Access to procedures and non-refoulement - Bulgaria

Overview

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Relevant EU legislation

Bulgaria is bound by the recast Asylum Procedures Directive and has transposed its provisions through the Law on Asylum and Refugees | ЗАКОН ЗА УБЕЖИЩЕТО И БЕЖАНЦИТЕ, (1 December 2002) and further amendments.

National legislation

Law on Asylum and Refugees | ЗАКОН ЗА УБЕЖИЩЕТО И БЕЖАНЦИТЕ, (1 December 2002)

Law on Amendment and Supplement to the Asylum and Refugees Act, Decree 198 | Закон за изменение и допълнение на Закона за убежището и бежанците УКАЗ № 198 (14 October 2015)

Competent authority and stakeholders

Area	Competent national authority	Assistance to competent authority (if applicable)
Screening at the external border	Border Police I Главна дирекция	Not applicable

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Area	Competent national authority	Assistance to competent authority (if applicable)
Biometric data	State Agency for Refugees (SAR) | Държавна агенция за бежанците при Министерския съвет – officials designated by order of the SAR	Not applicable
Making an application	Application for international protection can be made before any state authority which is required by law to forward it to SAR in order to proceed with the registration of the applicant – see Article 58 (4) of the Law on Asylum and Refugees. State Agency for Refugees (SAR) | Държавна агенция за бежанците при Министерския съвет Local Police Stations | Полицейски управления (по места) Migration Directorate | Дирекция „Миграция“ към Министерство на вътрешните работи (in detention)	Not applicable
Registering an application	State Agency for Refugees (SAR) | Държавна агенция за бежанците при Министерския съвет	Not applicable

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Area	Competent national authority	Assistance to competent authority (if applicable)
Lodging an application	State Agency for Refugees (SAR) | Държавна агенция за бежанците при Министерския съвет	Not applicable
Information provision	Border Police I Главна дирекция State Agency for Refugees (SAR) | Държавна агенция за бежанците при Министерския съвет Migration Directorate | Дирекция „Миграция“ към Министерство на вътрешните работи (in detention)	Not applicable

Access to the territory

Official external border-crossing points

Bulgaria has 5 external air border-crossing points:

- Sofia Airport
- Plovdiv Airport
- Gorna Oryahovitsa Airport
- Varna Airport
- Burgas Airport

Bulgaria has 8 external land border-crossing points:

- Bregovo
- Vrashka Chuka
- Kalotina

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- Strezimirovtsi
- Oltomantsi
- Gyushevo
- Stanke Lisichkovo
- Zlatarevo

Bulgaria has 4 external sea border-crossing points and 7 river crossing points:

- Vidin (river)
- Lom (river)
- Somovit-Nikopol (river)
- Svishtov (river)
- Ruse (river)
- Tutrakan (river)
- Silistra (river)
- Balchik (sea)
- Varna (sea)
- Burgas (sea)
- Tsarevo (sea)

Emergency measures in cases of mass arrivals

Article 1a (3) of the Law on Asylum and Refugees (LAR) provides for granting temporary protection in the event of a mass influx of foreigners who are forced to leave their country of origin due to armed conflict, civil war, foreign aggression, violation of human rights or large-scale violence on the territory of the relevant country or in a separate region thereof and who cannot, for these reasons, return there. The provision is corroborated by Article 2(2) of the LAR which stipulates that the Council of Ministers must decide on temporary protection when introduced by a decision of the Council of the European Union.

The Law on Asylum and Refugees does not contain any other provision on emergency measures in case of mass arrival of migrants.

In accordance with the national contingency plans, SAR has developed its own operational plans for responding to increased migratory pressure on the borders with the Republic of Turkey and the Republic of Greece. These plans aim to ensure an effective organization for the implementation of the Agency's tasks, to expand the capacity for reception and accommodation of asylum seekers, as well as to ensure conditions for the timely examination of applications for

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international protection in an emergency.

In accordance with Art. 32 of Directive (EU) 2024/1346 laying down standards for the reception of applicants for international protection, the Republic of Bulgaria has developed a National Contingency Plan in the field of international protection. The aim of the plan is to increase the country's preparedness to respond to a sudden and significant increase in the number of applicants for protection, by ensuring appropriate reception, including effective provision of representatives for unaccompanied minors.

The said plans include the main planned measures and actions in emergency situations, both in the field of migration and in the field of international protection.

