

## Information documents

SG/Inf(2024)2

30 January 2024

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**Report of the fact-finding mission to Bulgaria by  
Ms Leyla Kayacik  
Special Representative of the Secretary General on  
Migration and Refugees  
11-14 September 2023**

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## I. INTRODUCTION

### I.1 CONTEXT OF THE MISSION

1. The date of 24 February 2023 marked one year since the Russian Federation began its aggression against Ukraine<sup>1</sup>, which has resulted in the largest human displacement crisis in Europe today and with millions of people reaching the borders of many of the Council of Europe's member states. As the aggression by the Russian Federation continues unabated, the millions of people who were forced to flee their homes in Ukraine are still in need of protection and sanctuary. For those countries receiving people from Ukraine, especially where the numbers are high, it is evident that the human rights situation will remain a challenge.
2. In 2022 and 2023, the Special Representative of the Secretary General on Migration and Refugees (SRSG), in accordance with her mandate<sup>2</sup>, conducted six fact-finding missions in the context of Russia's ongoing aggression against Ukraine, to the Slovak Republic, the Czech Republic, Poland, the Republic of Moldova, Romania and Hungary, each of which resulted in a report<sup>3</sup>. The SRSG also engaged in various exchanges and consultations within the Council of Europe and has been in close contact with members of the Network of Focal Points on Migration<sup>4</sup> from all member states, representatives of relevant international organisations<sup>5</sup> and NGOs.
3. Although Bulgaria does not share a border with Ukraine, as of 31 December 2022, 997 344 people had entered Bulgarian territory after fleeing Ukraine, 149 268 of whom had been registered as beneficiaries of temporary protection. On the same date, 49 704 people had remained in the country<sup>6</sup>.
4. In parallel, the number of foreign nationals entering Bulgaria from countries other than Ukraine, particularly via the borders with Türkiye and Greece, has risen sharply in recent years, from 3 487 in 2020 to 16 767 in 2022<sup>7</sup>. Over the same period, the number of people seeking international protection rose from 3 525 to 20 407<sup>8</sup>. The main countries of origin of these migrants and asylum seekers are, in this order, Syria, Afghanistan, Morocco and Iraq. The purpose of this report is therefore to examine the situation of the people who have fled Ukraine, as well as that of other migrants.

<sup>1</sup> A speech given by Marija Pejčinović Burić, Secretary General of the Council of Europe, at the ceremony organised in Strasbourg to mark the passing of one year since the start of the Russian aggression against Ukraine [Solemn ceremony: "United for Ukraine - honouring the unbreakable spirit of Ukrainians in face of Russia's aggression" - Secretary General \(coe.int\)](#).

<sup>2</sup> [Mandate of the SRSG](#).

<sup>3</sup> See [the SRSG web page](#) for mission reports for each country.

<sup>4</sup> [The extraordinary online meeting of the network of Council of Europe correspondents on migration, held on 9 March 2022](#).

<sup>5</sup> [The online meeting with representatives of UNHCR, IOM, UNICEF, the Office of the High Commissioner for Human Rights \(OHCHR\), the EU Fundamental Rights Agency \(FRA\), the European Asylum Agency \(EUAA\) and OSCE/ODIHR, held on 8 April 2022](#).

<sup>6</sup> See also the real-time figures from the government website <https://ukraine.gov.bg>. For detailed data, see [the State Agency for Refugees' website](#).

<sup>7</sup> Figures taken from the 2022 update of the [Asylum Information Database, European Council of Refugees and Exiles, Country Report: Bulgaria](#). On the number of irregular border crossings, see [the Frontex website, EU's external borders in 2022: Number of irregular border crossings highest since 2016](#).

<sup>8</sup> Figures taken from the Asylum Information Database, European Council of Refugees and Exiles: [Statistics - Asylum Information Database | European Council on Refugees and Exiles \(asylumineurope.org\)](#). For 2023 data, see [the State Agency for Refugees' website](#).

5. Bulgaria is located on the Western Balkans and Eastern Mediterranean routes. It is a transit country for many migrants from the Middle East and Afghanistan, on their way to Western Europe. However, with the arrival in Bulgaria of large numbers of Syrian nationals, many of whom are seeking international protection locally, Bulgaria is also facing the challenges of a host country. As an external border of the European Union, Bulgaria has made its accession to the Schengen area a priority objective and, to this end, intends to strengthen its border controls and improve its asylum procedures<sup>9</sup>.
6. It was against this background that the SRSG conducted a fact-finding mission to Bulgaria from 11 to 14 September 2023<sup>10</sup>. In line with her previous fact-finding missions, she set herself the goal of determining what support the Council of Europe could provide to the Bulgarian authorities in order to meet the challenges posed by the arrival of large numbers of people from Ukraine, but also from other countries, with a particular focus on people in vulnerable situations, especially unaccompanied or separated children. To this end, she has engaged in a constructive dialogue with the Bulgarian authorities she met during her mission and intends to continue this dialogue.

## **I.2. DATES AND DELEGATION**

7. This report describes the legal and institutional framework concerning migration and asylum in Bulgaria, access to international protection, reception and protection of asylum seekers, the fight against the smuggling of migrants and trafficking in human beings, and immigration detention. A specific chapter is devoted to people who fled Ukraine following Russia's aggression against Ukraine.
8. The recommendations on possible support to the competent authorities are issued within the framework of the Council of Europe Action Plan on the Protection of Vulnerable Persons in the Context of Migration and Asylum in Europe (2021-2025). The aim is to ensure that human rights are preserved and that safeguards against refoulement, ill-treatment, exploitation, abuse and trafficking in human beings are in place.
9. As the situation of children, particularly those who are unaccompanied or separated, was a priority of the fact-finding mission to Bulgaria, the SRSG included in its delegation Mr George Nikolaidis, a member of the Bureau of the Committee of Parties to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Committee). His role during the mission was to provide thematic expertise on this issue. The delegation also included the SRSG's political adviser, Ms Kinga Jensen-Magyar, and her legal adviser, Mr Jean-François Goujon-Fischer.
10. The SRSG is very grateful to the Ministry for Foreign Affairs of the Republic of Bulgaria for its support in planning and organising this fact-finding mission.

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<sup>9</sup> National Strategy on Migration of the Republic of Bulgaria 2021-2025; [Declaration on the accession of the Republic of Bulgaria to the Schengen area](#), in Bulgarian only.

<sup>10</sup> The previous fact-finding mission to Bulgaria was led in November 2017 by Tomáš Boček, then Special Representative of the Secretary General on Migration and Refugees. See [the report of the mission](#).

### I.3. MEETINGS AND SITES VISITED

11. In Sofia, the SRSG and her delegation met Mr Atanas Slavov, Minister of Justice, Mr Stoyan Temelakiev, Deputy Minister of the Interior, Professor Michail Okoliyski and Dr Boyko Penkov, Deputy Ministers of Health, Ms Maya Vasileva and Ms Ginka Mashova-Stancheva, Deputy Ministers of Labour and Social Policy, Ms Elena Shekerletova, Deputy Minister for Foreign Affairs, Dr Teodora Ivanova, Secretary General of the State Agency for Child Protection, Ms Emilia Lazarova, Deputy Minister of Education and Science, Mr Denyo Denev, Deputy Chairman of the State Agency for National Security, and their respective delegations. The SRSG and her delegation also held discussions with Ms Diana Kovacheva, Ombudsperson of the Republic of Bulgaria, and members of her Office.
12. They visited the Registration and Reception Centre (RRC) in Ovcha Kupel in Sofia, in the presence of Ms Mariana Koceva Tosheva, President of the State Agency for Refugees, the Harmanli RRC, the Plovdiv Reception Centre for people fleeing Ukraine, in the presence of Mr Stefan Stoyanov, Deputy Mayor of Plovdiv, and the Lyubimets and Busmantsi immigration detention centres. They also visited the Kapitan Andreevo border post on the Bulgarian-Turkish border.
13. The SRSG and her delegation also held discussions with representatives of the UNHCR, the IOM, UNICEF and WHO in Bulgaria, as well as with representatives of several non-governmental organisations (NGOs) active in providing assistance and advice to migrants and refugees: Caritas Bulgaria, the Bulgarian Helsinki Committee, the National Assembly of Refugees Association, the Bilitis Resource Centre, the Voice in Bulgaria legal aid centre and the Animus Association Foundation. Finally, they met with Mr Tomislav Toshkov, Secretary General of the Attorneys' Training Centre of the Supreme Bar Council of the Republic of Bulgaria.

## II. LEGAL AND INSTITUTIONAL FRAMEWORK

### II.1. RELEVANT TEXTS

14. Immigration legislation in Bulgaria is based mainly on two laws: the 1998 Law on Aliens in the Republic of Bulgaria<sup>11</sup> and the 2002 Law on Asylum and Refugees<sup>12</sup>, both of which have been amended several times<sup>13</sup>.
15. The Law on Aliens governs the entry, residence and status of foreign nationals in Bulgaria. In particular, it defines the coercive measures that can be taken against foreign nationals<sup>14</sup>, the administrative and legal remedies against these measures and the supervision that the Ombudsperson of the Republic of Bulgaria can exercise over the execution of certain measures.

<sup>11</sup> Link to [Lex.bg website](#), in Bulgarian only.

