

Deliversky Jordan Georgiev

Deliversky, Jordan Georgiev, Chief Assistant Professor, PhD., The University of Library Studies and Information Technologies, Sofia, Republic of Bulgaria

Assuring security of migrants and refugees – Bulgarian perspective

Summary

The presence of a refugee wave often results in negative consequences for the receiving refugee countries. Typically, a refugee is forced to leave his country of origin due to a legitimate fear of persecution and could seek protection under international law. Migration is the movement of people from one place to another for the purpose of permanent or non-permanent residence, usually by crossing a national border.

Migration policy has as its aim to ensure an effective management of migration flows, fair treatment of citizens and provision of an area of freedom and security for everyone.

This article focuses on protection mechanisms provided in Bulgaria, as well as main characteristics of the right to personal freedom and security, which should be respected by all countries, as regulated by international legal instruments for protection of human rights.

Keywords: security, migrants, refugees, protection, legislation

Successful management and regulation of migration processes is an important tool for the development of each country and the migration and integration of immigrants as a key moment at national, regional and global level.

The word “migration” originates from Latin – *migratio*, *migro*, meaning relocating, migrating. Migration is related to a change of permanent residence. It is not just a movement of people but a complex social process that affects many countries, the socio-economic life of entire communities and individuals. Migration is the movement of people from one place to another for the purpose of permanent or non-permanent residence, usually by crossing a national border.

Migration flow is the process of movement of parts of the population at the same time from one geographic territory to another. The strength of a migration flow depends on two conditions: the number of population in the regions between which migration flows occur and their location [1, p. 2, 6].

Migration policy aims to ensure effective management of migratory flows, fair treatment of citizens and the provision of an area of freedom and security for all everyone.

The presence of a refugee wave often results in negative consequences for the receiving refugee countries. Typically, a refugee is forced to leave his country of origin due to a legitimate fear of persecution and seeks protection under international law.

The international regulatory system for refugees and migrants protection includes a number of international instruments, including the Convention on the Status of Refugees, adopted on 28th of July 1951 in Geneva; The Protocol on the Status of Refugees, adopted on 31st of January 1967 in New York; The Statute of the United Nations High Commissioner for Refugees (UNHCR), approved by the United Nations General Assembly on December 14th 1950, as well as international law relating to the protection of human rights.

The Convention relating to the Status of Refugees is the cornerstone of international refugee law. The Convention lays down basic minimum standards for the treatment of refugees, without prejudice to States granting more favourable treatment [2]. It sets out the conditions under which a refugee loses his status, identifies the persons to whom the Convention applies and those to whom it does not apply. The Convention does not apply to those for whom there are serious reasons for considering that they have committed war crimes or crimes against humanity, serious non-political crimes, or are guilty of acts contrary to the purposes and principles of the United Nations. The Convention also does not apply to those refugees who benefit from the protection or assistance of a United Nations agency other than UNHCR. The Convention does not apply to those refugees who have a status equivalent to nationals in their country of asylum. The Convention prohibits the expulsion or forced return of persons who have obtained refugee status. The right of the refugee to be protected against forcible return or expulsion to

the border of the territory where his or her life or freedom was threatened is regulated in art. 33, item 1 of the Convention. States are required to abide by the ban on expulsion or return. The Geneva Convention identifies possible legal regimes for refugees, including the rights and obligations of refugees with regard to the country that granted them the right to asylum. Given the fact that the Convention was created after the World War II, the definition of refugee refers to persons who have become refugees “as a result of events occurring in Europe before 1 January 1951[3].

Over time, it appears that the flow of refugees is not only temporary – as a result of the World War II, but also due to other events related to new migration flows. As a result, the 1967 Protocol on the Status of Refugees, which abolishes the time and geographical constraints contained in the Convention, was adopted in New York.

The Geneva Convention and the New York Protocol provide for the criteria for a person to be recognized as a refugee, the conditions under which he ceases to be a refugee and the circumstances in which he is excluded from the scope of the Convention, The definition of refugee. The Convention regulates the legal status of refugees, their rights and obligations in the country of asylum, as well as the principles and criteria for individual and group refugee status determination [4, p. 3].

In 1949, the General Assembly, in its Resolution 319 (IV) of 3 December, decided to establish Office of the High Commissioner for Refugees (UNHCR). According to the Charter approved by the UN General Assembly with Resolution 428 (V) of 14.12.1950, the High Commissioner is completely apolitical and decides humanitarian and social problems for groups and categories of refugees.

High Commissioner authorized by the UN General Assembly, assumes the function of providing international protection under the auspices of the United Nations refugees who fall under the Statute and of seeking permanent solution to the problem of refugees by assisting governments and, with approval of the respective governments, private organizations to facilitate the voluntary repatriation of such refugees, or their assimilation within new national communities, and denial of their forced vrashtanet in the country where they had a well-founded fear of persecution. The main categories of persons benefiting from UNHCR's protection are: refugees and asylum seekers; Stateless persons; Voluntary returning refugees in the country of origin; Internally displaced persons in the country of origin; And persons in a risky situation. Initially, the Office was set up as a temporary institution for a three-year term, its mandate extended for five-year periods. By UN General Assembly Resolution 58/153 of 22 December 2003, the mandate of the Office of the High Commissioner for Refugees was extended for an indefinite period of time to resolving refugee problems.

