses that it is important that returnees without prior registration of their asylum claim in Bulgaria state to the Border Police that he or she has applied for asylum in another member state, and re-apply for asylum in Bulgaria, in order not to be considered an illegal migrant and to avoid detention. In general however, it is the perception of the BHC that no asylum seekers have been released from detention after having been fingerprinted for illegal entry without also having applied for asylum. The BHC therefore assesses that even though a returnee is formally accepted under article 13 of the Dublin-Regulation – indicating no prior asylum application in Bulgaria – that person most probably already has been given an application number in Bulgaria, but has just not been registered properly. This issue arises because there is a gap between the lodging of an asylum application and the physical registration of that application. Despite of the illegality of the gap, this is an on-going practice in Bulgaria.

BHC visits the airport on a weekly basis, and is informed on returns pursuant to the Dublin regulation and the Return directive. Consequently, BHC tries to follow up on the cases through their visits in detention facilities and the asylum centers. However, the follow-up is difficult, if the person is not accommodated by the authorities.

According to the statistics of the BHC, 17 persons were returned pursuant to the Dublin regulation in July 2014. Furthermore, 11 persons with humanitarian protection in Bulgaria (equivalent to subsidiary protection) were returned the same month. In June 2014, the number of Dublin-returnees was 10, and in May 2014 only 4 persons were returned under the Dublin-Regulation. The numbers for April and March 2014 were 6 and 18 respectively. BHC states that in general very few scheduled transfers have been carried out over the last year. The total number of Dublin-returnees for 2013 was 101, since these were Dublin II transfers; the number includes 11 persons with subsidiary protection in Bulgaria.

The Bulgarian Red Cross (BRC) also states that the current number of Dublin-returnees to Bulgaria is very low. At a recent coordination meeting between SAR, the UNHCR, BRC and other NGOs, SAR informed that they had received 3900 requests for transfers within this year. However, so far only 50-60 notifications of acceptance by the Bulgarian authorities have resulted in actual transfers to Bulgaria from other Member States. When a person is returned to Bulgaria pursuant to the Dublin-regulation, SAR will evaluate whether the person's case is still pending. If the case is still pending, it will be opened for further processing of the asylum application.

Reception conditions for Dublin-returnees

According to the BHC, asylum seekers lose their right to accommodation pursuant to the internal regulation of SAR, if they have left an asylum center for more than three days. This also applies to Dublin returnees, if they were accommodated during their ~~prior~~ previous stay in Bulgaria. However, according to the BHC vulnerable applicants will in practice be accommodated upon return in spite of this practice. Since there is no procedure to assess vulnerability, 'vulnerable applicants' will in practice only apply to families with small children, unaccompanied children or pregnant women.

According to the BHC, people who have previously signed a declaration stating that they have an 'external address', have waived their rights to accommodation and social benefits while in the asylum procedure. If a person signed such a declaration before leaving Bulgaria, this declaration still applies, if he/she is returned to Bulgaria under the Dublin-Regulation, and will therefore not be able to access accommodation in an asylum centers or social benefits upon return.

According to both the BHC and the Bulgarian Red Cross (BRC), the conditions in the seven asylum centers run by the State Agency for Refugees (SAR) have improved significantly since the fall 2013. The BHC states however, that the conditions are still problematic, especially in the oldest center Ovcha Kupel. Ovcha Kupel is one of the SAR facilities that Dublin-returnees are referred to.

According to the Bulgarian Red Cross (BRC), asylum seekers who have left the SAR run centers are viewed by the Bulgarian authorities as having waived their rights to accommodation and social benefits, even though they have not signed a declaration. Dublin-returnees are therefore generally not accommodated in asylum centers upon return to Bulgaria, if they were accommodated by SAR prior to leaving Bulgaria. The BRC states however, that vulnerable applicants are usually exempted from this practice, and thus are usually accommodated. As 'vulnerability' is not clearly specified in any internal regulations, this practice will primarily concern people with small children. Even though families might be accommodated upon arrival, the BRC states, that there are no sustainable solutions at the moment for this group either, as they are not secured accommodation for a longer period of time.

It is the experience of the BRC that when returnees – and other asylum seekers – who cannot cover their own living expenses are not able secure accommodation in an asylum center, they either try to live in the asylum centers 'illegally' or live in the streets or in rundown buildings without electricity and running water. The BRC see a tendency that asylum seekers - or people who have been granted asylum in Bulgaria - of Syrian nationality seek to find acquaintances or friends with permission to stay in an asylum center and stay with them. Without permission to stay in an asylum center they do however not have access to benefits and basic health services. People of Afghan nationality in the same situation usually stay in groups in shattered buildings around Sofia.