<sup>12</sup> Link to [Lex.bg website](#), in Bulgarian only.

<sup>13</sup> The main implementing texts for these two laws are Ordinance No. 332 of 28 December 2008 concerning the responsibilities and co-ordination between state agencies, implementing the Dublin III and Eurodac regulations, Ordinance No. I-13 of 29 January 2004 on the rules for administrative detention of aliens and the functioning of the premises for aliens' temporary accommodation, Internal Rules of Procedure in immigration detention centres under the Migration Directorate of the Ministry of Interior, adopted on 16 June 2016 (no. 5364P-20628), and Ordinance No. 208 of 12 August 2016 on rules and conditions to conclude, implement and cease integration agreements with foreigners granted asylum or international protection.

<sup>14</sup> Withdrawal of the entitlement to residence, deportation, expulsion, prohibition on entering the country and prohibition on leaving the country.

16. The Law on Asylum and Refugees sets out the conditions and procedures for granting foreign nationals special protection on Bulgarian territory. It provides for three categories of protection: the right to asylum<sup>15</sup>, international protection<sup>16</sup>, and temporary protection<sup>17</sup>. These three special protections are granted respectively by the President of the Republic, the State Agency for Refugees and the Council of Ministers<sup>18</sup>.
17. Other texts govern the rights and obligations of foreigners, in particular the Constitution: article 26(2), on the rights and duties of foreigners residing in the Republic of Bulgaria; article 27(1), on protection against expulsion of foreigners residing legally in the country; article 27(2)(3), on asylum granted to foreigners persecuted for their opinions or for defending internationally recognised rights and freedoms; article 98, empowering the President of the Republic to grant asylum.
18. Among the texts with a direct or indirect impact on the situation of foreigners in Bulgaria, mention should also be made of the Law on Combating Trafficking in Human Beings, the Law on Child Protection and the Law on Migration and Labour Mobility. A series of other relevant texts are also mentioned in the National Strategy on Migration of the Republic of Bulgaria 2021-2025<sup>19</sup>.

## II.2. COMPETENT AUTHORITIES

19. Responsibility for migration and asylum is divided between a number of government departments under different ministries.
20. The Ministry of the Interior participates in the development of migration policy in Bulgaria, in co-operation with other ministries, institutions and bodies. Two of its directorates are primarily involved.
21. The General Directorate of Border Police is responsible for combating irregular immigration and trafficking in human beings. It is also the national structure responsible for implementing return agreements at European Union level and with certain third countries.
22. The Directorate of Migration is responsible for regulating migration processes and the administrative control of the residence of foreign nationals in the Republic of Bulgaria, combating irregular immigration into the country and providing services to citizens of the European Union, states that are party to the European Economic Area agreement, the Swiss Confederation and members of their families. It is the authority responsible for placing foreign nationals in immigration detention centres and for managing these centres.
23. The State Agency for Refugees, which reports to the Council of Ministers, is responsible for implementing state policy in the field of international protection in Bulgaria. It is notably responsible for the reception of applicants for international protection and conducting the administrative procedures relating to applications for protection.

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<sup>15</sup> Guaranteed by Article 27(2) of the Constitution.

<sup>16</sup> Refugee status and humanitarian status/subsidiary protection, with reference to the 1951 Geneva Convention relating to the Status of Refugees.

<sup>17</sup> Following a decision by the Council of the European Union.

<sup>18</sup> For the composition of the Council of Ministers, see [its website](#).

<sup>19</sup> Available on [the ec.europa.eu website](http://the.ec.europa.eu/website), in Bulgarian only.

24. The State Agency for Child protection is involved in implementing the state's child protection policy. It co-ordinates related activities and draws up and monitors the implementation of national and regional child protection programmes. It monitors and analyses the implementation of state policy in the field of child protection. Its remit extends to foreign children, particularly unaccompanied or separated<sup>20</sup>.
25. The State Agency for National Security is one of the institutions authorised to counter threats to national security linked to migration processes and to identify persons present on the territory of the Republic of Bulgaria who are associated with international terrorist organisations or organised criminal groups.
26. Other ministries and administrative authorities likely to be involved in the field of migration and special protection are mentioned in the National Strategy on Migration of the Republic of Bulgaria 2021-2025.

### II.3. MIGRATION POLICY ORIENTATIONS

27. In the National Strategy on Migration of the Republic of Bulgaria 2021-2025, the Bulgarian authorities state that they intend to develop a sustainable national migration policy through well-managed migration, which would ensure that economic migration matches the needs of the labour market, protect the rights of those in need of international protection and deepen international co-operation.
28. The objectives of this strategy are to facilitate the admission of migrants entering Bulgaria legally, to strengthen procedures for the return of irregular immigrants and the prevention of irregular immigration, and to contribute to the adoption of a common European asylum system in accordance with the principles of solidarity and responsibility.

## III. ACCESS TO INTERNATIONAL PROTECTION

### III.1. FACTS AND FIGURES

29. The President of the State Agency for Refugees is responsible for granting, refusing, withdrawing and terminating international protection in Bulgaria. He or she also decides on applications for family reunification and other applications submitted by foreign nationals who have applied for, or been granted, international protection. These applications are processed by Agency professionals.

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<sup>20</sup> Under the terms of article 25a.(2) of the [Law on Asylum and Refugees](#), "The State Agency for Child Protection shall monitor and control the conditions of admission to the territorial divisions of the State Agency for Refugees for observance of the rights of minors and foreign juniors, seeking international protection and prevention of physical and mental violence, cruel, inhuman or degrading treatment or punishment".

30. According to statistics published by the Agency, the number of applications for international protection rose to 20 407 in 2022 (a sharp increase compared with 2020: 3 525, and 2021: 10 999). The 4 main countries of origin of applicants (excluding Ukraine) were, in this order, Syria, Afghanistan, Morocco and Iraq, which together accounted for 18 130 of these applications, or almost 89% of the total number of applications<sup>21</sup>. In 2022, 100 applicants were granted refugee status, 4 273 were granted subsidiary protection and 445 had their applications rejected<sup>22</sup>, while the Refugee Agency took 14 474 decisions to discontinue the procedure due to applicants having fled<sup>23</sup>.

### III.2. ACCESS TO TERRITORY

31. The Bulgarian authorities aim to protect the country's borders, prevent irregular entry of migrants and improve the efficiency of return procedures<sup>24</sup>. Substantial resources have been mobilised to prevent attempts to irregularly cross the borders with Türkiye and Greece (joint police operations, checks at the Kapitan Andreevo border post, patrols, modernisation of equipment and technology, increased co-operation with Frontex). In 2022, 168 378 people attempted to cross Bulgaria's borders, a figure three times higher than the previous year. 5 701 third-country nationals were apprehended trying to irregularly cross the "green border", an increase of 77% compared with the previous year, and 7 953 entry refusals were issued<sup>25</sup>.
32. In this context, access to procedures for migrants in need of international protection must be carefully examined. Despite the information provided to the SRSG on the effective examination of requests for international protection from migrants stopped at borders, several sources have referred to the practice of refoulement ("pushbacks"<sup>26</sup>)<sup>27</sup>.

<sup>21</sup> 67.4% of applicants were men, 7.3% were women, 8.7% were accompanied children and 16.4% were unaccompanied children.

<sup>22</sup> In 2022, the percentage of favourable decisions (refugee status or subsidiary protection) for applicants from the four main countries of origin (Syria, Afghanistan, Morocco and Iraq) was 99%, 49%, 4% and 46% respectively.

<sup>23</sup> From January to September 2023, the number of applications for international protection was 16 378, confirming the upward trend observed in previous years.

<sup>24</sup> See in particular the [report on the implementation of the programme budget of the Ministry of the Interior in 2022](#) (in Bulgarian only).

<sup>25</sup> See the [report on the implementation of the programme budget of the Ministry of the Interior in 2022](#) (in Bulgarian only).

<sup>26</sup> In her Recommendation "[Pushed beyond the limits - Four areas for urgent action to end human rights violations at Europe's borders of March 2022](#)", the Council of Europe Commissioner for Human Rights defines "pushbacks" as the "summary return [...] without the observance of the necessary human rights safeguards".

<sup>27</sup> The practice of pushbacks was mentioned by the Commissioner for Human Rights in a letter sent to the Bulgarian authorities on 13 December 2022, to which the authorities replied on 20 December 2022 (letter and reply published on [the Council of Europe website](#)). In her recommendation, the Commissioner states that "Bulgaria has also been reported as carrying out pushbacks at its border with [Türkiye]. Reported incidents involved non-admission at border crossing points and summary returns following apprehension within Bulgarian territory. Besides reported pushbacks from Bulgaria to [Türkiye], similar incidents have been documented at Bulgaria's border with Greece in relation to people who have entered Greece from [Türkiye]". Other public sources have referred to these practices, including Frontex's Fundamental Rights Officer (see the [2022 annual report](#)) or the European Council on Refugees and Exiles ([ECRE - see Asylum Information Data Base, European Council of Refugees and Exiles: Statistics - Asylum Information Database | European Council on Refugees and Exiles - asylumineurope.org](#)). In its 2021 report, the Tripartite Working Group made up of representatives of the UNHCR, the Bulgarian Helsinki Committee and the General Directorate of Border Police itself referred to 2 613 "refoulement incidents" ([2021 Report](#), most recently published). See also older observations by United Nations committees: [Committee against Torture, Concluding observations on the sixth periodic report of Bulgaria, 15 December 2017](#) and [Human Rights Committee, Concluding observations on the fourth periodic report of Bulgaria, 15 November 2018](#).



