

Asylum difficulties in Bulgaria

Some information about the asylum procedure in Bulgaria

**Initiative for Solidarity with Migrants in Sofia
2013**

European Union

Bulgaria is a member of the European Union. Currently there are 27 member states in the EU: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, the United Kingdom.

The **asylum policy** of those 27 member states is heavily coordinated. That means if you apply for an asylum in one member state each one of them is going to be informed about your application.

Nevertheless, the **asylum procedures** are different in those 27 countries. They can last different periods of time.

Most important, the right to asylum is a universal right. It belongs to everybody. Usually, in each member state there are local groups, sometimes very small, who support asylum seekers and organize political work in solidarity with them.

Dublin 2 Regulation

The most important regulation with regards to the coordination of the asylum policy in the European Union is the Dublin 2 Regulation. Additionally, *Iceland, Norway and Switzerland*, who are not members of the EU apply the Dublin 2 Regulation.

According to Dublin 2, each person can apply for asylum in **only one** of the EU member states. This is thought to be the country of the **first entry into the EU**. If you can reach a second EU member state afterwards, you will be **sent back to the country of your first entry**, if:

- you have already given your fingerprints in the country of your first entry.
- you tell the police in the second country that you have already traveled through another EU country even without giving your fingerprints.
- if there is other information you have already been to another EU country.
- you have been issued a visa for another EU country.

If you want to join a husband, wife or a child who are an asylum seeker or a recognized refugee in another EU member state you should go to this country, if you wish.

The Schengen Agreement

In addition to the Dublin 2 Regulation, there is also the Schengen Agreement within the European Union. Most of the EU member states are parties to the Schengen Agreement as well.

Ireland and the United Kingdom are not members of Schengen.

Bulgaria, Romania and Cyprus are expected to join Schengen too.

Iceland, Liechtenstein, Norway and Switzerland apply the Schengen rules as well.

The citizens of the Schengen countries can move within the Schengen area without being checked at the border when they travel by car. They are always checked when they arrive at the airport. They are usually checked when they travel by bus.

The border coordination among the Schengen countries is even stronger. If you are granted a Schengen visa you can travel freely within the whole Schengen area.

The *asylum seekers* are not allowed to move within the Schengen area while they are in a procedure. People with *humanitarian status* are usually required a visa to enter a Schengen country. It can cost 60 Euro or so. You should check this information with the embassy of each country. According to the Geneva Refugee Convention (1951) people with *refugee status* can apply for an international refugee identity card (passport) which they can use for traveling abroad. They can apply for a Schengen visa on the basis of this international passport.

Procedure in Bulgaria

Protection status in Bulgaria:

- a refuge (given by the President to persons who are persecuted because of their political activity)
- temporary protection (given by the government to groups of people who are fleeing their country because of an armed conflict, massive violation of the human rights in their country, civil war, etc.)
- refugee status (given by the State Agency for Refugees)
- humanitarian status (given by the State Agency for Refugees)

After crossing the border:

Until the State Agency for Refugees **registers** you as an asylum seeker, you are going to be treated as an „illegal” person. **According to Article 279(5) of the criminal law in Bulgaria, asylum seekers are PROTECTED from criminal prosecution when crossing the borders without permission!!!**

Instead, the asylum seekers arrested at borders are put into prisons and are held as criminals under the charge of Article 279(1) of the criminal law, which is the charge of illegal border crossing. That „crime” comes with a maximum sentence of 5 years. Usually, you are held in **a prison** in Lyubimetz, close to the Greek-Turkish border, or in Busmantzi, close to Sofia, waiting for deportation. Some people are held in an „open” centre in the village of Pastrogor, close to the Greek-Turkish border (e.g. minors, pregnant women etc. but not aways).

If you got arrested for illegal crossing for the **first time**, you will be told by a prosecutor to sign an „agreement” (a deal) with the court. In most cases this ends with a probationary („not real”) sentence from 4 months prison to a year in prison. In the same time, the law ensures a right of asylum and **by starting a procedure** at the State Agency for Refugees the charges for illegal crossing automatically fall off.