Protection from refoulement

The principle of protection from *refoulement* is enshrined in Article 4(3) of the Law on Asylum and Refugees and provides the following: *“A foreigner who has entered the Republic of Bulgaria in order to seek protection, or who has received protection, cannot be returned to the territory of a country where his life or freedom are threatened for reason of race, religion, nationality, belonging to a definite social group or political opinion, or he has been exposed to a danger of torture or other forms of cruel, inhuman or humiliating attitude or punishment”*.

However, Article 4(4) of the Law on Asylum and Refugees explicitly provides that a person granted international protection can be returned when the person poses a threat to the security of the country or who, once convicted for a serious crime by a final judgment, poses a danger to society.

In accordance with Article 16 of the Ordinance № 332 of 28 December 2008 of coordination between the responsible authorities for conducting actions under the EURODAC and Dublin Regulations, when a foreigner is detained for illegally crossing the state border or in the border zone of the Republic of Bulgaria and has declared a desire for international protection, the officials of the General Directorate "Border Police" - Ministry of Interior:

1. carry out the actions provided for in the Bulgarian legislation upon detention of a foreigner for illegally crossing the state border of the Republic of Bulgaria.

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2. notify SAR about a foreigner who has made an application for international protection.

When a foreigner with valid travel documents appears at a border checkpoint (BCP) and declares a desire for international protection, the officials of the General Directorate "Border Police" - Ministry of Interior:

1. notify SAR about a foreigner who has made an application for international protection

2. allow the foreigner to enter the country in accordance with the statutory procedure and hand him over with all documents to SAR.

These actions are valid for all border crossing points, including air borders, and are being applied thoroughly.

Protection from *refoulement* at external air borders

Same as above.

Protection from *refoulement* at external land borders

The 2010 Tripartite Memorandum of Understanding between the Border Police, UNHCR and the Bulgarian Helsinki Committee, with funding provided by UNHCR, stipulates that all three parties have access to any national border or detention facility at land and air borders, including airport transit zones, without limitations on the number of monitoring visits. Access to these facilities is unannounced and granted without prior permission or conditions on time, frequency or circumstances of the persons detained. Annual border monitoring reports are drafted and published based on the findings of the monitoring activities. The latest report published by the Bulgarian Helsinki Committee concerns monitoring for 2024.

Protection from *refoulement* at external sea borders

Same as above.

Protection from *refoulement* in case of emergency measures related to mass arrivals

Same as above.

Border procedure

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Currently, there is no border procedure in Bulgaria.

Procedural aspects

The lodging procedure overlaps with the registration of the application for international protection and is done by the State Agency for Refugees officer (SAR) (by the relevant territorial unit of the Agency). If the asylum application is made before an authority different than the SAR, then status determination procedures cannot legally start until the asylum applicant is transferred from the border/detention centre and accommodated in any of the SAR's premises for registration to lodge the claim in person.

Making an application

Responsible authority and place: Applications for international protection can be made (in the sense of initial expression of the wish to receive international protection) at the border/airport/seaport (to border police officers) or within the territory (to any territorial unit of the State Agency for Refugees). Pursuant to Articles 58(1) and 58(4) of the Law on Asylum and Refugees, if the foreigner expresses the initial wish to apply for international protection to an authority which is not competent to register applications, the information about their intent is transferred ex officio to the territorial unit of the State Agency for Refugees (which is the competent authority for registering the application).

According to Article 23(3) of the Law on Asylum and Refugees, lawyers, representatives of civil society organisations and UNHCR should have access to borders, transit zones and detention facilities during visiting hours, and also ad hoc without prior permission when necessary or requested by asylum applicants.

Possibility to apply from outside the territory

Applications cannot be made to a Bulgarian embassy abroad. Bulgaria does not have scheme for issuing visas for humanitarian reasons, but it may be applicable only if it is in the interest of the state or as a result of an agreement.

Formal requirements for making an application

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There is no possibility to apply for international protection by post or e-mail; all applications must be submitted in person. All border crossing points are open, accessible and operate 24/7. A third-country national can make an application for international protection at the border, stating before the Border Police that they are willing to receive protection in Bulgaria and they should receive sufficient information about their rights. Furthermore, the illegal crossing at the border is decriminalised for those who enter the country to seek asylum. According to the Criminal Code, Article 279(5), no punishment shall be incurred to those who enter the country to avail themselves of the right to asylum, according to the Constitution.