33. According to the NGOs met by the SRSG, “pushbacks” are sometimes accompanied by violence and humiliating practices (confiscation of clothing, shoes, money or personal documents)<sup>28</sup>. Although the SRSG did not see any evidence during her mission to establish the current reality of these facts, she encourages the Bulgarian authorities to be vigilant in order to avoid the occurrence of such practices, which are contrary to the principle of non-refoulement and the requirements of the European Convention on Human Rights.
34. She also invites the Bulgarian authorities to pursue their co-operation with the Department for the Execution of Judgments of the Court in implementing the judgments in this area, in particular as regards general execution measures<sup>29</sup>.

### III.3. PROCEDURE FOR GRANTING INTERNATIONAL PROTECTION

35. The procedure for granting international protection was discussed during the SRSG's meetings with the President of the State Agency for Refugees, the heads of the Ovcha Kupel and Harmanli registration and reception centres, and representatives of international organisations and NGOs.
36. During these meetings, the SRSG noted the large number of applications for international protection being abandoned, particularly by Afghan applicants, many of whom are leaving Bulgaria for countries in Western Europe.
37. Among the other issues raised were the difficulty of recruiting interpreters, particularly in the case of uncommon languages, to conduct personal interviews with applicants for international protection that deserved careful monitoring, in order to guarantee the quality of the procedure for granting international protection. Sufficient resources must be allocated to the recruitment of these interpreters.
38. At the request of the State Agency for Refugees, the National Legal Aid Bureau appoints lawyers to represent unaccompanied or separated children applying for international protection during the granting procedure<sup>30</sup>. The Law on Legal Aid also provides for legal aid for the other applicants for international protection, in particular vulnerable persons.
39. The SRSG was made aware of the fact that some lawyers have insufficient knowledge of the procedure for granting international protection. However, she welcomed the information provided by the Minister of Justice on the project "Strengthening the administrative capacity of national authorities in the field of asylum and migration"<sup>31</sup>, which led to the publication of a manual for lawyers representing vulnerable persons, in particular unaccompanied or separated children, during the procedure for granting international protection. The aim of this manual is to facilitate and unify the work of these lawyers and to improve co-ordination with the other administrative bodies involved.

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<sup>28</sup> They provided the example of the return, at the border with [Türkiye], of an Afghan national holding subsidiary protection after his identity documents had been confiscated. This incident is recounted in [the report by the Ombudsperson of the Republic of Bulgaria following inspections carried out in the structures of the Migration Directorate of the Ministry of the Interior and the National Agency for Refugees](#), available in Bulgarian only.

<sup>29</sup> In particular, the judgment of the European Court of Human Rights in *D. v. Bulgaria* of 20 July 2021, which held that the hasty expulsion of a journalist from Bulgaria without examination of the risks he would run if returned and without access to an effective remedy was contrary to Articles 3 and 13 of the Convention ([ECHR, D. v. Bulgaria, no. 2, 9447/17, 20 July 2021](#)).

<sup>30</sup> Article 25 of the Asylum and Refugees Act.

<sup>31</sup> Project supported by the Norwegian Financial Mechanism 2014-2021.

40. The SRSG also welcomes the training provided to lawyers by the National Legal Aid Bureau, in co-operation with the UNHCR, the Bulgarian Helsinki Committee and the State Agency for Refugees, and the establishment by the National Legal Aid Bureau of a national legal helpline, staffed by two lawyers. She encourages the continuation and further development of these training and information activities for lawyers, including in co-operation with the European Human Rights Training Programme for Legal Professionals (HELP).
41. It should be noted that NGOs, in particular the Bulgarian Helsinki Committee, are present in the reception centres on certain days of the week to meet applicants for international protection. They play an essential role in informing applicants about the procedure and its deadlines.
42. The Bulgarian authorities also referred to the pilot project for rapid asylum and return procedures<sup>32</sup>. This project, launched in April 2023 as part of the European Union's 2022 Western Balkans Action Plan, provides for the introduction of accelerated asylum procedures on the basis of the Asylum Procedures Directive. The said procedures are applied in the transit centre in Pastrogor, located near Bulgaria's southern borders, and concern applications for international protection that seem to be manifestly unfounded<sup>33</sup>.
43. The purpose of accelerated procedures is to enable applications for international protection at borders to be examined quickly on their merits and to avoid overcrowding reception centres. They must also offer all the guarantees of the procedure for granting international protection and allow an examination of the vulnerabilities of applicants. The SRSG suggests that the Bulgarian authorities regularly review the guarantees offered during these accelerated procedures, particularly with regard to the issues already mentioned of the effective presence of interpreters and sufficient training for lawyers.
44. Other aspects of the procedure for granting international protection were not discussed during the SRSG's interviews. However, this procedure is monitored by the UNHCR and the Bulgarian Helsinki Committee, and is commented on in the annual reports of the Asylum Information Database (AIDA)<sup>34</sup>.

#### III.4 VULNERABILITY SCREENING AND AGE ASSESSMENT

45. The Law on Asylum and Refugees stipulates that, upon arrival at a reception centre, all applicants for international protection must undergo a medical examination, during which it is determined whether they belong to a vulnerable group or have special needs (article 29(4)). If so, an assessment is carried out and a support plan may be drawn up and placed in the foreign national's personal file (article 30a(1)).
46. According to the information provided by the President of the State Agency for Refugees and the managers of the two registration and reception centres visited, this assessment is carried out by the agency's social workers during the examination of applications. This assessment is carried out using tools developed by the European Union Asylum Agency, in particular the tool for identifying people with special needs<sup>35</sup>.

<sup>32</sup> [The European Commission launches a pilot project with Bulgaria](#), European Commission website.

<sup>33</sup> From March to September 2023, 2033 applications were registered at the Pastrogor transit centre, of which 1499 were rejected under these accelerated procedures. See [The Commission reports on progress made by Bulgaria and Romania on the Pilot Projects for Fast Asylum and Return Procedures](#), European Commission website.

<sup>34</sup> [Asylum Information Data Base, European Council of Refugees and Exiles: Statistics - Asylum Information Database | European Council on Refugees and Exiles \(asylumineurope.org\)](#).

<sup>35</sup> Vulnerable or special needs people identified include accompanied and unaccompanied children, people with disabilities, the elderly, pregnant women, single parents with minor children, victims of human trafficking, people with serious illnesses, people with mental health problems, people who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, LGBTI people and people with special gender-related needs.

47. International organisations and NGOs have expressed their concerns to the SRSG about the reality or quality of this vulnerability assessment. Additional concerns exist that vulnerability assessments are not systematically attached to applicants' files<sup>36</sup>. The SRSG suggests that the minutes of these vulnerability assessments be attached to applicants' files in accordance with the Asylum and Refugees Act.
48. The SRSG's interviews also provided an opportunity to discuss age assessment procedures. According to international organisations and NGOs, minors close to the age of majority are frequently treated as adults and treated as such when they are questioned or when their applications are examined.
49. At the time the SRSG conducted her fact-finding mission, a working group led by the State Agency for Child Protection, with representatives of other ministries and representatives of NGOs, had been working since 2019 to develop a procedure for age assessment in the field of migration, incorporating legal safeguards. On 22 December 2023, the President of the State Agency for Refugees announced the adoption of an instruction on the conditions for assessing the age of foreign nationals claiming to be minors who apply for protection in Bulgaria<sup>37</sup>. Based in particular on the principles of the best interests of the child, respect for human dignity and the presumption of minority, this instruction is due to come into force on 1 March 2024. The SRSG notes this information with great interest and suggests that the implementation of this instruction and any amendments to the Law on Asylum and Refugees<sup>38</sup> should be carried out in accordance with the Committee of Ministers' Recommendation to member States on human rights principles and guidelines on age assessment in the context of migration<sup>39</sup>. She invites the Bulgarian authorities to work with the Council of Europe to this end.

## IV. RECEPTION AND PROTECTION OF ASYLUM SEEKERS

### IV.1. RECEPTION CENTRES

#### IV.1.1. Overview of reception centres in Bulgaria

50. The State Agency for Refugees has its headquarters in Sofia and is organised into four territorial units, located in Sofia, Harmanli, Banya and Pastrogor. These units include registration and reception centres (Voenna Rampa, Ovcha Kupel and Vrazhdebna in Sofia; Harmanli; Banya) or transit centres (Pastrogor).

<sup>36</sup> See [Asylum Information Data Base, European Council of Refugees and Exiles: Statistics - Asylum Information Database | European Council on Refugees and Exiles \(asylumineurope.org\), p. 53.](#)

<sup>37</sup> See [the announcement on the State Agency for Refugees' website](#) (available in Bulgarian only) and [the link to the instruction](#) (available in Bulgarian only).

