



HUMAN
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WATCH

CONTAINMENT PLAN

Bulgaria's Pushbacks and Detention of Syrian and Other
Asylum Seekers and Migrants



“Containment Plan”

**Bulgaria’s Pushbacks and Detention of Syrian and
Other Asylum Seekers and Migrants**

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Map



-  Detention center
-  Reception center
-  Police station
-  Main area of entry in Bulgaria

A Pushback Victim's Story

My wife and kid were hiding and I lost them there and haven't seen them since. I don't know why they arrested me without taking my wife. When the police found me and arrested me they immediately started beating me. They kneed me in my crotch very hard. Three police beat me. When they beat me I tried to say that my wife and child were close by. But they didn't listen and they didn't say anything that I understood. The only English they knew was "No, no Bulgaria!"

After beating me, the police brought me over to their superior who pointed to his boot as if because of me his boot was dirty. So he ordered the soldier to beat me. First he beat me with his fist in my stomach and then with the butt of his gun on my back so I fell down, then he kicked my ribcage while I was lying down. One of my bones in my lower back is broken. I had very intense pain but didn't know that it was broken at the time. They kept beating my head and my back. First one soldier and then another. I tried to escape but they caught me and beat me even more. They even beat me as they were dragging me to the car. They put three of us on the back seat of the jeep. I wasn't even thinking about pain, all I was worried about was my wife and child....

They drove us for about 30 to 45 minutes and took us out of the car and again, one of the soldiers started beating me with his stick all over except for my head, but particularly my chest. We were walking at this point so while we were walking he kept hitting me with his stick. The walk was about 200 meters and I was beaten all the way. When we reached the border, the soldier showed the direction to Turkey.¹

A 21-year-old Afghan from Herat, interviewed in Turkey, who said that he crossed into Bulgaria with his wife and very young child in mid-October 2013. He said he saw the Bulgarian flag and that he and four others walked another two to three hours inside Bulgaria when a Bulgarian official and two uniformed subordinates caught him and two other men, but not his wife and child. He showed Human Rights Watch the scars on his back.

¹ Human Rights Watch interview L65 (name withheld), Istanbul, Turkey, January 15, 2014.

Summary

In recent times, Bulgaria has not been a host country for significant numbers of refugees. On average, Bulgaria registered about 1,000 asylum seekers per year in the past decade. This changed in 2013 when more than 11,000 people, over half of them fleeing from Syria's deadly repression and war, lodged asylum applications. Bulgaria was unprepared for the surge in asylum seekers, showing itself incapable of processing individual asylum claims, and failing to provide new arrivals with basic humanitarian assistance, including food and shelter.

As a member state of the European Union (EU), Bulgaria is legally obliged to meet the standards for the reception of asylum seekers set by the Common European Asylum System (CEAS) and to operate an asylum system according to the same procedures as any other EU member state. As this report documents, however, Bulgaria failed to meet not only EU standards, but also minimal international standards for the treatment of refugees, asylum seekers, and migrants. As a result, at almost every stage of their efforts to seek refuge in Bulgaria, men, women and children fleeing such places as Syria, Iraq, and Afghanistan have faced physical and bureaucratic barriers, violent abuse, and hardship.

Pushbacks

On November 6, 2013, the Bulgarian government established a new policy to prevent irregular entry at the Turkish border. This "containment plan" entailed deploying an additional 1,500 police officers at the border, supplemented by a contingent of guest guards from other EU member states through the EU's external border control agency, Frontex, and the construction of a fence along a 33-kilometer stretch of the Turkish border.

In the weeks before the new containment policy was implemented, the Bulgarian authorities were already trying to limit the number of people trying to cross, but the implementation of the containment plan on November 6 effectively slammed the door to new arrivals. Human Rights Watch heard migrants' accounts of being apprehended inside Bulgaria or at the border and being summarily returned to Turkey, either by being turned over to Turkish guards or by being taken to the border and ordered to walk in the direction of Turkey.

In early December 2013, Human Rights Watch toured an empty temporary holding center for irregular migrants at Elhovo about 28 kilometers north of the Turkish border. In a converted basketball court, which had held hundreds of people a couple of weeks earlier, all that remained were vacant cages and the detritus of filthy, torn bedding. The UN refugee agency (UNHCR) reported that only 99 people crossed into Bulgaria from Turkey in January 2014.

In researching this report, Human Rights Watch interviewed 177 refugees, asylum seekers, and migrants in various locations in both Bulgaria (140) and Turkey (37). Most of those interviewed in Bulgaria had arrived prior to the November 6 policy change. Nearly all of those interviewed in Turkey had been pushed back, both before and after the change. Human Rights Watch heard detailed accounts of 44 pushback incidents from 41 people. The pushback incidents involved at least 519 people in which Bulgarian border police apprehended people on Bulgarian soil and summarily returned them to Turkey without proper procedures and with no opportunity to lodge asylum claims, often using excessive force. Many of those interviewed about being summarily returned said that Bulgarian guards beat or otherwise mistreated them.

This report concludes that the precipitous drop in border crossings, coinciding with the formal announcement of a policy to contain and reduce the number of asylum seekers and other migrants irregularly crossing the border, indicates a systematic and deliberate practice of preventing undocumented asylum seekers from entering Bulgaria to lodge claims for international protection. This conclusion is supported by the accounts people gave to Human Rights Watch about Bulgarian border police forcibly returning them to Turkey.

Conditions in Detention Facilities and Registration and Reception Centers

Although new arrivals had virtually stopped by the time of the Human Rights Watch visit, the Bulgarian authorities were hardly able to cope with those who were already there. The Bulgarian border authorities were transferring some irregular border crossers, particularly north Africans, to one of two detention centers operated by the Ministry of Interior: Lyubimets, located about 30 kilometers northwest of the Turkish border, or Busmantsi, on the outskirts of Bulgaria's capital, Sofia. Both detention centers are locked and guarded prison-like buildings surrounded by high walls and barbed wire.

Detainees in both facilities complained to Human Rights Watch about abusive, sometimes violent, treatment by guards, overcrowding and noise, tension among various nationality groups, the mixing of unaccompanied children with adults, dirty and insufficient toilets, inadequate ventilation, and the poor quality of the food. They also complained that they had limited means to communicate with the outside world, as well as a lack of communication with guards and other authorities. This resulted in ignorance and confusion about procedures relating to release or to seeking asylum.

Unaccompanied migrant children were held in detention centers together with adult detainees, in breach of international law, during 2013 and were not assigned legal guardians. The absence of legal guardians prevented unaccompanied children from access to social services and put them at further risk of exploitation and homelessness.

At the time of the Human Rights Watch visit to Bulgaria, the Bulgarian authorities had transferred more than a thousand Syrians, Afghans, and others, including families with young children, to a former army base converted into a closed camp near the town of Harmanli, about 50 kilometers from the border. The authorities transferred people whom they regarded as potential asylum seekers from border police stations or the migrant detention centers to Harmanli. In the first months of Harmanli's use as a camp, most of the detainees lived in a muddy stretch in tents that provided no protection from the rain and cold. By the time of the Human Rights Watch visit, the State Agency for Refugees (SAR) had moved most of the people out of the tents and some were living in warm and dry prefabricated containers but the agency had not provided decent accommodation for hundreds of newcomers who were living in filthy and cold buildings that lacked heat, windows, or adequate plumbing.