START YOUR APPLICATION PROCEDURE AS SOON AS POSSIBLE! (see next section)

Asylum application:

The asylum application should be submitted without any delay; otherwise it might be rejected as manifestly unfounded.

The asylum application may be submitted through any state organ (for example the Border Police or the Migration Office in cases of irregular entry or the prison you are held), who are obliged to immediately report it to the State Agency for Refugees.

The asylum application may be in written or oral form. It is recommended that the asylum application is submitted in written form and that the state body is asked for an entry number from its registrar, which serves as proof of submission.

The asylum application may be written in a language that you speak or write. The State Agency for Refugees is able to translate it. It is recommended that the application clearly states that it is addressed to the State Agency for Refugees in the upper right corner of the paper write ДАБ (ДАБ is the abbreviation for ‘State Agency for Refugees’ in Bulgarian). Remember to write your name, your country of origin and your current location, also, write clearly that you are applying for protection in Bulgaria. (from the *Brochure „Regulation&Asylum” in Bulgaria, 2012*)

The people at the border or in prison are obliged to forward it to the State Agency for Refugees as quickly as possible. In Bulgaria there is a time gap between **the submission and the registration** of asylum applications. You are regarded as an asylum seeker **after** the State Agency for Refugees registers you as an asylum seeker. If there is an **expulsion** ordered against you, it **can be executed** during the time gap.

If the State Agency has not registered you as an asylum seeker **within two weeks** of the day they received your asylum application, you have the right to appeal their inaction before the **Sofia City Administrative Court**.

The State Agency for Refugees

General:

If you possess any personal documents (passport, id card etc.), they will be taken away from and kept in the Agency till the whole procedure is over. Instead they are going to give a temporary „blue” document.

If you are 14 or more years old, they are going to take your fingerprints. In this way, all countries in the European Union will have your biometric data and can follow your steps on the territory of the EU. (See section „Fingerprints”).

Competence:

First, the State Agency for Refugees is going to check whether you are allowed to apply for a status in Bulgaria (See section „Dublin 2 Regulation). If they refuse to accept your application in Bulgaria, you are going to be sent to another country. You can appeal this decision in front of the Sofia City Administrative Court not later than **seven days** after they hand it out to you before the **Sofia City Administrative Court**. You must submit your appeal through the State Agency for Refugees.

Procedures:

After announcing that Bulgaria is competent for processing your application, the State Agency for Refugees will start with the procedure.

„accelerated” procedure – the administration is going to decide within **three days** whether they are going to continue with the regular procedure or are going to refuse your application in general.

During your interview, you have the right to an interpreter in a language which you understand. Unfortunately, according to the law in Bulgaria, if they don't find such interpreter they are going to organize the interview in a language they think you understand.

You can appeal the decision of the Agency not later than **fourteen days** after they hand it out to you before the **Sofia City Administrative Court**. You must submit your appeal through the State Agency for Refugees. The judgement of the Court is final.

„regular procedure” – the decision on your asylum application is going to be taken within **three to nine months**.

You can appeal the decision of the Agency not later than **seven days** after they hand it out to you before the **Sofia City Administrative Court**. You must submit your appeal through the State Agency for Refugees. You can appeal this judgement before the Supreme Administrative Court of Bulgaria.

During your procedure you can:

- be informed about your procedure
- have a translator, interpreter
- stay in one of the open „reception” centers in Ovcha kupel, Sofia, or in the village of Banya, Eastern Bulgaria.
- receive 65 lv. (32 Euro) per month
- have a health insurance equal to the regular public health insurance of the Bulgarian citizens
- search for a job, if your procedure continues longer than one year because of administrative reasons

If your procedure has been aborted (because you do not go to your interview, change your address without telling this to the Agency or do not „cooperate” with the Agency about the reasons why you left your country) you are going to be left out of the reception centers or will not receive the 65 lv. You can appeal this decision in front of the Sofia City Administrative Court not later than **seven days** after they hand it out to you before the **Sofia City Administrative Court**. You must submit your appeal through the State Agency for Refugees.

During your procedure you are not allowed to enter the border zone of Bulgaria without a special permission.