<sup>38</sup> A draft law prepared by the State Agency for Refugees (Public consultations portal, 13 December 2019: <https://bit.ly/2u4mFUy>, in Bulgarian only) provided for a series of guarantees to be included in the Law on Asylum and Refugees: informing the foreign national concerned about the possibility of undergoing a medical examination to determine his or her age, obtaining the prior informed consent of the foreign national or his or her representative before any examination, informing the foreign national about the examination method and the possible consequences of its results, a ban on basing the rejection of an application for international protection on a foreign national's refusal to undergo an examination, a presumption of minority if there is any doubt about the applicant's age once the examination has been carried out, respect for human dignity and the choice of the least invasive means of examination by a qualified medical professional guaranteeing a reliable result.

<sup>39</sup> [Recommendation CM/Rec\(2022\)22](#) of the Committee of Ministers to member States on human rights principles and guidelines on age assessment in the context of migration (Adopted by the Committee of Ministers on 14 December 2022 at the 1452<sup>nd</sup> meeting of the Ministers' Deputies).

51. As well as processing applications for international protection, the Agency organises the reception and temporary accommodation of applicants. It helps them adapt to the Bulgarian context, offers them Bulgarian language courses, social, medical and psychological assistance, helps them integrate, and selects and trains translators. Lastly, it provides assistance to foreign nationals who are applying for or have been granted international protection by issuing the documents they need to exercise their rights with regard to the various public authorities and bodies.

#### IV.1.2. Characteristics of the centres visited

52. The SRSG visited the registration and reception centres in Ovcha Kupel (Sofia) and in Harmanli. These two centres have a theoretical capacity of 860 and 2710 places respectively<sup>40</sup>. Many unaccompanied minors, mostly Syrians, are housed there. While many are aged between 15 and 18, the SRSG has observed the presence of younger children. These children are housed in the centres while their applications for international protection and family reunification are being processed. Some of them said they had been staying there for two years. These minors are free to come and go between 8.30 am and 10 pm. Very few of them attend school or vocational training.

#### IV.1.3. Reception conditions

53. The SRSG noted damage to the premises at both centres (holes in the walls or doors of some rooms, broken sanitary fittings). Water cuts and blocked pipes appeared to be frequent. In the rooms, the foam mattresses were often in poor condition and had no sheets, and the rooms were sparsely furnished, poorly maintained and badly ventilated. At the Harmanli centre, potentially dangerous metal or concrete structures were visible outside. At the Ovcha Kupel centre, rubbish was piled up on the ground in the outside areas.

54. Staff are responsible for cleaning the premises, collecting rubbish and doing the residents' laundry. Laundry and detergent products are distributed to occupants, as well as personal hygiene products. However, insects and parasites are present in the premises and insect control operations seem to have limited effectiveness. The most frequent health problems concern Covid-19, skin diseases and certain other contagious diseases. Several people, particularly children, had marks caused by the scabies disease.

55. According to the managers of the two centres, occupants' attention to personal hygiene and respect for the premises had declined in recent years. Much of the damage is said to be caused by the occupants themselves. Cultural differences have been put forward as an explanation for some of the practices observed, such as the disappearance or cutting up of sheets to make curtains, or the ripping open of mattresses.

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<sup>40</sup> However, the actual capacity indicated by the State Agency for Refugees is lower, as it takes into account the fact that some parts of the current premises are unsuitable for accommodation. Harmanli centre officials stated that, at the time of the SRSG's visit, the centre had a capacity of 1,676 places. It was occupied by 1 302 people (978 men, 110 women, 214 children), most of whom (1 202) were from Syria. The Ovcha Kupel centre also accommodates a majority of male Syrian nationals and nationals of other Arabic-speaking countries (while the Voenna Rampa centre accommodates a majority of Afghan nationals). Figures taken from [Asylum Information Data Base, European Council of Refugees and Exiles: Statistics - Asylum Information Database | European Council on Refugees and Exiles \(asylumineurope.org\)](#).

56. There is a noticeable lack of human resources at both centres. Medical staff are not always present and access to dentists and dermatologists seems inadequate. There are also too few interpreters and cleaning staff to meet the required needs. Social workers are only present during working hours and not in the evenings or at weekends. The international organisations present in the centres, in particular the IOM, are trying to make up for these shortcomings.
57. Security at the centres is provided 24/7 by a private security company. Only one police officer is stationed at the entrance to the Harmanli centre. Security at this centre is difficult given the size of the site. Only the Ovcha Kupel and Voenna Rampa centres have a safe zone for unaccompanied minors. In light of the SRSG's findings in the Ovcha Kupel centre, it appears that the number of places in the safe zone is not always sufficient, as some children in the centre were placed in common areas with adults, mostly single men. Work to build a safe zone is underway on the premises of the Harmanli centre and should be completed by the end of 2023<sup>41</sup>. Currently, therefore, the physical separation of unaccompanied children from adults is not guaranteed.

#### IV.1.4. Overall assessment

58. Apart from the construction of the Harmanli safe zone, the situation observed by the SRSG seems little different from that observed by the Ombudsperson during her inspection visit to the Harmanli centre in July 2022<sup>42</sup>. The Ombudsperson recommended that consideration be given to increasing the financial resources to enable the recruitment of the necessary staff, improving the environment and the centre's buildings, providing hot water all year round, ensuring adequate treatment for the occupants' skin diseases and remedying the shortage of dentists on a long-term basis. In 2022, the State Agency for Child Protection<sup>43</sup> also made recommendations<sup>44</sup>, in particular to promote better access to medical care, improve the physical environment of the centres, carry out repairs and improve sanitary conditions. Aware of the challenges to be met in this area, the Bulgarian authorities have demonstrated transparency and willingness to make the necessary efforts.
59. The SRSG supports the recommendations made by the Ombudsperson and the State Agency for Child Protection and calls on the Bulgarian authorities to step up their efforts to implement them in all reception centres. She suggests that reception conditions in these centres be improved in light of the Council of Europe's standards on reception conditions<sup>45</sup>. Finally, she suggests that consideration be given to increasing the resources allocated to the State Agency for Child Protection in its role of monitoring centres for unaccompanied children.

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<sup>41</sup> The creation of a safe zone at the Harmanli RRC follows the recommendations of the Ombudsperson of the Republic of Bulgaria ([Report of the Ombudsperson of the Republic of Bulgaria under the National Preventive Mechanism, drawn up following an inspection of the Harmanli Registration and Reception Centre, 2022](#), available in Bulgarian only) and the State Agency for Child Protection (Summary of the analysis of the results of an inspection on the observance of children's rights in the territorial divisions of the National Agency for Refugees 2022: <https://sacp.government.bg/sites/default/files/2022-08/rezumeanalizrpc2022.pdf>, available in Bulgarian only).

<sup>42</sup> [Report by the Ombudsperson of the Republic of Bulgaria under the National Preventive Mechanism, drawn up following an inspection of the Harmanli registration and reception centre, 2022](#), available in Bulgarian only.

<sup>43</sup> Article 25a, paragraph 2, of the Law on Asylum and Refugees provides that the President of the State Agency for Child Protection shall monitor the conditions of reception of minors seeking international protection in the territorial units of the State Agency for Refugees, as well as respect for their rights and the prevention of physical and psychological violence, cruel, inhuman or degrading treatment or punishment.

<sup>44</sup> See the summary of the analysis of inspection results carried out by the State Agency for Child Protection, cited above.

<sup>45</sup> See also the European Parliament study "[Reception Conditions Across the EU](#)", 24 November 2023.

## IV.2. GUARDIANSHIP AND PROTECTION OF UNACCOMPANIED CHILDREN

60. The Law on Asylum and Refugees was amended in 2020 to entrust the legal representation of unaccompanied minor asylum seekers and refugees to the National Legal Aid Office, whereas this was previously the responsibility of the municipalities. This legal representation covers the procedure for granting international protection, as well as the legal steps to be taken by the minor with agencies and institutions once this protection has been granted. While it must be provided in the best interests of these unaccompanied foreign children, it does not amount to a guardianship system, which does not exist as such under current legislation.
61. Recommendation CM/Rec(2019)11 of the Committee of Ministers on effective guardianship for unaccompanied and separated children in the context of migration invites states to develop an effective guardianship system that takes into account the special needs and circumstances of unaccompanied and separated children in the context of migration, in order to protect and promote their rights and ensure the best interests of the child<sup>46</sup>.
62. The absence of such a guardianship system increases the vulnerability of unaccompanied foreign children. Very few of the children met by the SRSG are in school or are receiving vocational training, even though they wish to obtain international protection in Bulgaria and be joined by their families. These children are subject to strong pressure from their parents, who remain in their country of origin, to obtain family reunification and are not encouraged to prepare for their future. They are also at risk of encounters with traffickers and of abuse, particularly sexual abuse.
63. The SRSG has been informed of an initial project to amend the Child Protection Act and provide a framework for the guardianship of unaccompanied foreign children<sup>47</sup>. The Bulgarian authorities also informed the SRSG that they were examining the merits of a system of temporary guardianship for unaccompanied children with family members residing in Bulgaria, and could provide guardianship until these minors were reunited with their parents.

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<sup>46</sup> According to this recommendation, guardianship measures should take into account the particular vulnerable situation in which unaccompanied children find themselves once outside their country of origin, as well as any vulnerability factors requiring additional protection and assistance. Effective measures are recommended to reduce the increased risk of these children being exposed to discrimination, neglect, sexual violence, forced labour, drug trafficking, child abduction, child marriage and other forms of violence. Guardianship must also help to ensure that efforts to find sustainable, rights-based solutions for these children are initiated and implemented without delay, including the possibility of family reunification based on an evaluation of the best interests of the child.