At the time of the Human Rights Watch visit, the Bulgarian authorities would not allow any Harmanli residents to leave the camp. Conditions at Harmanli have improved since our visit. Starting on February 1, 2014, the Bulgarian Ministry of Defense began providing hot meals. A month later, the buildings were heated, Harmanli was designated as a registration and reception center, and all residents were registered as asylum seekers. By March 6, residents were permitted to come and go from Harmanli during afternoon hours and as of March 19 restrictions on movement in and out of the center had been lifted.

Human Rights Watch also visited five SAR-administered registration and reception centers for asylum seekers in December 2013, and was able to enter three of them. In four of the five centers, residents complained about lack of heat. In all places, asylum seekers said that the 65 leva (approximately 33 euros or US \$44) per month allowance for each asylum seeker was inadequate to meet their basic needs for food and other necessities. Two of the centers were converted schools that were never designed as living quarters; both were dilapidated, overcrowded, cold, and dirty without adequate facilities for bathing or washing.

Despite the conditions, many residents expressed the fear that they would be granted refugee or humanitarian status, at which point the facility administrators would give them five days to leave before turning them out on the street with no further assistance. At the time of the writing of this report, conditions in the reception centers are reported to have improved. According to UNHCR, all centers have heat, the SAR provides two hot meals a day to residents, and many residents are now being allowed to remain in the centers for longer periods after being granted refugee or humanitarian status if they lack the means to support themselves.

Granting of Refugee or Humanitarian Status

While the Bulgarian government's record on granting refugee or humanitarian status is relatively good, authorities provide little or no support to asylum seekers once they have been granted status or have left reception centers.

During 2013, 7,144 people applied for asylum in Bulgaria of whom 4,511 were Syrians. SAR processed 2,816 asylum claims, granting 2,279 persons humanitarian status and 183 refugee status and denying 354, a protection rate of 87 percent of cases decided. Most of those granted some form of protection were Syrians.

After granting refugee or humanitarian status, the government stops providing refugees the 65 leva per month they had received as asylum seekers. Human Rights Watch researchers met recognized refugees who were homeless and squatting in unfinished, abandoned buildings in the vicinity of the open centers. Although authorized legally to work after being recognized, refugees find it almost impossible to find work in Bulgaria, the poorest country in the EU with high unemployment rates. Very few refugees speak even

minimal Bulgarian—because no language classes are provided—and find the prospect of job-seeking intimidating.

Given the harsh treatment many have experienced in Bulgaria and the draw of relatives and better job prospects in Germany, Sweden, and other countries lying to the west, many asylum seekers told Human Rights Watch that they would leave the country as soon as they were able to and would not come back voluntarily. However, EU and national laws make it difficult for recognized refugees and beneficiaries of subsidiary protection granted by one EU member state to work in another, or to adjust their status once there. Consequently, many refugees who leave Bulgaria for other EU member states risk sanctions for unauthorized stay and forced return to Bulgaria.

The Wider Picture

The “plan for the containment of the crisis resulting from stronger migration pressure on the Bulgarian border” adopted by Bulgaria’s Council of Ministers presumed that there was a migration crisis on the Bulgarian border. A little perspective on Bulgaria’s migration crisis is in order.

In the first five weeks of 2014—at a time when 99 asylum seekers succeeded in crossing from Turkey to Bulgaria—more than 20,000 Syrian refugees entered Turkey, the country to which Bulgaria was pushing back asylum seekers. The number of Syrian asylum seekers entering Turkey in the first five weeks of 2014 was roughly double the number of all asylum seekers entering Bulgaria during the whole of 2013. By the end of January 2014, Turkey had registered 580,756 Syrian refugees and another 44,800 non-Syrian asylum seekers. UNHCR registered more than 860,000 Syrian refugees in Lebanon in 2013; this would be the equivalent of 1,482,000 refugees suddenly arriving in Bulgaria. Bulgaria hosted 6,832 registered asylum seekers as of March 19, 2014.

Bulgaria, of course, is faced with a humanitarian challenge and its capacity to meet that challenge is limited. But the European Union has helped to bolster its capacity and the humanitarian situation inside the country is improving for the refugees and asylum seekers who have already entered. Even with limited capacity, however, Bulgaria must meet basic, minimal obligations to respect the rights of refugees, asylum seekers, and migrants. As this report documents, it has failed to do that.

Human Rights Watch calls on the Bulgarian government to end summary expulsions at the Turkish border and to stop the excessive use of force by border guards. We further call on the Bulgarian government to improve the treatment of detainees and conditions of detention in police stations and migrant detention centers.

Human Rights Watch calls on EU member states not to return asylum seekers to Bulgaria under the Dublin Regulation until Bulgaria fully complies with the standards of the Common European Asylum System (CEAS), in particular, by significantly improving detention conditions, by providing effective protection for asylum seekers, by providing assistance to enable the integration of people with refugee or humanitarian status, and by ceasing summary, brutal forced returns at the Turkish border.

Human Rights Watch welcomes significant improvements in registration and reception conditions for asylum seekers in the reception centers since our visit to Bulgaria in December 2013. But these improvements coincide with the institution of a harsh pushback policy and a drop in arrivals of new asylum seekers. This suggests that those fortunate enough to have entered before the door was slammed will now be treated decently, but that the rest will face a closed door despite the existence of an infrastructure finally capable of receiving them and registering their asylum claims.

For Bulgaria, the solution to what it perceives as a mass refugee influx, or a potential mass influx, should not be to push back undocumented asylum seekers attempting to cross the border with Turkey but rather to keep the border open to asylum seekers and treat them decently. For its part, the EU should agree on a common position to promote burden sharing among EU member states, including through the relocation of asylum seekers and refugees in Bulgaria to other EU member states.

Recommendations

To the Government of Bulgaria

- End summary expulsions and rejections of asylum seekers from within Bulgaria and at the Turkish border.
- Stop beatings, use of electric shocks, and other abuses against migrants at the border with Turkey; investigate and hold to account officials who abuse foreigners.
- Provide irregular migrants at the border access to formalized procedures, including the opportunity to lodge claims for protection in Bulgaria.
- Do not detain asylum seekers as a deterrent measure to reduce the number of people seeking protection in Bulgaria; provide open accommodation for asylum seekers.
- Ensure that all detainees in the custody of the General Directorate of the Border Police and the Ministry of Interior are treated in a humane and dignified manner and that their detention fully complies with Bulgaria’s international obligations governing the administrative detention of migrants.
- Do not detain unaccompanied migrant children or children with their families. Detain children only as a measure of last resort dictated by their best interests. Do not detain children with unrelated adults. Provide all unaccompanied children with legal guardians, as required by Bulgarian law.
- Ensure that staff and guards of migrant detention centers and border police stations and staff of the State Agency for Refugees are able to communicate with foreigners in their own languages, including through the use of competent interpreters.
- Ensure that all residents of reception centers are treated in a humane and dignified manner and that their accommodation fully complies with Bulgaria’s EU obligations governing the reception of asylum seekers.
- Fully fund the National Program for Integration of Refugees to enable proper integration for all recognized refugees and beneficiaries of humanitarian status.