If the foreigner expresses the initial wish to receive international protection to someone that is not the authority competent to register applications, the information about their intent is transferred to the territorial unit of the State Agency for Refugees (which is the competent authority for registering the application) ex officio. The foreigner who has stated his intent to apply for international protection is instructed on the procedure for submitting the application.

The application for international protection may be given orally, in written or another form, and if necessary, an interpreter shall be provided. The application, which is not in writing, shall be recorded by the official and signed or otherwise certified by the applicant and the interpreter, respectively, see Article 59 of the Law on Asylum and Refugees.

According to Article 58(6) of the Law on Asylum and Refugees, if there are indications that a foreigner detained in places of detention, special homes for temporary accommodation of foreigners or a foreigner located at a border crossing point, including in transit areas, may wish to apply for international protection, they are provided with information on this possibility. For this purpose, interpretation is provided to facilitate access to the procedure. In the above context, if a person is in a detention facility, they can make the application with the Migration Directorate staff.

Registering an application

Responsible authority and place

The responsibility for registering an application for international protection lies with the State Agency for Refugees (one of the territorial units) according to

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Article 58(3) and (4) of the Law on Asylum and Refugees. The State Agency for Refugees registers the application within 6 working days, when it is made with another authority which forwarded it to SAR. In line with Article 61a (1) of the Law on Asylum and Refugees, the registration is made within 3 working days from the making the request, unless Article 58 applies.

Practical steps to register the application

In Bulgaria, registration and lodging of an application overlap. Article 61a of the Law on Asylum and Refugees outlines the procedure: the foreigner registers the application with the State Agency for Refugees and a personal file is opened. The registration is carried out no later than 3 working days after the submission of the application, unless conditions outlined in Article 58(4) apply (application is made before another authority than the competent one).

An age assessment and check for vulnerabilities are performed by officials when examining the application and there are doubts on the age of the applicant – see Article 61a (2) of the Law on Asylum and Refugees. At the discretion of the competent authority, the opinion of an expert may be required related to medical, psychological, cultural or religious aspects, in order to examine the application – see Article 61a (2) of the Law on Asylum and Refugees. An official or a translator of a particular gender may be requested.

According to Article 63 of the Law on Asylum and Refugees, after registration, a date for conducting an interview is determined and the applicant is notified in good time of the date of each subsequent interview.

The Operational Plan 2023-2026 agreed by the EUAA and Bulgaria provides that the latter receives support in registration workflows, procedures and tools, including information provision in the context of registration.

Data collection

Article 63 of the Law on Asylum and Refugees gives the mandate to the State Agency for Refugees (SAR) to collect data on foreigners who have submitted an application for international protection. Upon registration, SAR notes data on name, citizenship, date and place of birth, gender, marital status and family ties, identity documents and other documents of foreigners.

Article 60 of the Law on Asylum and Refugees provides that a SAR official searches the foreigner to check the items that he/she carries, and takes photographs and fingerprints and other identifying features under the conditions

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and in accordance with the procedure of the Ministry of Interior Act and with respect for the dignity of the foreigner.

All applications for international protection are registered in an IT system - the Automatic Information System - Refugees (bg. Автоматизирана информационна система - Бежанци), administrated by SAR. It only gathers data on proceedings linked to foreigners applying for international and temporary protection.

The Eurodac Regulation (604/2013), Article 9 obliges Member States to promptly take fingerprints of all fingers of every applicant for international protection who is at least 14 years of age. The new Eurodac Regulation (2024/1358), Article 15 obliges Member States to take the biometric data of every applicant for international protection who is at least 6 years of age.

Documentation

The applicant receives the documentation after lodging the application. The lodging ang registration procedures overlap.

Lodging an application

Responsible authority and place

The lodging of an application for international protection overlaps with the registration of the application and is done by a SAR officer (by the relevant territorial unit of the Agency). If the asylum application is made before an authority different than SAR, then the status determination procedure cannot legally start until the asylum applicant is transferred from the border/detention centre and accommodated in one of SAR’s premises for registration to lodge the claim in person.

Formal requirements to lodge an application for international protection

The application for international protection is lodged in person (it is not possible to do so by proxy). However, the law allows an applicant to also apply for dependents, for example minors (0-14 years old) but not for the spouse (all adults lodge an individual application). If the applicant is a minor (15-17 years old), he/she has the legal capacity to lodge the application himself/herself. A parent’s consent is however necessary.

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Various practical arrangements are in place to assist the person during the process of lodging the application, including written information on rights and obligations as an applicant, obligations when accommodated in a territorial unit of SAR, the asylum procedures and a list of NGOs which work with applicants for international protection. All documents are in a language the applicant understands, and after signing them, they are attached to the personal file of the applicant.