<sup>47</sup> See [the National Network for Children website. This bill provided for the introduction of guardianship measures for unaccompanied foreign minors applying for international protection. Under this text, the President of the National Agency for Refugees would have appointed a guardian from among the Agency's civil servants for children under the age of 14 applying for international protection, who would have represented the child, carried out legal acts on his or her behalf and in his or her interest, and would have had the rights and obligations inherent in parental authority. Children aged 14 and over would only have been appointed a curator, whose role would have been to consent to the child's legal acts, but who would not have exercised parental authority.](#)

64. On 13 December 2023, the National Assembly adopted amendments to the Family Code, in particular its Articles 153, 156 and 173, to regulate guardianship and custody of unaccompanied foreign children. According to the new provisions, which entered into force on 22 December 2023, "Guardianship shall be instated over (...) Custody shall be instated also over (...) unaccompanied foreign minors who are on the territory of the Republic of Bulgaria", "A person may (...) be appointed as a guardian of an unaccompanied foreign minor from among parents, close relatives or other adults residing in the country on a lawful basis who have given their written consent thereto and for whom an assessment has been made that they will take care of him/her with a view to his/her best interests", and "The guardian, respectively the custodian, of an unaccompanied minor or a minor alien, who is placed under the procedure of Article 26 of the Child Protection Act in a social or integrated health-social service for residential care, shall be the head of his service". Other provisions of the Family Code remain unchanged and should be applicable to unaccompanied foreign children, in particular the articles stipulating that "The mayor of the municipality or a person designated by the mayor shall serve as custody and guardianship authority" and that "upon reaching the age of fourteen, guardianship shall be terminated and the guardianship and custody authority shall appoint a custodian and a deputy custodian".
65. The SRSG takes note of these new protective provisions and invites the Bulgarian authorities to engage in close cooperation with the Council of Europe to enable their effective implementation, in order to promote the rights of unaccompanied foreign children and to ensure their best interests.
66. At the same time, consideration could be given to alternatives to placing unaccompanied minors in registration and reception centres for asylum seekers. These alternatives include placement in host families or hostels specially adapted for minors. At present, they seem to come up against a number of obstacles, in particular the lack of resources and structures likely to meet their needs, the lack of interest felt by minors in these forms of care and the language barrier in the case of family placements.
67. The SRSG suggests that the Bulgarian authorities co-operate with the Council of Europe to identify solutions to removing these obstacles and developing alternatives to the placement of unaccompanied minors in reception centres for asylum seekers<sup>48</sup>.

### IV.3. MIGRANT WOMEN AND GIRLS

68. During the fact-finding mission, the situation of migrant, refugee and asylum-seeking women and girls was mentioned relatively rarely by the interlocutors. In 2022, women accounted for 7.3% of the number of applicants for international protection and girls made up a very small proportion of the number of unaccompanied children accommodated in registration and reception centres.

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<sup>48</sup> See [the Guide on family-based care for unaccompanied and separated children](#), drawn up by the Steering Committee for Human Rights.

69. A number of observations were made at the centres visited. At the Harmanli registration and reception centre in particular, there are shared bathrooms for men and women in at least some of the buildings. Door locks are sometimes broken. At the time of the SRSG's visit, six pregnant women were accommodated in this centre. In both centres, the SRSG and her delegation were able to observe that girls, sometimes very young, move around freely and without parental supervision in the various areas of the centre. The safety of unaccompanied girls is an issue to be considered, given that they are a very small minority in a very male environment, including in the protected areas of the Ovcha Kupel and Voenna Rampa centres and in the future Harmanli centre.
70. On the basis of the 2022 Committee of Ministers' Recommendation on the protection of the rights of migrant, refugee and asylum-seeking women and girls<sup>49</sup>, particular attention should continue to be paid to the situation of migrant women and girls, especially those seeking international protection and, among them, single women and unaccompanied girls. The Council of Europe is available to support the work of the Bulgarian authorities in this area.

#### IV.4. OTHER VULNERABLE MIGRANTS

71. Among other vulnerable people, LGBTI migrants, asylum seekers and refugees, elderly people and disabled people should receive special attention.
72. When it comes to LGBTI people, staff at the Bilitis Resource Centre, which the SRSG and her delegation visited, indicated that 40 foreign nationals had applied to the Bilitis Foundation for humanitarian aid since the beginning of 2022. 28 had received food and medical vouchers, money or free psychological support.
73. Special needs are identified for LGBTI people affected by the consequences of war or who have fled their country of origin due to persecution and risk to their lives, including basic needs for food and personal items, medicine and medical supplies, particularly for those undergoing hormone therapy, as well as psychological support to overcome trauma. There are also needs for support regarding housing costs, homelessness prevention and economic empowerment.

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<sup>49</sup> [Recommendation CM/Rec\(2022\)17 on the protection of the rights of migrant, refugee and asylum-seeking women and girls.](#) This Recommendation calls on the member states to protect migrant, refugee and asylum-seeking women and girls from all forms of violence against women, including trafficking in human beings, to ensure that immigration procedures take into account the specific situations, characteristics, needs and vulnerabilities of women and girls, and that they are age- and gender-sensitive, and to ensure that transit, reception, accommodation and screening arrangements take into account age- and gender-specific issues. This Recommendation recalls that the screening process should facilitate, in particular, the identification of victims of violence against women, that women and girls in transit and reception facilities should be provided with appropriate and safe living spaces, separate and safe sleeping and sanitary facilities, as well as other safe spaces, and that single women with or without children (up to the age of 18) and women and girls in transit and reception centres should have access to a complaint/reporting system concerning cases of violence or other rights violations.



74. The Bilitis resource centre meets some of these needs. However, it is the responsibility of the authorities to address the particular vulnerability of LGBTI persons upon entry into the country, during asylum procedures, during reception in asylum centres and after the granting of international protection. The SRSG suggests that the Bulgarian authorities regularly assess the situation of migrants, asylum seekers and refugees in a situation of vulnerability, notably LGBTI people.

## V. MIGRANT SMUGGLING AND HUMAN TRAFFICKING

### V.1. MIGRANT SMUGGLING

75. Because of its geographical location, Bulgaria is particularly exposed to migrant smuggling. Since 2022, the Bulgarian authorities have noted a sharp increase in migrant smuggling at the border with Türkiye. Criminal networks transport migrants to Bulgaria on foot, across the “green border”, or concealed in lorries, and then take them out of the country by the same means of transport, along the Balkan route, crossing Bulgaria's border with Serbia in particular, risking the migrants' lives. This phenomenon has gone hand-in-hand with an increase in the violence perpetrated against migrants and police officers by criminal networks<sup>50</sup>. Migrant smuggling also leads to the financial exploitation of migrants, with the price of passage approaching 4 000 euros per person, according to figures provided to the SRSG. In this context, the Bulgarian authorities, in co-operation with the Turkish authorities, have undertaken to step up the fight against migrant smuggling networks that use Bulgaria as a transit country.

76. Article 279 of the Bulgarian Criminal Code<sup>51</sup> punishes the irregular entry of foreigners into Bulgarian territory with imprisonment and fines. Articles 280 and 281 of the same code also punish with imprisonment and fines any person who causes individuals or groups of individuals to cross Bulgaria's borders without authorisation to enter (article 280) or leave (article 281)<sup>52</sup>. These two articles of the Criminal Code were amended by a law that came into force in August 2023 to increase the prison sentences and fines incurred by smugglers<sup>53</sup>. These penalties have been increased in a series of new cases: when the offence has been organised by a group or organisation or on the orders and/or in the execution of a decision of an organised criminal group, when it has been committed against a minor, or committed by a person with a view to obtaining a material benefit for themselves or others, when it has been accompanied by resistance and/or disobedience to an authority or in the event of multiple or dangerous repeat offences.

<sup>50</sup> The authorities interviewed by the SRSG recounted an incident in August 2023, in which two police officers lost their lives in Burgas when their vehicle collided with a bus carrying irregular migrants that they were trying to intercept.

<sup>51</sup> [Bulgarian Criminal Code](#), in Bulgarian only.

<sup>52</sup> According to figures published by the Ministry of the Interior, in 2022, 348 people were prosecuted under these last two articles of the Criminal Code, an increase of 78% from the previous year.

<sup>53</sup> Penalties now range from three to eight years' imprisonment and a fine of 5000 to 20000 leva for the offence referred to in article 280, and from one to six years' imprisonment and a fine of 3 000 to 10 000 leva for the offence referred to in article 281.