To the European Union

- The Council of the European Union should agree on a common position to promote equitable burden sharing among EU member states, including through the relocation of asylum seekers and refugees to other EU member states.
- European Union member states should not return asylum seekers to Bulgaria under the Dublin Regulation. They should not resume transfers until Bulgaria demonstrates that it complies with EU standards on the human rights of asylum seekers and refugees, particularly until Bulgaria stops blocking access to asylum and summarily returning irregular border crossers at the Turkish border; improves the poor conditions and ends maltreatment in migrant detention centers; closes gaps in the asylum procedure; and addresses its lack of capacity to integrate people with refugee or humanitarian status.
- The European Commission should continue to provide humanitarian and technical assistance to Bulgaria to bring its asylum and migration system into line with the Common European Asylum System (CEAS). It should identify any breaches of the CEAS by Bulgaria and the steps it needs to take to comply with the CEAS, provide a clear timeline for compliance, and consider enforcement action if Bulgaria fails to take prompt action to remedy the breaches identified.

Methodology

This report is based on field research in Bulgaria from December 1 to December 15, 2013 and in Turkey from January 12 to January 18, 2014. To the best of our knowledge, the reporting on the situation in Bulgaria is current as of March 21, 2014.

Human Rights Watch researchers interviewed 140 refugees, asylum seekers, and migrants in Bulgaria and 37 in Turkey. Out of the 177 people interviewed, 83 were from Syria (of whom 48 were Kurds), 48 from Afghanistan, 12 from Algeria, 8 from Morocco, 8 from Iran, and the remainder were from 14 other nations.

Human Rights Watch interviewed 157 males and 10 females, including 13 unaccompanied children, of whom one was a girl. Interviews were all in private with no others present except, where noted, for 10 family interviews involving immediate family members. The average length of interviews was about 30 to 40 minutes. The Human Rights Watch researchers were a male and a female; in Bulgaria, both interpreters were female and in Turkey both were male.

In all cases, Human Rights Watch told all interviewees that they would receive no personal service or benefit for their testimonies and that the interviews were completely voluntary and confidential. All names of migrant and refugee interviewees are withheld for their protection and that of their families, and in some cases we have concealed other details, such as the location of the interview. The notations in this report use a letter and a number for each interview; the letter indicates the person who conducted the interview and the number refers to the person being interviewed. All interviews are on file with Human Rights Watch. Several interviewees told us that the Bulgarian authorities had taken punitive action against them after they talked to journalists or others and some detainees told us that the authorities had told them not to complain to Human Rights Watch shortly before our visit.

Although we made every effort to choose detainees to speak to at random, on the first day of our visit to Busmantsi most of the detainees we interviewed all came from the same room, which we learned during the course of the interviews was in better condition than other rooms. On the second visit to Busmantsi, we were able to interview different

detainees from each floor of the facility. At Lyubimets, our visit came shortly after an incident in which detainees alleged that guards beat many people severely. We were prevented from seeing or interviewing more severely injured detainees, according to the detainees we did interview. At the Elhovo Distribution Center, the guards wrote down the names of all detainees we interviewed. Many of the accounts we documented of treatment and conditions at these and other locations were from former detainees who were no longer living in these detention centers at the time of the interview.

All interviewees were informed of the purpose of the interview and that their accounts might be used publicly but with assurances that their real names would not be published. No incentives were offered or provided to persons interviewed. All interviews were conducted privately, except where specifically noted. The interviews were conducted in English and German and with the help of interpreters in Arabic, Kurdish, Dari, and Farsi.

Human Rights Watch interviewed officials of the United Nations High Commissioner for Refugees (UNHCR) and staff members of various nongovernmental organizations (NGOs) in Bulgaria, including the Bulgarian Red Cross, the Bulgarian Helsinki Committee, Caritas Bulgaria, the Legal Clinic For Refugees and Migrants, Médecins Sans Frontières (MSF), and the Office of the Grand Mufti in Bulgaria. We also interviewed Plamen Angelov, deputy minister of interior; Milen Penev, deputy director of border police; and Nikolai Chirpanliev, president of the State Agency for Refugees. In Turkey, Human Rights Watch interviewed a senior official at the Afghanistan Consulate General and staff at Turks of Afghanistan International Social Culture and Association Aid and Yel Değirmeni Orphanage. Human Rights Watch also requested permission to visit Turkey's migrant detention centers in Edirne, Kirklareli, and Istanbul but was denied permission to visit any centers.

Terminology

Although international law defines “migrant workers,” it does not define “migrants.” In this report, “migrant” is a broad term to describe foreign nationals in Bulgaria. We use the term inclusively rather than exclusively; the use of the term “migrant” does not exclude the possibility that a person may be an asylum seeker or refugee.

An “asylum seeker” is a person who is trying to be recognized as a refugee or to establish a claim for protection on other grounds. Where we are confident that a person is seeking

protection, whether in Bulgaria or elsewhere in Europe, we refer to that person as an asylum seeker.

A “refugee,” as defined in the 1951 Refugee Convention and its 1967 Protocol, to which Bulgaria is a state party, is a person with a “well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion” who is outside his country of nationality and is unable or unwilling, because of that fear, to return.

European Union member states provide subsidiary protection—known in Bulgaria as “humanitarian status” —to people who have been found to face a real risk of suffering serious harm if returned to their country of origin or habitual residence because of the death penalty or execution; torture or inhuman or degrading treatment or punishment; or indiscriminate violence in situations of international or internal armed conflict. Recognition of refugee status by a government or UNHCR is declaratory, which means that people are, in fact, refugees before they have been officially recognized as such.

Migrant interviewees used the terms “police,” “guards,” and “soldiers” interchangeably. Anyone referred to as such was described as wearing a uniform, unless the text specifically notes that he was in plain clothes.

The term “pushback” is not defined in international law but is used in this report to describe rejections at the Bulgarian border or expulsions from within Bulgarian territory that occur without allowing expellees to claim asylum and without any individualized assessment of their need for international protection. This method of “pushback” when applied to more than one migrant has been recognized as a form of “collective expulsion,” prohibited under article 4, Protocol 4 of the European Convention on Human Rights. A collective expulsion is any measure that compels aliens, as a group, to leave the jurisdiction without a reasonable and objective examination of the particular cases of each individual alien of the group.

In line with international instruments, the term “child” as used in this report refers to a person under the age of 18. We discuss children traveling with their families and unaccompanied migrant children. For the purposes of this report, we use the definition of “unaccompanied migrant child” from the term “unaccompanied child” employed by the

Committee on the Rights of the Child: “‘Unaccompanied children’ are children, as defined in article 1 of the Convention [on the Rights of the Child], who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.”