According to the BRC, SAR stated at a recent dialogue meeting with the UNHCR and Bulgarian NGOs that approximately 130 Syrians currently stay in Voenna Rampa [a SAR driven asylum centre] without permission. So far their presence has been tolerated by the camp management due to lack of alternatives. But in order to secure places for new arrivals SAR was considering having them removed by the police.

People with international protection in Bulgaria

Pursuant to the Bulgarian law people who have been granted refugee status or granted subsidiary protection have the right to stay in an asylum center up till six months after having been granted asylum in Bulgaria. However, according to the BRC people 'with status' who are returned to Bulgaria after having lodged an asylum application in another member state do not have the right to accommodation. In practice this group is left without any assistance from the Bulgarian authorities upon return. Families with small children can however get some assistance - for a short period of time – primarily by being accommodated in an asylum center depending on availability. BRC emphasizes that these short term solutions for families by no means are sustainable, and points to the lack of an integration program with allocated funds as a major concern for the protection of people who have been granted asylum in Bulgaria.

According to the BRC, there is currently no functioning integration program in Bulgaria. The previous government adopted a strategy plan for 2014 and onwards, which currently lacks to be followed up by an action plan with allocated funds. However, the process of adopting an action plan is presently 'on hold' as the current interim government will not address the subject prior to the elections in October. Depending on the results of the upcoming elections the BRC expects that the process of adopting an action plan will continue, but fears that this may be a time-consuming process. One of the consequences of the lack of an integration program is that people who are recognized as refugees or granted subsidiary protection in Bulgaria generally stay in the asylum centers for more than the allowed six months. Currently many are allowed to do so on an ad hoc basis, but the BRC stresses that it is not a sustainable solution, and that it causes problems for new arrivals. The lack of an integration program means that the municipalities currently do nothing to support or assist refugees.

In the absence of public initiatives for people who have been granted asylum, people depend on finding a job without assistance, which is very difficult for persons who have recently entered Bulgaria and who do not speak Bulgarian. Therefore it is very difficult to survive in Bulgaria after receiving status. BRC further stresses, that a family with several children cannot survive in Bulgaria on one salary alone, but without real possibilities to integrate in the Bulgarian society and enroll children in daycare facilities or school it is more than difficult for parents to access the labor market.

In order to access the public health system, BRC states, that people who have been granted asylum must pay for a health insurance. Even though it is not expensive, very few are able to pay this amount, and are therefore in practice cut off from accessing health

care other than emergency assistance. NGOs such as the BRC and the Council for Refugee Women in Bulgaria seek to assist this group in accessing public services. According to the BRC asylum seekers and refugees rely on assistance from national communities or networks in order to survive in Bulgaria. However, since immigration from the countries asylum seekers currently originate is somewhat new, people who have been granted asylum are generally without network in Bulgaria.

According to the BRC, there are no official numbers on the percentage of children from families with refugee status or subsidiary protection who is enrolled in schools, but the BRC estimates that less than one in five children were enrolled for the new school year in August this year. BRC mentions several obstacles for the enrollment of refugee children in the Bulgarian school system. Some of the obstacles relate to the official requirements that the child must pass a Bulgarian language course prior to the enrollment in school, and that the family must be registered with a formal address. In some regions of Bulgaria a SAR driven asylum center is recognized as a formal address, while in other regions only external addresses are recognized. Unless the family provides documentation for the child having passed prior years in school, the child must start in first grade not regarding the age of the child. Furthermore, although attending primary school is free of charge in Bulgaria, covering the costs of extra obligatory books, notebooks, school lunch etc. can be an obstacle for the enrollment of children. Finally, since most refugees cannot imagine a future in Bulgaria, due to the severe difficulties in sustaining their livelihood, some parents are reluctant to enroll children in school even if they do have the resources to do so.

Sources

Meeting with Antoaneta Dedikova, Legal consultant, and Mariana Andreeva, lawyer, Refugees' and Migrants' Legal Protection Programme, Bulgarian Helsinki Committee, 27 August 2014.

Meeting with Mariana Stoyana, Program Manager and Vania Puleva, deputy program manager, Refugee-Migrant Service, the Bulgarian Red Cross 26 August 2014.