77. Bulgaria has also stepped up its co-operation with neighbouring countries and with Europol, which has set up a co-ordinated regional task force, based in Sofia, dedicated to combating the criminal networks that smuggle migrants through Bulgaria to Western Europe. Stepping up the fight against this traffic has had positive results, enabling smugglers to be intercepted and networks to be dismantled<sup>54</sup>.
78. In this context, the SRSG recalls that, while the fight against migrant smuggling is a tool in the fight against irregular immigration, it must also be understood as a means of preventing or putting an end to serious violations of migrants' human rights. It therefore welcomes the efforts of the Bulgarian authorities to increase the effectiveness of the actions taken against traffickers and their networks, as well as the results achieved, while inviting them to pay particular attention to the migrants who are victims of this trafficking.
79. Although Bulgaria has chosen to maintain the criminalisation of the irregular entry of foreigners into its territory (Article 279 of the Penal Code), the SRSG considers that criminal proceedings against migrants themselves should as far as possible be avoided where they would risk limiting the essential protection to which they must be given priority.
80. The SRSG's discussions with the people she spoke to showed that one of the ways of combating migrant smuggling could be to combat the misinformation provided by the smugglers. It is this misinformation that sometimes leads the parents of Syrian children sending their children alone to Bulgaria, entrusting them to smugglers so that they may obtain international protection and family reunification. Information campaigns aimed at these families could be envisaged with the support of the international organisations concerned.
81. Finally, on a European scale, traffickers often resort to attempts at corruption and money laundering and use the internet and social networks to communicate with their victims. The SRSG suggests that the Bulgarian authorities seek the expertise or co-operation of the Council of Europe bodies responsible for these issues, in particular GRECO, MONEYVAL and the secretariat of the Budapest Convention on Cybercrime.

## V.2 HUMAN TRAFFICKING

82. The Bulgarian authorities present the fight against trafficking as a national priority. A National Referral Mechanism for the Support of Victims of Trafficking was set up in 2016 and a National Strategy for Combating Trafficking in Human Beings was adopted for the period 2017-2021, along with annual action plans.

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<sup>54</sup> <https://www.europol.europa.eu/media-press/newsroom/news/targeting-logistics-drivers-migrant-smuggling-cell-dismantled-in-bulgaria>.

83. Although primarily a country of origin for victims of human trafficking, Bulgaria has also become a country of transit and destination for these victims<sup>55</sup>. Migrants and asylum seekers are particularly vulnerable to trafficking and, among them, women and girls generally make up the majority of the victims<sup>56</sup>. The GRETA evaluation report of 29 April 2021<sup>57</sup> and the 2021 Recommendation of the Committee of the Parties to the Convention on Action against Trafficking in Human Beings by Bulgaria<sup>58</sup> pointed to shortcomings in the identification of foreign victims of trafficking.
84. The SRSG and her delegation had the opportunity to discuss these issues with the Bulgarian authorities and with the Animus association, which runs a rehabilitation, counselling and psychotherapy centre, particularly for victims of human trafficking.
85. There is still a difficulty in identifying victims of human trafficking among migrants and asylum seekers which is not sufficiently integrated into police practices. During their meetings with NGOs, the SRSG and her delegation were told that police officers perceived their role as being primarily or exclusively to combat irregular immigration. The NGOs have also stated that, during the training they received, many of these officials admitted that they do not question the migrants who are stopped about their situation with regard to trafficking in human beings, and some, acknowledging that they do not have the time to identify the victims, felt that this identification is the responsibility of other services, in particular the State Agency for Refugees. Better co-ordination between the administrations in charge of migrants and asylum seekers would therefore seem desirable.
86. In addition, police officers, particularly from the Border Police, are reportedly insufficiently trained in indicators of trafficking, despite the tools put in place as part of the National Referral Mechanism for the support of victims of trafficking or available on the website of the Animus association. Although these tools are known, they only seem to be disseminated and used to support Bulgarian victims of trafficking. The lack of training also concerns the referral of identified victims to existing protection mechanisms. Finally, very few investigations are carried out into cases of human trafficking involving foreign victims.
87. Identifying and referring victims is also made difficult by the attitude of the victims themselves. Many of them see Bulgaria as a country of transit to other destinations in Europe and do not seek protection from the police, their aim being to leave the country as quickly as possible.
88. The SRSG invites the Bulgarian authorities to continue their efforts to train civil servants in contact with migrants and asylum seekers, in particular border police officers, in the identification and referral of foreign victims. She also suggests greater co-ordination between the various administrations in charge of migrants and asylum seekers. She invites the Bulgarian authorities to draw on the expertise of GRETA and its secretariat in implementing appropriate solutions and to disseminate the HELP programme courses on trafficking in human beings.

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<sup>55</sup> National Strategy on Migration of the Republic of Bulgaria 2021-2025.

<sup>56</sup> According to figures from the Prosecutor's Office of the Republic of Bulgaria, quoted in the National Strategy on Migration of the Republic of Bulgaria 2021-2025.

<sup>57</sup> [Evaluation Report for the Third evaluation round on Access to justice and effective remedies for victims of human trafficking, 29 April 2021.](#)

<sup>58</sup> [Recommendation CP/Rec\(2021\)01 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bulgaria, adopted at the 28th meeting of the Committee of the Parties, adopted on 4 June 2021.](#) See also the [Government's Response to the Recommendation of the Committee of the Parties, 10 June 2023.](#)

## VI. DETENTION OF MIGRANTS

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### VI.1. GENERAL OVERVIEW OF ADMINISTRATIVE DETENTION

89. In application of the Law on Aliens in the Republic of Bulgaria, detention of a foreign national may be ordered with a view to enforcing a deportation order if the person's identity has not been established, if the person's deportation is hindered or if there is a risk of absconding (article 44(6)). This measure may also be ordered for a short period to allow the police to carry out security checks and identify the person (article 44(13)). In certain cases specified by law (article 45b(1)), asylum seekers may also be placed in closed reception centres run by the State Agency for Refugees<sup>59</sup> while their application for international protection is being examined.
90. Bulgaria has two immigration detention centres for foreign nationals awaiting deportation: Busmantsi and Lyubimets. They are under the responsibility of the Directorate of Migration of the Ministry of the Interior. 16767 administrative detention measures were ordered against foreign nationals in 2022, a figure that has risen sharply compared with previous years (3 487 in 2020, 10 799 in 2021).
91. The SRSG's attention was drawn to the almost systematic use of administrative detention for foreign nationals who have been checked or are subject to a removal order. Almost 100% of people who apply for asylum at the border are placed in short-term administrative detention before they can be taken to a reception centre<sup>60</sup> and although the Law on Aliens in the Republic of Bulgaria provides for alternatives to administrative detention for foreign nationals awaiting deportation<sup>61</sup>, these are very rarely considered.
92. The SRSG believes that alternatives to administrative detention could be examined more frequently. The Bulgarian authorities could take advantage of the Guide for Practitioners on the Administrative Detention of Migrants<sup>62</sup>, recently published by the Council of Europe's European Committee on Legal Co-operation.

### VI.2. ADMINISTRATIVE DETENTION OF VULNERABLE PERSONS

93. Bulgarian law no longer allows unaccompanied children to be held in administrative detention. On arrival in Bulgaria, unaccompanied children must be referred to child protection services or, if they are seeking international protection, to the State Agency for Refugees.

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<sup>59</sup> The law does not allow this agency to conduct the procedure for granting international protection in detention centres.

<sup>60</sup> According to the Asylum Information Data Base, in 2022, only 2% of people who applied for asylum at the border or in migrant detention centres had direct access to the asylum procedure without being detained. One of the reasons for this is the instructions given to the police by the State Agency for National Security that people should not be transferred to open reception centres until all security checks have been carried out: [Asylum Information Data Base, European Council of Refugees and Exiles: Statistics - Asylum Information Database | European Council on Refugees and Exiles \(asylumineurope.org\), p. 87.](#)

<sup>61</sup> The alternative measures provided for in article 44(5) of the law are the deposit of identity documents, the provision of financial guarantees and weekly check-ins with the police.

<sup>62</sup> [Guide for practitioners on the administrative detention of migrants.](#)

94. The SRSG has been informed that minors close to the age of majority may sometimes be considered as adults and be subject to immigration detention measures. In this respect, the SRSG suggests that the border police or the services responsible for stopping minors should be involved in implementing the procedure for assessing age in the context of migration, drawn up under the direction of the State Agency for Child Protection, and that a presumption of minority should be applied in cases of doubt, in accordance with the principles of the Committee of Ministers' Recommendation to member states of 2022<sup>63</sup>.
95. The SRSG has also received information, notably from the Ombudsperson of the Republic of Bulgaria, on the detention of foreign minors who have been arrested and artificially attached to adults with whom they have no real family ties, sometimes on the basis of statements made by the minors themselves. This practice has been discussed publicly by the Ombudsperson<sup>64</sup> and has even led to court rulings<sup>65</sup>. During her visit, the SRSG did not find any such situations and the managers of the Busmantsi and Lyubimets detention centres told her that when a minor placed in detention turns out to be an unaccompanied minor, the detention is ended and the minor is referred to the appropriate service. The SRSG encourages the competent authorities to continue their efforts to assess the reality of the relationship between minors and the adults accompanying them.

### VI.3. DURATION AND CONDITIONS OF ADMINISTRATIVE DETENTION

96. The SRSG and her delegation visited the Busmantsi (Sofia) and Lyubimets (south-east Bulgaria) immigration detention centres. These centres have a capacity of 400 and 660 people respectively. The annual number of people detained has risen sharply recently. At the Lyubimets centre, for example, 9407 people were detained in 2022, compared with 5117 in 2021<sup>66</sup>. In application of the law, the maximum duration of detention in these centres is in principle six months, but may be extended, in certain cases, to a further twelve months. Children detained with their parents may not be held for more than three months.
97. According to information provided by administrative detention centre managers, foreign nationals detained have the option of applying for international protection. Access to medical care is guaranteed twenty-four hours a day, seven days a week, and contracts have been signed with hospitals for the provision of specialist care. Psychologists are available on working days. Occupants have areas for outdoor sporting activities, a library, a television room, play areas and prayer rooms. They have access to three meals a day and special diets in accordance with health needs. Foreign nationals can buy extra food, drinks and hygiene equipment. Families with children are in principle accommodated in separate premises suitable for minors. Equipment for babies and very young children is available.