The Constitution of the Republic of Bulgaria since 1991 regulates the mechanisms of protection of foreigners in our country. The types of protection provided

in the Republic of Bulgaria to persons who left their country for humanitarian reasons or because of persecution are also prescribed in the Basic Law.

The main legal act directly related to persons seeking protection on the territory of the Republic of Bulgaria is the Law on Asylum and Refugees. The law has been in force since 1 December 2002 and it repeals the Refugees Act of June 11, 1999.

The Bulgarian law on Asylum and Refugees is in line with international legal instruments in the field of the protection of fundamental rights and freedoms of foreign citizens. The main purpose of the legal act is to ensure the application of the relevant European legal instruments in Bulgarian internal legislation [5]. When drafting the law, the provisions of all EU Directives, Conventions and Regulations that have been signed and adopted by our country.

The main purpose of legal regulation of procedures are the rules for the protection of persons seeking refugee status in Bulgaria. The Agreement between the Government of the Republic of Bulgaria and the United Nations High Commissioner for Refugees, signed in 1993 contains the basic conditions under which the Office of the United Nations High Commissioner for Refugees, in the framework of its mandate cooperates with the Government of the Republic of Bulgaria, establishes a bureau in the country and performs its functions of international protection and humanitarian assistance in favour of refugees and other Persons for whom the Office of the United Nations High Commissioner for Refugees carries out in the host country. The United Nations High Commissioner for Refugees through its representative in the Republic of Bulgaria has the right to information and to access to each step of the refugee status, humanitarian status and temporary protection status. He can get acquainted with each particular case and give written or oral feedback on it [6].

The Law on Boundaries in the Republic of Bulgaria determines the conditions and order under which foreigners can enter, reside and leave the Republic of Bulgaria. For the purposes of national law, a foreigner is any person who is not a Bulgarian citizen. Foreigners in Bulgaria have all rights and obligations, except those for which Bulgarian citizenship is required. This conclusion is based on both the Bulgarian laws and the ratified international treaties to which the Republic of Bulgaria is a party [7].

In Bulgarian national legislation, there is a special legal act, which determines the conditions and order in which protection is granted to foreigners located on the territory of Bulgaria. This is the law on asylum and refugees, which was promulgated in the State Gazette in 2002. Under this law, the country can grant asylum seekers alien asylum and two types of protection – international protection and temporary protection. International protection is granted under the 1951 Convention relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees.

Temporary protection is provided in case of mass influx of foreigners who are forced to leave their country of origin due to armed conflict, civil war, alien aggression, human rights violation or violence.

The President of the Republic of Bulgaria provides asylum. Asylum is given to aliens persecuted for their beliefs or activities in defence of internationally recognized rights and freedoms. The President also provides asylum when he determines that national interest or special circumstances require so.

A refugee status in the Republic of Bulgaria is granted to foreigners who, due to legitimate fears of persecution based on race, religion, nationality, political opinion or belonging to a particular social group, is outside of his country of origin and for that reason can not or do not want to seek protection from the State or to return to that State. For granting of refugee status, it is irrelevant whether the foreigner belongs to race, religion, nationality and social group or expresses the political opinion underlying the persecution. It is enough for the body or organization pursuing the persecution to believe that the foreigner has such an affiliation.

Humanitarian status can be granted to a foreigner who does not qualify for refugee status. The person to whom a humanitarian status is granted can not or does not wish to receive protection from his country of origin, as he may be exposed to a real risk of serious harm.

A request for asylum lodged by foreigner at the State Agency for Refugees will be forwarded immediately to the competent authority – to the President of the Republic of Bulgaria.

Bulgarian migration policy is based on the principles of protection of migrants' human rights, democracy and the rule of law. The country's migration policy is in line with general trends in global, regional and community spheres, but mostly with the national interest of the country.

The State is taking action to improve the integration conditions of migrant and refugees in Bulgaria, respecting the principles of legality, expediency, effectiveness, transparency, flexibility, partnership, monitoring and control. The full integration of third-country nationals in Bulgarian society could be achieved through the targeted activities via immigrant-related institutions, the media, local authorities, workers' and employers' organizations and employers' organizations, NGOs, the academic community.

Bulgaria adopts multilateral approaches in addressing important development and security issues and reinforces the interdependence between policies taken at national and international level. Migration policy in the country leads to respect, tolerance and appreciation of the positive contribution of migrants as part of Bulgarian society.

References:

- Hugo, Graeme. What we Know About Circular Migration and Enhanced Mobility. – In: MPI Policy Briefs, Washington, DC: MPI, September 2013, p. 2, 6.
- United Nations, Convention relating to the Status of Refugees, 1951.
- Nojarov, Sht., Refugee Law, Handbook for service lawyers providing legal services to people seeking protection under refusal in the course of court proceedings, State Agency of Refugees supported by The European Refugee Fund and “Forum” association, 2012, 1–151 [in Bulgarian].
- State Agency for Refugee, Refugees in the Context of general migration processes. International system for protection of refugees, p. 3 [in Bulgarian].
- Law on Asylum and Refugees, Published in State Gazette No. 54 of May 31st, 2002.
- National strategy in the field of migration, asylum and integration, 2015–2020 [in Bulgarian].
- Law for the foreigners in the Republic of Bulgaria, Published in State Gazette No.153 of December 23th, 1998.