The application process includes additional activities to establish the identity of the applicant, taking photographs of the applicants, fingerprinting, a medical examination, personal and luggage checks, and a security check, if required.

Documentation

Upon registration and lodging, an applicant is issued a registration card (*регистрационна карта*) in paper format by the SAR which certifies that the holder is an applicant (it does not serve as an identity document). The card includes the applicant's name, date and place of birth, nationality, personal number and the territorial unit of SAR where the asylum procedure will be held. It is issued for 3 months and then renewed for 3 months – see Article 41(1), items 1 and 4 of the Law on Asylum and Refugees. The card should be returned when the applicant is granted a residence permit or leaves Bulgaria.

The registration card is not issued during the procedure for the admissibility of the subsequent application. If the application is considered admissible, new registration takes place and the applicant is issued and provided with a registration card.

An applicant has the right to material reception conditions during the proceedings, pursuant to Article 29 of the Law on Asylum and Refugees.

Information provision

The applicant must be provided with relevant information during the asylum procedure at various stages and information may be reiterated during the lodging of the application for international protection.

Article 58 (8) of the Law on Asylum and Refugees provides that the applicant must be provided, no later than 15 days from lodging the application, in written

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and in a language that s/he understands, with information on the procedure, about his/her rights and obligations, about the consequences of failure to comply with his/her obligations or refusal to cooperate with the officials of the State Agency for Refugees, as well as about the consequences of the tacit or explicit withdrawal of his/her application. The applicant must also be provided with information organisations which provide legal and social assistance to foreigners. In certain circumstances the information may be provided orally.

Also, for unaccompanied minors, Article 58(9) of the Law on Asylum and Refugees provides for the obligation to immediately notify him/her of the possibility of having an expert examination performed to determine his/her age.

Also, Article 58 (6) of the Law on Asylum and Refugees provides that when there are indications that a foreigner detained in places of detention, special homes for temporary accommodation of foreigners or located at border checkpoints, including in transit zones, may wish to submit an application for international protection, he or she must be provided with information on the possibility of applying for international protection. The law provides for the obligation to provide interpretation services in order to facilitate access to the international protection procedure.

Passport and other documents

Obligation to surrender original documents

Requirement to submit original documents

An applicant’s identity documents (e.g. passport) must be surrendered to the territorial units of SAR and they are kept until the end of the asylum procedure – see Article 60 of the Law on Asylum and Refugees. If the applicant does not have personal documents which certify their identity, they are provided with a declaration form (which includes information on the date and the place of birth, as well as those of the accompanying children or family.

Consequence of a refusal to surrender documents According to Article 13 (1, 8 and 9) the Law on Asylum and Refugees, the application can be rejected as

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manifestly unfounded if or when the applicant

- intentionally destroys, damages or disposes of a passport, other document or ticket relevant to his/her claim in order to present himself/herself under a false identity or to hinder the examination of the application.
- intentionally destroys, damages or disposes of a passport, other document or ticket relevant to his/her claim in order to present himself/herself under a false identity or to hinder the examination of the application.

Return of original documents to the applicant

The applicant's documents are retained until a decision on the application is taken – see Article 60 (1) of the Law on Asylum and Refugees.

Other documents

Article 60 of the Law on Asylum and Refugees provides that a SAR official searches the foreigner to check the items that he/she carries, and takes photographs and fingerprints and other identifying features under the conditions and in accordance with the procedure of the Ministry of Interior Act and with respect for the dignity of the foreigner. There is no possibility for paperless submission of documents.

Requirement to read digital data

Article 60 of the Asylum and Refugees Law provides that a SAR official searches the foreigner to check the items on the person, including ID, in accordance with the procedure of the Ministry of Interior Act and with respect for the dignity of the foreigner.

Guarantees for applicants

Confidentiality principle

Article 63b of the Law on Asylum and Refugees guarantees the confidentiality principle during interviews conducted by the competent authority.

The confidentiality principle is also guaranteed by Article 65 of the Law on Asylum and Refugees, which obliges the competent authority to process the

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personal data of the foreigner in accordance with the personal data protection regulations.

Information provision

An applicant is informed in writing in a language understood by them about the procedure, next steps, rights and obligations, and consequences of noncompliance with their obligations or for a refusal to cooperate with competent authorities. The applicant also receives information about organisations which provide legal assistance. This information may also be provided orally – see Article 58(8) of Law on Asylum and Refugees.