<sup>63</sup> [Recommendation CM/Rec\(2022\)22](#) of the Committee of Ministers to member States on human rights principles and guidelines for age assessment in the context of migration (Adopted by the Committee of Ministers on 14 December 2022 at the 1452<sup>nd</sup> meeting of the Ministers' Deputies).

<sup>64</sup> Summary of the activities of the National Ombudsperson in relation to the human rights situation of refugees and migrants in the Republic of Bulgaria.

<sup>65</sup> In a ruling of 29 March 2021 (Supreme Administrative Court, General Assembly, case no. 1/2019, 29 March 2021), the Supreme Administrative Court of Bulgaria recalled that information provided by the police on the relationship between children and the adults accompanying them is not binding and that the authorities ordering detention may assess the relationship in greater detail.

<sup>66</sup> 7027 from January to September 2023.

98. Major repairs have been carried out on the buildings, particularly at the Lyubimets centre, where further repairs are expected in 2024 to the sanitary facilities, roofs, open spaces and sports facilities. Occupants can receive visits from their lawyers and families, and have access to their correspondence. Their rights are posted in several languages in different parts of the centres.
99. Two areas of concern were raised during discussions between the SRSG and the managers of the two detention centres. The first concerned the language barrier faced by some detainees, despite the presence of interpreters for the most frequently spoken languages. This difficulty is likely to have an impact on detention conditions and the exercise of detainees' rights. The SRSG invites the competent authorities to continue their efforts to enable detainees to communicate with detention centre staff in a language they understand.
100. The second area of concern is the increase in the number of people detained and its impact on the activities on offer. The Busmantsi centre management indicated that a series of cultural and recreational activities had been interrupted in the context of the covid-19 pandemic and had not been resumed due to the influx of detainees. Premises and staff resources were mobilised to deal with this influx. The competent authorities should ensure that the increase in the occupancy of detention centres does not lead to a deterioration in detention conditions, particularly for children accompanying their parents and other vulnerable persons.
101. On other aspects of detention conditions, which may have been commented on by other groups of experts<sup>67</sup>, the SRSG invites the Bulgarian authorities to continue the dialogue with her office, as well as with other relevant Council of Europe bodies, in particular the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).

## **VII. PEOPLE HAVING FLED UKRAINE**

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### **VII.1 IMPLEMENTATION OF TEMPORARY PROTECTION**

102. By decision no. 145 of 10 March 2022, the Bulgarian Council of Ministers approved the humanitarian aid programme for people who had fled Ukraine and were seeking temporary protection in the Republic of Bulgaria. This decision followed on from the Council of the European Union's Implementing Decision (EU) 2022/382 of 4 March 2022 determining the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC and introducing temporary protection for Ukrainian nationals resettled from 24 February 2022. It also amended the National Action Plan for Temporary Protection in the Republic of Bulgaria.

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<sup>67</sup> [Asylum Information Data Base, European Council of Refugees and Exiles: Statistics - Asylum Information Database | European Council on Refugees and Exiles \(asylumineurope.org\), p. 96-97.](#)

103. Law no. 32/22, which came into force on 26 April 2022, amended article 39 of the Asylum and Refugees Act and created article 39a. to define the rights of beneficiaries of this temporary protection. Beneficiaries of this temporary protection have the right to remain on Bulgarian territory, to be reunited with their family members, to work without needing a permit, to be provided with housing or appropriate means of accommodation if necessary, to receive social assistance, to benefit from health insurance, accessible medical care and medical services under the conditions and according to the procedure laid down for Bulgarian citizens and to return freely to their country of origin.
104. As previously indicated, as at 31 December 2022, the number of people who had entered Bulgaria after fleeing Ukraine was 997 344, 149 268 of whom had been registered for temporary protection, including 52 274 children and 589 unaccompanied minors. 681 third-country nationals from Ukraine were granted temporary protection<sup>68</sup>. 49 704 people remained in Bulgaria. The majority of refugees entered Bulgaria via the border with Romania, where they were given flexible access to the country on the basis of documents that could prove their identity.
105. The government has set up an internet portal to inform displaced persons from Ukraine of their rights: [ukraine.gov.bg](http://ukraine.gov.bg) and distributed information materials in the form of brochures. A 24-hour helpline has also been set up. According to the Bulgarian authorities met by the SRSG, Bulgarian society as a whole has welcomed people having fled Ukraine.

## VII.2. ACCESS TO THE RIGHTS RELATED TO TEMPORARY PROTECTION

### VII.2.1. Access to accommodation and food aid

106. The people who arrived in Bulgaria from Ukraine in February 2022 were mainly accommodated in private homes and hotels in the north of the country. The accommodation and food supplies provided were financed by the state retroactively following the adoption of the humanitarian aid programme for displaced persons from Ukraine on 10 March 2022. The Bulgarian Government then decided to settle the holders of temporary protection in accommodation provided by the state or municipalities until the end of the protection regime.
107. During the SRSG's visit, the Bulgarian authorities emphasised that accommodation for people who had fled Ukraine to take refuge in Bulgaria had been provided quickly throughout the country. Food aid was provided in the form of vouchers or financial allowances, in accordance with the general rules of the social assistance system.
108. After a much-criticised repeal of the humanitarian aid programme, the government reinstated it in November 2022, allowing holders of temporary protection to stay in hotels and in the homes of approved private individuals until the end of the temporary protection regime and funding the accommodation of newly-arrived people from Ukraine in state or municipal premises with available places. However, the measures concerning food aid have been repealed. The Elhovo detention centre has also been used as an initial reception and internal relocation centre for all people arriving from Ukraine after October 2022.

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<sup>68</sup> [AIDA, Temporary Protection Bulgaria.](#)

109. The SRSG welcomes the efforts that have been made to provide accommodation and food aid to displaced persons from Ukraine and calls on the Bulgarian authorities to extend these efforts, in particular to persons, even newly arrived, in vulnerable situations.

#### VII.2.2. Access to healthcare

110. Since the law was amended in April 2022, beneficiaries of temporary protection from Ukraine have been entitled to the same healthcare as nationals. They have the same access to the social protection system and social assistance. However, the international organisations and NGOs met by the SRSG have indicated that beneficiaries of temporary protection face the same difficulties in accessing healthcare as Bulgarian citizens, due, in particular, to the lack of doctors, insufficient access to healthcare in certain areas, such as mental health, and the low level of coverage provided by the Bulgarian social protection system.

111. The Bulgarian authorities have informed the SRSG that training sessions have been organised for mental health professionals, social workers and volunteers in connection with the arrival of people fleeing Ukraine. Psychotherapy groups have also been set up in conjunction with international organisations and NGOs, particularly to deal with trauma and the special needs of women and children. Vaccination campaigns for children were carried out according to the requirements of the Bulgarian health system, taking into account the information available on vaccinations carried out in Ukraine.

#### VII.2.3. Access to education

112. Children from Ukraine covered by temporary protection are guaranteed free access to education, not only for the period of compulsory education, from age 4 to 16, but also for children who continue their education between the ages of 16 and 18.

113. According to the figures provided to the SRSG during her meeting with the Ministry of Education, 512 Ukrainian children were enrolled in pre-school and 1 035 enrolled in school establishments in the 2022-2023 school year. At the time of the SRSG's visit, these figures were 615 and 2 035.

114. Intensive summer training was offered on a voluntary basis to children from Ukraine, particularly those who needed additional Bulgarian language lessons.

115. Higher education, on the other hand, is not compulsory and involves the payment of tuition fees. These fees are only reduced or waived for students of Bulgarian origin coming from Ukraine. According to explanations given by the Ministry of Education, there is no legal basis in Bulgarian law for reducing registration fees for other students. An agreement with Ukraine would be required to implement such a measure. The SRSG suggests that the Bulgarian authorities assess the possibility of extending the measures for reducing or waiving higher education registration fees currently applicable only to students of Bulgarian origin to all students from Ukraine who are holders of temporary protection.

116. Lastly, the SRSG's attention was drawn to the difficulties encountered by some students from Ukraine, particularly from the occupied territories, in continuing to be accommodated in university halls of residence due to their inability to produce certain supporting documents. The SRSG suggests that these situations be examined and dealt with in a flexible manner, taking into account the obstacles encountered by these students in obtaining official documents.