I. Bulgarian Border Police Pushbacks to Turkey and Abuses upon Apprehension

On November 6, 2013, Bulgarian authorities announced a new policy to reduce the number of irregular crossings of the border, including, explicitly, those seeking protection in Bulgaria. Human Rights Watch interviewed migrants who crossed or attempted to cross the Turkey-Bulgaria border before and after November 6, 2013. Migrants told us of having been summarily returned—or pushed back—after crossing from Turkey to Bulgaria or at the border even in the weeks before November 6, but a near complete shutdown of irregular border crossings occurred with the implementation of the containment plan on that date.

Violent, Summary Returns to Turkey

Human Rights Watch interviewed 41 people in various locations in both Bulgaria and Turkey who gave detailed accounts of 44 incidents involving at least 519 people, in which Bulgarian border police apprehended irregular border crossers in Bulgaria, sometimes significantly inside Bulgarian territory, and summarily returned them to Turkey without proper procedures and with no opportunity to lodge asylum claims.² These border pushbacks have also sometimes involved border guards using excessive force.

A 29-year-old stateless man said that he arrived with a group of six or seven Afghans on October 24, 2013. He said that Bulgarian border guards “arrested me and hit me with a police stick in the face and took me back to Turkey, in the bush, not at a crossing point.” He said that they also beat the Afghans he was with. “They were hitting them strong with high kicks and low kicks.”³

Human Rights Watch interviewed three adult Afghan siblings in Turkey who said that they were part of a group of two families who succeeded in walking five or six kilometers inside Bulgaria before being caught in mid-October 2013. In a group interview, the three related how Bulgarian border police brutalized them and then lied to Turkish border guards about where they were apprehended:

² Human Rights Watch interviews with 31 people in Turkey describing 35 pushback incidents and 10 people in Bulgaria describing 9 pushback incidents. Some people were pushed back more than once. In other cases, two or three people described the same incident. In any estimates of the number of people in a group, we use the lower number.

³ Human Rights Watch interview B31 (name and details withheld).

Brother 1: The police immediately started beating us. They started beating particularly the women and when me [sic] and my brother opposed the police, they started beating the women even worse and some of the others. There were four officers and four dogs.

Brother 2: Two police beat me with kicks and fists for about two or three minutes and on my back.

Brother 1: They beat me for one to two minutes with fists on my back and back of my neck. One in our group was kicked in his sexual organ. Our sister was not beaten. They were holding their dogs and threatened that they would set their dogs on us. After that, they took us to the Turkish border and handed us over to the Turkish guards. The Bulgarian guards lied to the Turks. They told them that they arrested us close to the border, despite the fact that we were 6 kilometers from the border. The Turks asked us if Bulgarians were saying the truth and we said no, that we were arrested 6 kilometers from the border. The Bulgarian guards told the Turks that we were lying. In the end, the Turkish guards took us.⁴

Some people told us that Bulgarian border police threatened them with guns, including by shooting over their heads. During a group interview in Turkey with five Afghans, three boys and two men, one of the interviewees described one such incident in early January 2014:

We heard gunfire and shouting.... We saw two Bulgarian guards about 100 meters from us. We had some sticks in our hands and the two Bulgarian guards pointed their guns at us. We dropped our sticks and raised our hands and surrendered. Although we didn't expect it, they fired their guns at us. Thank God, nobody was hurt. After they fired, we were so scared that we started running back into Turkey.⁵

⁴ Human Rights Watch interview L63 (names withheld), Istanbul, Turkey, January 14, 2014.

⁵ Human Rights Watch interview L71 (name withheld), Istanbul, Turkey, January 17, 2014.

In a separate incident in the third week of December 2013, a 22-year-old Afghan man, interviewed together with his 19-year-old wife, said the Bulgarian guards firing over his head drew return fire from the Turkish guards. In the exchange of gunfire, he was shot twice:

I am sure we were in Bulgaria when we saw the Bulgarian guards shooting. We started running towards Turkey and the Turkish guards fired seven or eight shots at us. I could see the guards; they were about 25 to 35 meters away. I got hit by two bullets in the right buttocks. When I was shot I had reached Turkish soil.⁶

Border Stand-offs

Human Rights Watch heard several different accounts of Bulgarian border guards taking individuals or a group to the border with Turkey and leaving them there, not allowing them into Bulgaria or to ask for asylum. At times, the Bulgarian guards were met by Turkish border guards and a standoff ensued, sometimes lasting for days, during which time the migrants had to endure extremely harsh winter weather conditions and were not provided with blankets, food, or water.

A Syrian, who said that he immediately asked for asylum when he was caught after crossing the border, described his severe beating at the hands of Bulgarian border guards when such a stand-off occurred just inside the Bulgarian border on November 12, 2013:

While on the border, two Bulgarian police hit me with truncheons in the face and on my neck. And then several more police came, I don't know how many, and also started hitting me with their truncheons. I was beaten because I crossed the border and was told to leave. They beat me so bad that I fainted for a few moments and my vision became all blurry afterwards. They also tried to beat my wife but she was clenching our baby and when they saw that they didn't beat her. Instead, the police pushed her so she fell to the ground. We kept asking the police for water, but they refused to give any. The Turkish police gave us water instead. The Bulgarian police kept trying to push us back but the Turks didn't allow it.⁷

⁶ Human Rights Watch interview L73 (name withheld), Istanbul, Turkey, January 17, 2014.

⁷ Human Rights Watch interview L45 (name withheld), Harmanli, Bulgaria, December 12, 2013.

After this stand-off the Bulgarian authorities took his group to the Elhovo police station, where they spent 12 days, and from there to the Harmanli camp.

Another group of Syrian was involved in a similar stand-off when they arrived at the Bulgarian border on October 28, 2013. According to a 28-year-old father traveling with 12 family members, including children, Bulgarian border guards caught his group 50 meters inside Bulgaria:

They took us to the line of the border and told us to go back. I refused to go back to Turkey, so they used force. At first, two police hit us to push us back to Turkey, but they were only 2 against 12 of us. So they called for reinforcements. My whole family clutched together sitting down, with our arms clenched together. At this point, police started using their truncheons to beat us wherever they could reach. They also hit the women. We were sitting on the ground. It was cold because we had to cross the river first and we were wet. We stayed seated on the ground for two hours.

At one point, the police took my brother and hit him and pushed him over to the Turkish side with all his stuff. My brother's wife tried to reason with another border police to let him back. My son was very scared and peed himself in fear. My relative was pushed to the ground and dragged on the ground. They did these things because we didn't want to go back to Turkey. Two police started beating my back with a truncheon as I was sitting and then two more. I still have pain in my back because of this.⁸

Human Rights Watch researchers also documented cases in which Bulgarian border guards forcibly detained people in freezing, snowy conditions in the mountainous border region without providing so much as a blanket. A 24-year-old Palestinian from Syria, who entered Bulgaria on September 25, 2013, said that he reached a village inside Bulgaria when Bulgarian border police apprehended him and took him back to the border where he spent two nights sitting in the cold:

⁸ Human Rights Watch interview L46 (name withheld), Harmanli, Bulgaria, December 12, 2013.