If there are signs that a foreigner who is at a border checkpoint, including transit zone, or detained in a place of detention or in a special home for temporary accommodation of foreigners of Migration Directorate with the Ministry of Interior wishes to apply for international protection, the officials of the relevant authority are obliged to provide the foreigner with information on this possibility. For this purpose, interpretation is provided to facilitate access to the procedure – see Article 58(6) of the Law on Asylum and Refugees.

At the border or in transit zones, information on the right to make an application is provided by border police in writing in the form of a leaflet which is available in several languages (such as Arabic, Farsi, Dari, Urdu, Pashto, Kurdish, English and French). Information is also provided by UNHCR or NGOs on information boards. To a certain extent, foreigners can access advice and counselling at the border or in transit zones provided by civil society organisations, for example the Bulgarian Helsinki Committee.

If in detention, information is provided to foreigners in the form of brochures and boards (in English, French, Arabic, Pashtun and Farsi), and include information on the rights and obligations, organisations that provide social and legal assistance and procedures that will follow.

Information is also provided by UNHCR and civil society organisations.

The Operational Plan 2023-2026 agreed by the EUAA and Bulgaria provides that the latter receives support in registration workflows, procedures and tools, including information provision in the context of registration.

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The Internal rules for conducting the procedure for granting international protection provide under Article 16 the obligation, immediately before registration, for the foreigner to be provided with a copy of the instructions on his/her rights and obligations as an applicant for protection in the Bulgaria in a language he/she understands (according to a model). In cases where the applicant is illiterate or blind, the registration officer must read the instructions to him with the help of an interpreter. Subsequently, the foreigner, the registrar and the translator must sign and write the name and surname of the copy in Bulgarian. This document must be kept in the personal case of the foreigner. If the foreigner is a minor, a social worker or a social expert must also be present at the registration.

Links to information provided in the national context:

Authority/agency: State Agency for Refugees

Title: Information on: Dublin, stages of the asylum procedure – rights and obligations, types o information for beneficiaries of international protection

Type: website

Hyperlink: https://aref.government.bg/%D0%B8%D0%BD%D1%84%D0%BE%D1%80%D0%BC%D0%B0%%D0%BB%D0%B8%D1%86%D0%B0-%D1%82%D1%8A%D1%80%D1%81%D0%B5%D1%89%%D0%BF%D0%BE%D0%BB%D1%83%D1%87%D0%B8%D0%BB%D0%B8-%D0%B7%D0%B0%D0%BA%D1%80%D0%B8%D0%BB%D0%B0

Authority/Agency: UNHCR

Title: Platform in several languages with information for asylum seekers

Type: website

Hyperlink: https://asylum.bg/

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Authority/Agency: Foundation for Access to Rights

Title: Free Information Database

Type: website

Hyperlink: https://refugeelight.bg/

Authority/Agency: Voice in Bulgaria – Center for Legal Aid

Title: Information about rights

Type: website

Hyperlink: https://centerforlegalaid.com/our-services/

Interpretation

Article 29 of the Law on Asylum and Refugees guarantees the right of an applicant to an interpreter during the asylum proceedings. According to Article 59 of the Law on Asylum and Refugees, an interpreter is provided to the applicant during the application for international protection. Interpretation is in almost all cases provided in person by an interpreter. Interpretation can be secured by video conference as well, should there not be the possibility of an in-person presence of the interpreter.

Interpretation is provided both at the border/transit zone and in detention. Interpretation is not provided by the State Agency for Refugees, and in general, these services are provided by the Bulgarian Helsinki Committee with UNHCR funding.

The Operational Plan 2023-2026 agreed by the EUAA and Bulgaria provides that the latter receives support for interpretation services, including ad hoc support with interpretation for rare languages to support asylum processing activities.

Legal assistance and representation

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According to Article 58(8) of the Law on Asylum and Refugees, asylum applicants must be informed in writing, within 15 days from the submission of their application, about their rights and obligations. This information must include details about organisations which provide legal and social assistance, and it may also be provided verbally.

The Law on Refugees and Asylum does not mention information on state-funded legal aid or the procedure before the National Legal Aid Bureau for legal assistance during the first instance procedure.

According to Article 23(1) of the Law on Asylum and Refugees, applicants for international protection and beneficiaries of international protection have the right to assistance from UNHCR and other governmental or non-governmental organisations at any stage of the proceedings and after the granting of international protection.

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