#### VII.2.4. Access to the labour market

117. Holders of temporary protection have the right to work and receive vocational training under the same conditions as Bulgarian citizens, without having to apply for additional authorisation, whether to work as an employee, in a business or on a self-employed basis.
118. Bulgarian law was amended in June 2022 to abolish the requirement for a work permit for third-country workers holding temporary protection.
119. The Bulgarian authorities reported that, by 31 August 2023, 5 282 Ukrainian citizens had started working in the Republic of Bulgaria thanks to the involvement of the Labour Office. By the same date, 3 231 people had started working under the "Solidarity Project" for the integration of relocated persons from Ukraine with Temporary Protection status, implemented by the Employment Agency<sup>69</sup>.
120. During her visit, the SRSG was made aware of the difficulties encountered by healthcare professionals (doctors and nurses in particular) holding temporary protection to be able to practise their profession in Bulgaria. Recognition of their qualifications is subject to examinations, focusing in particular on medical terminology in Bulgarian. However, it seems that the people concerned have to pay high registration fees and produce supporting documents that they are not always able to obtain. Nearly 400 professionals are thought to be affected nationwide. The SRSG's contacts at the Ministry of Health told her that the Ministry was working on this issue. The SRSG suggests that the obstacles to this practice be precisely identified and that solutions be proposed to enable these numerous healthcare professionals to practise their profession, it being specified that this measure could benefit the entire population.
121. Finally, the SRSG invites the Bulgarian authorities to examine the value of becoming partners in the European Qualifications Passport for Refugees, which helps refugees rebuild their lives in their host country by giving them the opportunity to have their qualifications assessed.

### VII.3. INNOVATIVE INITIATIVES AND PROJECTS

122. During her mission, the SRSG visited the accommodation and integration centre for Ukrainian refugees in Plovdiv. The municipality has responded to the arrival of several thousand people from Ukraine by setting up an accommodation and integration centre in the buildings of a former hospital, which offers a range of services. The municipality provides and maintains the premises, covers operating costs, and provides meals and childcare. Charities and relevant international organisations<sup>70</sup> step in to offer financial assistance and distribute emergency supplies. Businesses and voluntary citizens of Plovdiv provide assistance or donations.

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<sup>69</sup> [In addition, by 31 December 2022, 2 198 jobs had been obtained through government services and programmes \(AIDA, Temporary Protection Bulgaria\).](#)

<sup>70</sup> See news items from [the website of IOM Bulgaria](#) and [that of UNHCR](#).

123. On a day-to-day basis, the centre is run by volunteers from a local association, Ukraine Support and Renovation. The association offers material and moral support to displaced people from Ukraine, as well as information and help with administrative procedures, job hunting and finding accommodation. Classes in Bulgarian and English, electronics, IT and art therapy are held several times a week for adults and children. Cultural, creative and sporting activities are offered in specially equipped rooms. Psychologists are available free of charge. Since it opened in June 2022, the centre has received and supported more than 5 000 displaced people from Ukraine.
124. The centre also provides accommodation for vulnerable families and individuals: single mothers, unaccompanied children, the elderly, disabled or sick. These families are housed in renovated and furnished rooms. The building is equipped with kitchens to enable residents to prepare their own meals, laundry rooms with washing machines, tumble dryers and ironing facilities, children's playrooms and large communal rooms.
125. During discussions with the Deputy Mayor of Plovdiv and representatives of the Ukraine Support and Renovation association, the SRSG was informed that the majority of Ukrainian children in Plovdiv attend Bulgarian schools. According to them, the integration of these children into kindergartens and schools has been facilitated by their reception at the centre. The services offered have also helped to support the mothers and contribute to the balance of the families as a whole. The people of Plovdiv have spontaneously donated various items of equipment to the centre, as well as bicycles, which made the refugees' daily lives and mobility easier.
126. Overall, the Plovdiv Accommodation and Integration Centre was described as a safe place, a support network and a fast-track route to education and integration for displaced people from Ukraine. It has helped to develop a sense of belonging among the refugees in Plovdiv and has promoted their inclusion within the local population, which has rallied round to support them. The stated aim of the municipality of Plovdiv and those in charge of the Ukraine Support and Renovation association is to enable people who have fled Ukraine to quickly become self-sufficient.
127. This initiative by the municipality of Plovdiv was a finalist for the Political Innovation Prize of the Institute for Innovation in Politics<sup>71</sup>. The SRSG welcomes this initiative and its positive results in terms of the reception and inclusion of people who have fled Ukraine. These good practices should be widely disseminated to all Bulgarian municipalities..

## VIII. RECOMMENDATIONS

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128. Bulgaria has had to cope with a massive influx of people fleeing the war in Ukraine, as well as increased migratory pressure on its southern borders, linked to the situation in the Middle East and Afghanistan.

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<sup>71</sup> See the information available on the [institute's website](#).

129. The SRSG welcomes the efforts made by the Bulgarian authorities, at both national and local level, in co-ordination with civil society and volunteers, to receive, support and protect people coming from Ukraine. It also notes the determination of the authorities to strengthen the effectiveness of border control and the Bulgarian asylum system as part of a concerted policy at European Union level. It also notes the challenges faced by Bulgaria in guaranteeing international protection and defining a long-term strategy for the protection of migrants in vulnerable situations in a context where it is no longer seen solely as a transit country.

130. The main objective of this report is to identify the specific areas in which the Council of Europe can assist the Bulgarian authorities, at their request, in meeting certain challenges, in accordance with the Organisation's mandate. Within the framework of the Council of Europe's Action Plan on the Protection of Vulnerable Persons in the Context of Migration and Asylum in Europe (2021-2025) and in close co-operation with international organisations and other partners, additional know-how and expertise can be mobilised to provide tailor-made technical support to the relevant Bulgarian authorities. The Council of Europe suggests in particular the following actions:

- Continue the training of lawyers and other legal professionals on the procedures for granting international protection, as well as on the fundamental rights of migrants, asylum seekers and refugees, in co-operation with the HELP programme and on the basis of the modules already put in place by the latter concerning, in particular, alternatives to the detention of migrants, the asylum and the protection of human rights of refugee and migrant children.
- Supporting the relevant authorities, institutions and stakeholders in the protection of unaccompanied and separated migrant, asylum-seeking and refugee children, notably during border procedures based on the recent joint guidance note of the Council of Europe and EU Fundamental Rights Agency on "Children in migration – fundamental rights at European borders". Providing such support in particular in the effective implementation of Recommendation CM/Rec(2019)11 of the Committee of Ministers to member states on effective guardianship for unaccompanied and separated children in the context of migration. Supporting the authorities also in the implementation of Recommendation CM/Rec(2022)22 on human rights principles and guidelines on age assessment in the context of migration. Carrying out these support actions in full co-operation with other interested international organisations, in particular the UNHCR.
- Intensifying efforts to implement the recommendations of the Ombudsperson of the Republic of Bulgaria and the State Agency for Child Protection on improving reception conditions in reception centres for people seeking international protection, by incorporating the Council of Europe's standards on reception conditions.
- Assisting the competent authorities in the prevention and detection of trafficking in human beings, including the training of officials in contact with migrants and asylum seekers, in particular border police officers, in the identification and referral of foreign victims of trafficking. Particular attention should be paid to the protection of victims, in line with Council of Europe standards and guidelines and in co-ordination with other international organisations. Capacity-building actions and events can further enhance co-operation on these issues.

- Developing in practice the alternatives to immigration detention provided for by law, drawing on the Guide for Practitioners on the Administrative Detention of Migrants, prepared by the Council of Europe's European Committee on Legal Co-operation, and planning capacity-building actions and events where necessary.

## IX. APPENDIX: PROGRAMME OF THE VISIT

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### Monday, 11 September

<b>08:15 – 09:00</b>	Working breakfast with the Head of the UNHCR Bulgaria
<b>09:30 – 11:00</b>	Meeting with representatives of UNHCR, UNICEF, IOM and WHO
<b>11:30 – 12:15</b>	Meeting with the Minister of Justice
<b>12:30 – 14:00</b>	Meeting with representatives of NGOs
<b>14:30 – 15:30</b>	Meeting with the Deputy Minister of the Interior
<b>16:00 – 17:30</b>	Meeting with the team of the Ombudsperson of the Republic of Bulgaria

### Tuesday, 12 September

<b>10:00 – 11:00</b>	Meeting with the Vice-Ministers for Health
<b>11:30 – 12:30</b>	Meeting with the Deputy Ministers for Labour and Social Policy
<b>13:00 - 15:00</b>	Working lunch hosted by the Director of Human Rights, Ministry of Foreign Affairs
<b>15:00 - 16:00</b>	Meeting with the Deputy Minister of Foreign Affairs
<b>16:30 – 19:15</b>	Visit to the Registration and Reception Centre in Ovcha Kupel Meeting with the President of the State Agency for Refugees

### Wednesday, 13 September

<b>08:30 – 11:00</b>	Visit to the Plovdiv Accommodation and Integration Centre Meeting with the head of the Centre and the Deputy Mayor of Plovdiv
<b>11:30 – 16:30</b>	Visit to the Registration and Reception Centre in Harmanli Visit to the Immigration Detention Centre in Lyubimets Visit to the Kapitan Andreevo border checkpoint

### Thursday, 14 September

<b>09:30 – 10:30</b>	Meeting with representatives of the State Agency for Child Protection
<b>12:00 – 13:00</b>	Meeting with representatives of the State Agency for National Security
<b>14:30 – 16:00</b>	Visit to the Immigration Detention Centre in Busmantsi
<b>16:30 – 18:00</b>	Meeting with the Secretary General of the Attorneys' Training Center of the Supreme Bar Council of the Republic of Bulgaria.