They caught us and took us right to the border with Turkey. An officer came. They said they would call for the Turkish police to come and get us, but the Turkish police never came. They would not let us enter or go back to Turkey. They made us sleep in the snow on the ground for two nights right before their eyes. We asked for a blanket. They would not give us a blanket. When I saw this attitude I became pessimistic. We told the police we wanted to enter Bulgaria. They would not let us enter. For two days they kept saying, “You can go back to Turkey.” Finally, we went into Turkey.⁹

Forced, Organized Returns at the Border

In most of the cases we documented, Bulgarian border guards pushed migrants back summarily with no procedures and no time spent in border police stations, but Human Rights Watch heard several accounts that described a higher level of organization and processing prior to the forcible return.

A 21-year-old Syrian man said that his group had walked for a day and a half and passed four Bulgarian villages before Bulgarian police caught them on December 25, 2013. He said the police took them to a small police station and held them there for about six hours before transferring them to a larger jail-like building where he spent four nights. There he said a man he thought was Bulgarian interviewed him using an interpreter he thought was a Syrian Alawite and thus, he assumed he was a supporter of Bashar al-Asad, Syria’s Alawite president. They asked dozens of questions about his route of entry and nationality. He told them that he was Syrian and wanted to stay in Bulgaria, but the interpreter said that he had to go back to Turkey. He signed a paper in Bulgarian that he did not understand. He described his forced return:

After I signed the paper at the police station, they put 15 of us in a large military vehicle, using force to push some into the vehicle, and drove us 20 minutes to the border. It was about 11:00 p.m. They took us to an empty space on the border where there were no Turkish guards, and this time they had to push some out of the vehicle. They told us to walk forward and not to turn around. We did not encounter any Turkish troops.¹⁰

⁹ Human Rights Watch interview B68 (name withheld), Vrazhdebna, Bulgaria, December 5, 2013.

¹⁰ Human Rights Watch interview B93 (name withheld), Istanbul, Turkey, January 14, 2014.

A person speaking on behalf of a group of five Afghans, one child and four men, said after crossing the border from Turkey on December 26, 2013 they spent the night at a base in Bulgaria before Bulgarian border police took them back to the border and forced them into Turkey:

They took us to a base in Bulgaria. Next night they brought us to the Turkish border. When they took us, we were happy because we thought we were going to a camp and they would take our asylum applications. But they didn't do that. They just kept us without food or water and they were laughing at us. We spent three or four hours there in the middle of the night and no fingerprints were taken, no registration was made. They brought us to the river about one meter deep. We were afraid and wanted a boat, but they didn't give us. When we refused to cross, one guard fired his gun into the sky. We were so scared we crossed the river.¹¹

A 16-year-old unaccompanied Afghan spent time in what he said was a Bulgarian police station and the authorities put him and his three traveling companions on a truck and a boat in the process of forcibly returning them and other migrants to Turkey. After crossing the border in early December 2013, his group had reached a Bulgarian village, where a shopkeeper called the police. The police picked them up and took them to a police station, despite the fact he told the police he was 16 (and therefore entitled to particular treatment, see chapter VII):

We were kept in the police station for 30 minutes. After 30 minutes, another car came to take us to detention....It was about half an hour to the detention center by car. At midnight, they put all the groups together; we found ourselves with Syrians and other Arabs. They put all of us in a truck. I thought I was going to be taken to a camp. It took about one hour until they took us out of the truck. We were in a forest and we saw Bulgarian military people. They made us walk for ten minutes until we reached a river. Next to the river, two guards with guns were waiting. There was also a boat. They had to split the larger group into two smaller groups as they could only take

¹¹ Human Rights Watch interview L68 (names withheld), Istanbul, Turkey, January 17, 2014.

six people at a time in the boat. But they took us all to the other side. There they just dropped us and disappeared. I didn't even have shoes.¹²

Border Police Abuses

In addition to instances of forcibly returning irregular border crossers to Turkey, Bulgarian border guards have hit, kicked, and set guard dogs on irregular border crossers as well as stolen money and personal belongings from them and made verbal threats, according to the accounts of migrants. A 25-year-old Syrian told Human Rights Watch about his experience crossing the border on October 23, 2013:

The first policeman I met beat me on my leg. It was exactly at the border, but I was sure I was inside Bulgaria. They beat me and my cousin. One guard hit me with his open hand and then kicked my leg. They took our ID cards and documents, and then brought us to a police station. We were there from 8 p.m. to 2 a.m. It was like a jail where they laughed at us and treated us without respect.¹³

A 40-year-old Algerian man was bitten by a guard dog when he was apprehended on May 29, 2013:

I met the police in the forest and they were with dogs. I wasn't trying to run. I surrendered, but they set the dog on me. They pushed the dog to me. They controlled the dog. It was on a leash. The dog bit me three times on the leg.¹⁴

A 19-year-old Palestinian from Syria who crossed the border during the second week of December 2013 said he was robbed and abused by officials he said were Bulgarian border guards:

When we crossed the border some guards caught us and told us if we did not give them our money they would send us back to Turkey. They were

¹² Human Rights Watch interview L69 (name withheld), Istanbul, Turkey, January 17, 2014.

¹³ Human Rights Watch interview B68 (name withheld), Harmanli, Bulgaria, December 12, 2013.

¹⁴ Human Rights Watch interview B75 (name and details withheld).

definitely border guards. They were wearing army clothes. They took our mobiles [phones] and took \$120 cash from me. The one who took my \$120 had a camouflage military uniform. I would recognize him. Then they took us to the forest and pointed and told us to walk to the main road in Bulgaria, but we knew they had pointed us in the direction of Turkey.¹⁵

A 25-year-old Afghan gave a similar account of robbery and abuse in the course of being forcibly returned to Turkey on January 11, 2014:

The Bulgarian guards found us and pointed their guns at us and started beating us.... Afterwards, they put us in the car and took us to the border. They took all our phones and money and any valuables we had. Then they dropped us on the other side of the wire. Before releasing us, they beat us again and pointed to Turkey and told us to go there.

It seemed like the only thing that really interested them was whether we had money. They kept asking if we had money and when they found we didn't have any left, they got angry and beat us and dropped us on the other side of the border. Then they fired into the sky to scare us and we ran to Turkey. They didn't let us talk even. Once or twice we tried to talk to them or ask a question but before we managed to finish a sentence, they started beating us. We had no chance even to ask for asylum. The only thing they asked was which country we were from and whether we had money or expensive phones.¹⁶

¹⁵ Human Rights Watch interview B65 (name withheld), Harmanli, Bulgaria, December 12, 2013.

¹⁶ Human Rights Watch interview L76 (name withheld), Istanbul, Turkey, January 18, 2014.