Taking your fingerprints:

If you are 14 or more years old, they are going to take your 10 fingerprints when you submit your application for asylum. Your fingerprints are going to be kept in Bulgaria and will be sent to all countries in the European Union for the next 10 years. There is a European data base system called Eurodac where your data are going to be kept. (See Section „Dublin 2 Regulation”).

If you are under 14 and there is no immediate proof of your age, you are going to be examined by a doctor. You can refuse this medical examination. Your refusal cannot stop you from continuing with the asylum procedure.

If you do not want to apply for an asylum in Bulgaria, they usually take your fingerprints as well.

The institutions which take the fingerprints are: The Border Police, The Section „Migration of the Ministry of Interior”, The State Agency for Refugees.

The fingerprints should be deleted from the local and European data base when a person: becomes a EU citizen; receives a residence permit; leaves the territory of the EU.

„Voluntary” return and the case of deportation:

The refugee policy in Bulgaria and in Europe as whole is **generally oriented** towards return.

During the time of your application procedure (or even after receiving a refugee status), you could be “offered” a special „voluntary return program” in cooperation with the International Organization for Migration. In this case, your plane ticket is going to be paid by the European Union/IOM and you are going to receive some financial assistance. Once you sign the papers, you can lose your right to asylum or asylum application in Bulgaria/EU for the coming years.

After your application procedure is over and you did not receive a status, are going to be offered the “possibility” to voluntary return to your country. If not, you are going to be deported to your home country, to a transit country, which the EU has a readmission agreement with, or a third country at your wish, if this country agrees to. The European Union forbids the re-entry of a deported person into its territory for **five** years. Because of humanitarian reasons this period could be shorter. If they consider you a “security threat”, it could be longer.

Unauthorized crossing the border for the second time:

If during your application procedure in Bulgaria, you decide to cross the border again to try to reach another EU or your home country and they catch you at the border, you will be sent to the regular prison as a „convicted criminal”. According to Article 279(2) of the criminal law you could be held inside for up to six years.

This time, also the first probationary sentence (see section „After crossing the border”) comes into force in addition with the second sentence. Usually you will serve between 8 months and 1.5years.

Unaccompanied migrants:

If you are an unaccompanied minor, the member state where your parent or parents reside is responsible for your asylum application.

Detention is explicitly prohibited for vulnerable persons such as minors and unaccompanied minors, pregnant women and persons with psychological and physical disabilities. The Law on Asylum and Refugees contains a general provision that in the asylum procedure due account should be given to the vulnerability of persons. The accelerated procedure for manifestly unfounded applications cannot be applied to unaccompanied minors. Their asylum applications should be examined in a regular procedure.

According to the law, unaccompanied minors are appointed legal representatives and are accommodated with relatives, host families or other specialized institutions. However, in reality this provision is not applied. (from the *Brochure „Regulation&Asylum” in Bulgaria, 2012*)

Contacts for possible legal advise:

LEGAL CLINIC FOR REFUGEES AND IMMIGRANTS

Free legal help and counseling

Address: 1582 Sofia, 130 Prof. Tsvetan Lazarov blvd., office No.9

Phone: +359 888 401 489

Email: lcribg@gmail.com , valeria.ilareva@gmail.com

http://Website: www.lcrien.wordpress.com

Call for an appointment first!

Visits to the immigration detention centre.

BULGARIAN HELSINKI COMMITTEE

Refugees' and Migrants' Legal Protection Programme

Free legal counseling

Address: 1000 Sofia, 1 Uzundjovska Street

Phone/Fax:+359 2 988 0057, +359 2 981 3318

E-mail: refunit@bghelsinki.org

Website: <http://www.bghelsinki.org/en/>

**FOUNDATION ‘CENTER FOR LEGAL AID – VOICE IN BULGARIA’
(CLA)**

Free legal counseling

Address: Sofia 1000, 5 Б Triaditsa Str., floor 2, office 226

Phone/ Fax: + 359 29810779 ; GSM: + 359 894 760180

Email: daskalova.diana@gmail.com

Website: <http://www.centerforlegalaid.com/>

Reception hours: Every Thursday, 10:00 - 12:00 AM