II. The Bulgarian Containment Plan and the Principle of Nonrefoulement

Unpreparedness for the Crisis

Despite ample early warning signs, Bulgaria was unprepared for the increase in asylum seekers in 2013. A highly critical February 5, 2014 report by the Ministry of Interior said, “Until mid-2013 Bulgaria was completely unprepared for the forecasted refugee flow.”¹⁷ It singled out the State Agency for Refugees (SAR) for wasting money and failing to provide sufficient and adequate accommodations for asylum seekers. The report said that European Refugee Fund monies were “spent on: awareness campaigns, brochures, trainings, seminars, specialized computers and software, but not for setting up accommodation places.”¹⁸

The report also said that in September 2013 an official inspection of the site of the proposed emergency reception camp at Harmanli (where more than 1,400 people would be held) found it “not suitable for setting up a wagon camp, there was no water and electricity.”¹⁹

Bulgaria’s “Plan for the Containment of the Crisis”

As the numbers of people crossing the Bulgarian border irregularly rose from 2,332 in September 2013 to 3,626 in October,²⁰ the Bulgarian Council of Ministers adopted what the council referred to as a “plan for the containment of the crisis resulting from stronger migration pressure on the Bulgarian border.” The containment plan listed as its main goals (1) reducing the number of illegal immigrants entering and residing illegally in Bulgarian territory; (2) containing the risks of terrorism and radical extremism, pandemics and epidemics, ethnic, religious, and political conflict, and criminality associated with illegal immigrants; (3) maintaining order, security and humane conditions at reception centers; (4)

¹⁷ Bulgarian Ministry of Interior, “Report on the Measures Adopted by the Government to Manage the Crisis resulting from the Enhanced Migratory Pressure,” Ref. No. I-12081, February 5, 2014, p. 3. (On file with Human Rights Watch.)

¹⁸ *Ibid.*, p. 4.

¹⁹ *Ibid.*, citing a report from the Chief of Fire Safety and Protection, Directorate of Population, Ministry of Interior, p. 5.

²⁰ *Ibid.*, p. 7.

reducing the number of persons seeking protection in the territory of Bulgaria; (5) fast and efficient integration of refugees and beneficiaries of humanitarian status; (6) ensuring additional external resources; and (7) efficient communication with society.²¹

The initiatives for reducing the number of irregular migrants and asylum seekers included the construction of a 30-kilometer “barrier wall along the most sensitive sections of the [274-kilometer] State border” with Turkey,²² and increasing the number of border patrols on the Bulgarian-Turkish border with the deployment of an additional 1,500 police.²³ In addition, the EU increased the number of border guards from other EU member states through the Poseidon land borders joint operation coordinated by Frontex, the EU’s agency for managing its external frontiers.²⁴ By January 15, 2014, Frontex had deployed an additional 170 experts to Bulgaria as part of the Poseidon land borders operation.²⁵

The containment plan went into effect immediately and succeeded in stopping the influx almost entirely. On December 11, 2013, Human Rights Watch toured the police station at Elhovo, 28 kilometers north of the border. The station is the first stop for most people caught crossing the border irregularly. A few weeks earlier Amnesty International had toured the facility and reported that it was crammed with about 500 detainees.²⁶ At the time of our visit, it stood empty. All that remained were vacant cages and the detritus of filthy, torn bedding. (See The Elhovo Police Station.)

The Elhovo station chief told Human Rights Watch that no one had been apprehended on this 36-kilometer stretch of the border since November 6, when the new policy went into

²¹ Bulgarian Council of Ministers, “Plan for the Containment of the Crisis resulting from Stronger Migration Pressure on the Bulgarian Border,” Sofia, Bulgaria, November 6, 2013, p. 2. (On file with Human Rights Watch.)

²² Although the Containment Plan said that the fence would be 30-kilometers, UNHCR reported that it is 33 kilometers long. See UNHCR “Refugee Situation Bulgaria, External Update,” January 20, 2014. See also, Council of Ministers, *Containment Plan*, p. 2, and “Bulgaria Begins Building Fence with Turkey,” *Balkan Insight*, January 17, 2014, <http://www.balkaninsight.com/en/article/bulgaria-begins-construction-of-border-fence-with-turkey> (accessed January 21, 2014).

²³ The Containment Plan called for 1,400 additional police, but according to UNHCR an additional force of 1,500 have been deployed to the border area since November. See UNHCR, “Refugee Situation Bulgaria, External Update,” January 20, 2014, and, Council of Ministers, *Containment Plan*, p. 6.

²⁴ Council of Ministers, *Containment Plan*, p. 7. See generally, Human Rights Watch, *The EU’s Dirty Hands: Frontex Involvement in Ill-Treatment of Migrant Detainees in Greece*, 2011, <http://www.hrw.org/reports/2011/09/21/eu-s-dirty-hands-o> (accessed January 8, 2014).

²⁵ Ministry of Interior, “Report on the Measures to Manage the Crisis,” p. 13.

²⁶ Amnesty International, “Refugees in Bulgaria Trapped in Substandard Conditions,” Briefing, EUR 15/002/2013, December 2013, p. 4,

effect.²⁷ On February 7, 2014, the UN refugee agency (UNHCR) reported that only 99 people had crossed into Bulgaria from Turkey since the beginning of the year.²⁸

The Ministry of Interior reported, “As at 31 January 2014 the influx of illegal immigrants was practically ceased.” The Ministry said that its large-scale police operation set out “to provide 100% protection of the most sensitive sections of the border.” Expressing its satisfaction on the success of preventing the entry of an estimated 15,000 people, the Ministry made no distinction between economic migrants and refugees in need of protection:

According to the evaluations of the National Operational Headquarters, had the specialized operation along the Bulgarian-Turkish Border not been performed, now we would have had more than 15,000 illegal immigrants and protection seekers in the territory of the country. Such a scenario of the situation would be a prerequisite for severe financial and social dimensions of the crisis.²⁹

Human Rights Watch believes that the Bulgarian government has, since November 6, 2013, embarked on a systematic practice to prevent undocumented asylum seekers from crossing into Bulgaria to lodge claims for international protection. We base this finding on the following factors:

- a) a formal announcement of a plan, on November 6, 2013, to contain and reduce the number of asylum seekers and other migrants crossing the border irregularly, reiterated by the Ministry of Interior's report that the police under its authority set out "to provide 100% protection of the most sensitive sections of the border";
- b) the construction of a border fence along a critical segment of the border, that was due to be completed in mid-March 2014, coinciding with the announcement of that containment plan;
- c) the deployment of an additional 1,500 border guards, coinciding with the announcement of the containment plan;

²⁷ Human Rights Watch interview with the chief of the Elhovo police station, Elhovo, Bulgaria, December 10, 2013.

²⁸ UNHCR, “Refugee Situation Bulgaria, External Update,” February 7, 2014.

²⁹ Ministry of Interior, “Report on the Measures to Manage the Crisis,” p. 7.

- d) the precipitous drop in border crossing since the containment plan went into effect—in the month of October 2013, prior to the Nov. 6, 2013 announcement, 3,626 crossed the border irregularly, about 116 people per day. In the first five weeks of 2014, 99 crossed the border irregularly, a rate of about 2 ½ people per day.³⁰
- e) Human Rights Watch’s interviews with 41 people giving accounts of 44 incidents in which at least 519 people were forcibly and summarily returned.

The government insists that the border is not closed to asylum seekers. In a February 5, 2014 letter to Human Rights Watch, Deputy Minister Angelov wrote:

It should be very clearly stated that the border with Turkey is not “closed” and won’t be “closed.” All border crossing points are open and accessible. The border control has been strengthened, inter alia by the deployment of additional police officers and technical equipment, in line with the Schengen catalogues and the integrated border management model of the EU. The objective is to prevent illegal migration and in the same time to encourage the asylum seekers to use more orderly and safe routes.³¹

This response is disingenuous. To reach an official border crossing on the Turkish border, a traveler must first pass through the exit control at one of the several Turkish border check points on the Turkish-Bulgarian border. Turkish border authorities do not allow undocumented people to exit through official crossing points, so they are not able to reach the Bulgarian entry check points. There is no way, therefore, for an undocumented asylum seeker to exit Turkey legally in order to seek asylum at Bulgaria’s official border crossing posts. The only actual option for undocumented asylum seekers (the vast majority do not have proper travel documents) is either to try to hide on a truck or other vehicle and pass irregularly through an official check point, or try to circumvent the official crossing points by making a clandestine crossing through the “green zone” stretch of border that the Bulgarian authorities are now working to fortify against irregular crossings.

³⁰ UNHCR, “Refugee Situation Bulgaria, External Update,” February 7, 2014.

³¹ Letter from Plamen Angelov, deputy minister, Ministry of Interior, to Human Rights Watch, Reg. No I-14355/10.02.2014, Sofia, February 5, 2014. (On file with Human Rights Watch.)

The Principle of Nonrefoulement and the Right to Seek Asylum

Deputy Minister Angelov assured Human Rights Watch, “I am convinced we are acting within EU policies, respecting all legal rights, including the principle of nonrefoulement.”³²

The 1951 Refugee Convention prohibits the return of refugees “in any manner whatsoever” to places where their life or freedom would be threatened.³³ Bulgaria is bound to the principle of nonrefoulement through its ratification of both the 1951 Refugee Convention and its 1967 Protocol.³⁴ Further, Bulgarian domestic law, incorporating Bulgaria's international obligations as well as transposing the asylum directives of the European Community, additionally and explicitly binds Bulgaria to the principle of nonrefoulement.³⁵

Pushbacks at the border do not nullify the nonrefoulement obligation. UNHCR’s Executive Committee, comprised of 87 states, expresses the consensus of state practice with regard to the international refugee regime through formal conclusions. As early as 1977, the Executive Committee issued a formal conclusion that “[r]eaffirms the fundamental importance of the observance of the principle of nonrefoulement-both at the border and within the territory of a State...”³⁶

As documented in this report, Bulgarian border police have been summarily and forcibly expelling third country nationals to Turkey without giving them the opportunity to seek asylum (see Violent, Summary Returns to Turkey). The Schengen Borders Code (Regulation (EC) 562/2006) holds not only that member state border guards must “fully respect human dignity,” but also that refusal of entry at a border “shall be without prejudice to the application of special provisions concerning the right of asylum and to international protection” and that “persons refused entry shall have the right to appeal.”³⁷

Similarly, the EU’s Returns Directive (2008/115/EC) prohibits member states from returning asylum seekers, saying they “should not be regarded as staying illegally on the territory of

³² Human Rights Watch interview with Plamen Angelov, deputy minister, Ministry of Interior, Sofia, Bulgaria, December 6, 2013.

³³ Convention Relating to the Status of Refugees (Refugee Convention), 189 U.N.T.S. 150, entered into force April 22, 1954, Art. 1.A.2.

³⁴ Bulgaria acceded to the 1951 Refugee Convention and its 1967 Protocol on May 12, 1993.

<http://www.unhcr.org/protect/PROTECTION/3b73bod63.pdf> (accessed December 31, 2013).

³⁵ Law on Asylum and Refugees, prom. SG. 54/31 May 2002, amend. SG, 66/26 July 2013, art. 4(3).

³⁶ UNHCR Executive Committee Conclusion 6 (XXVIII), 1977, <http://www.unhcr.org/41bo41534.html> (accessed January 2, 2014).

³⁷ Regulation (EC) No 562/2006 of the European Parliament and of the Council of March 15, 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), article 13.3.

a Member State until a negative decision on the application...has entered into force.”³⁸ Although the Returns Directive, article 2(2)(a), allows member states not to apply the directive to migrants who irregularly cross the external borders of the EU, article 4(4)(a) and (b) says that they are still required to limit the use of coercive measures, to take into account the needs of vulnerable persons, to provide decent detention conditions, and to respect the principle of nonrefoulement.

The border pushbacks documented in this report follow no proper procedure and carry a negative presumption that irregular border crossers are not seeking asylum when the presumption, at least with regard to people fleeing Syria and Afghanistan, ought to be that they are.

Is Turkey a Safe Third Country?

Bulgaria’s deputy minister of interior, Plamen Angelov, told Human Rights Watch that the November 6 containment plan involved close cooperation with Turkey as “the key element” in preventing third country nationals from penetrating Bulgaria’s borders. He said that Bulgaria had already greatly improved its partnership with Turkey on border controls. Angelov said that the coordination plan, now in effect, but continuing to develop, involves heightened surveillance and communication between border guard forces on both sides of the border and foresees joint border patrols. Angelov said, “Turkey is a safe country.”³⁹

The nonrefoulement obligation applies not only to direct return into the hands of persecutors and torturers, but to indirect returns as well. That is, states cannot absolve themselves of responsibility by sending a refugee to a non-persecutory state that in turn sends them to a third persecutory state.⁴⁰

³⁸ Directive 2008/115/EC of the European Parliament and of the Council of December 16, 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (Returns Directive), para. 9. Although the Returns Directive, article 2(2)(a), allows member states not to apply the directive to migrants who irregularly cross the external borders of the EU, article 4(4)(a) and (b) says that they are still required to limit the use of coercive measures, to take into account the needs of vulnerable persons, to provide decent detention conditions, and to respect the principle of nonrefoulement.

³⁹ Human Rights Watch interview with Plamen Angelov, deputy minister, Ministry of Interior, Sofia, Bulgaria, December 6, 2013.

⁴⁰ According to the House of Lords Judicial Committee (now the Supreme Court) of the United Kingdom: “Article 33 [the nonrefoulement provision of the Refugee Convention] can be breached indirectly as well as directly. Thus for a country to return a refugee to a state from which he will then be returned by the government of that state to a territory where his life or freedom will be threatened will be as much a breach of Article 33 as if the first country had itself returned him there direct.” *R v Secretary of State for the Home Department*, ex parte Adan and Aitseguer [2000] UKHL 67, per Lord Hobhouse, cited in James C. Hathaway, *The Rights of Refugees under International Law* (Cambridge: Cambridge University Press, 2005), p. 326.

International refugee law permits the return of an asylum seeker to a third country, but only if that country “agrees to admit him to its territory as an asylum seeker and consider his request” and is able and willing to provide the asylum seeker with effective protection.⁴¹ Turkey does not meet this standard for several reasons.

First, Turkey is the only country that retains the original geographical limitation of the 1951 Refugee Convention to refugees from Europe.⁴² Consequently, under Turkish law, it is not possible for a refugee from Syria, Afghanistan, or any other non-European country to be recognized as a refugee and granted asylum. At best, Turkish law regards non-European refugees as asylum seekers who can never be granted asylum on Turkish territory. Therefore Turkey cannot be considered as a safe third country under EU law which stipulates that a third country can only be considered safe if “it has ratified and observes the provisions of the Geneva Convention without any geographical limitations.”⁴³

Second, Bulgaria’s Law on Asylum and Refugees defines a safe third country as one where the applicant “has resided” and where there is “a possibility to claim a refugee status and upon granting it to enjoy a protection as a refugee.”⁴⁴ Since most of the asylum seekers we interviewed in Bulgaria had not resided in Turkey and Turkish law excludes the possibility that non-European asylum seekers can claim refugee status, Turkey cannot be regarded as a safe third country under Bulgarian law.

Third, Bulgaria does not have a bilateral readmission agreement with Turkey for the orderly return of third country nationals and Turkey has not formally agreed to admit third country nationals from Bulgaria with the guarantee that their asylum claims would be examined according to the same standards that apply in Bulgaria.⁴⁵

⁴¹ UNHCR, “The ‘Safe Third Country’ Policy in the Light of International Obligations of Countries vis-à-vis Refugees and Asylum Seekers,” London, July 1993, para. 4.2.14, cited by Valeria Ilareva, *Undocumented Immigrants and Their Access to Fundamental Human Rights*, (Saarbrücken, Germany: Scholar’s Press, 2013) p. 92.

⁴² The 1951 Refugee Convention was originally conceived as a temporary agreement to resolve the situation of refugees displaced in Europe as a result of World War II, but with its 1967 Protocol, its geographic and temporal limits were lifted.

⁴³ Directive 2013/32/EU of the European Parliament and of the Council of June 26, 2013 on common procedures for granting and withdrawing international protection, recast (Procedures Directive, recast), art. 39.2(a) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0096:0116:EN:PDF> (accessed January 24, 2014).

⁴⁴ Law on Asylum and Refugees, Additional Provisions 9.

⁴⁵ Although the European Union and Turkey signed a readmission agreement on December 16, 2013, its implementation with regard to the readmission of third country nationals is delayed for three years after the whole agreement enters into force.

The Right to Asylum in EU and Bulgarian Law

Bulgaria is bound by EU law and its own Constitution to respect the right to asylum.⁴⁶ The “right to asylum” is enshrined in article 18 of the Charter of Fundamental Rights of the European Union, as amended by the 2007 Treaty of Lisbon. With the entry into force of the Treaty of Lisbon in December 2009, the Charter became legally binding on EU member states when they apply EU law and the right to asylum became an enforceable right under the EU’s legal order.⁴⁷ Article 27(2) of the Bulgarian Constitution binds the Bulgarian government to grant asylum, saying, “The Republic of Bulgaria shall grant asylum to foreigners persecuted for their opinions or activity in the defense of internationally recognized rights and freedoms.”⁴⁸

This means that in addition to its obligation to respect for the principle of nonrefoulement, Bulgaria is also obligated to consider asylum requests and cannot shirk that responsibility by pushing asylum seekers to Turkey, which has not similarly bound itself to respect the right to seek and enjoy asylum.

Is Bulgaria Faced with a Mass Influx?

The “plan for the containment of the crisis resulting from stronger migration pressure on the Bulgarian border” adopted by Bulgaria’s Council of Ministers presumed that there was a migration crisis on the Bulgarian border. A little perspective on Bulgaria’s migration crisis is in order.

In the first five weeks of 2014—at a time when 99 asylum seekers succeeded in crossing from Turkey to Bulgaria—more than 20,000 Syrian refugees entered Turkey, the country to which Bulgaria was pushing back asylum seekers. The number of Syrian asylum seekers

⁴⁶ The “right to seek and enjoy in other countries asylum from persecution” is guaranteed in the nonbinding Universal Declaration of Human Rights. “A look at the *travaux préparatoires* [of the EU Charter] shows that the drafters considered, and rejected, wording restricting the scope of the provision to the ‘right to *seek* asylum’ and chose the more encompassing language of the ‘right to asylum’.” Only five of the Convention members voted to reject the right to asylum over the right to seek asylum. Maria-Teresa Gil-Bazo, “The Charter of Fundamental Rights of the European Union and the Right to be Granted Asylum in the Union’s Law,” *Refugee Survey Quarterly*, Vol. 27, No. 3, (2008), p. 46. http://www.creatingaroadhome.com/new/wp-content/uploads/the_charter_of_fundamental_rights_of_the_european_union_and_the_right_to_be_granted_asylum_in_the_unions_law.pdf (accessed January 8, 2014).

⁴⁷ See generally, Gil-Bazo, “The Charter of Fundamental Rights,” *Refugee Survey Quarterly*.

⁴⁸ Constitution of the Republic of Bulgaria, Prom. SG 56/13 Jul 1991, amend. SG 85/26 Sep 2003, SG 18/25 Feb 2005, SG 27/31 Mar 2006, SG 78/26 Sep 2006 - Constitutional Court Judgment No.7/2006 , SG 12/6 Feb 2007, article 27(2). <http://www.parliament.bg/en/const> (accessed January 8, 2014).

entering Turkey in the first five weeks of 2014 was roughly double the number of all asylum seekers entering Bulgaria during the whole of 2013.⁴⁹ By the end of 2013, Turkey had registered more than 580,000 Syrian refugees and another 44,800 non-Syrian asylum seekers.⁵⁰ UNHCR registered more than 860,000 Syrian refugees in Lebanon in 2013; this would be the equivalent of 1,482,000 refugees suddenly arriving in Bulgaria.⁵¹ Bulgaria hosted 6,832 registered asylum seekers, as of March 19, 2014.⁵²

Bulgaria, of course, is faced with a humanitarian challenge and its capacity to meet that challenge is limited. But the European Union has helped to bolster its capacity and the humanitarian situation inside the country has improved for the refugees and asylum seekers who have already entered.⁵³ Even with limited capacity, however, Bulgaria must meet basic, minimal obligations to respect the rights of refugees, asylum seekers, and migrants. As this report documents, it has failed to do that.

⁴⁹ UNHCR, "Turkey experiences major refugee influx," Briefing Notes, February 11, 2014 <http://www.unhcr.org/52fa05686.html> (accessed March 19, 2014).

⁵⁰ UNHCR, "Monthly Summary on Syrian Refugees in Turkey," January 31, 2014. <http://reliefweb.int/sites/reliefweb.int/files/resources/January2014-Summary-2.pdf> (accessed March 19, 2014) and UNHCR, "Asylum Trends 2013: Levels and Trends in Industrialized Countries," March 20, 2014 <http://reliefweb.int/sites/reliefweb.int/files/resources/Asylum%20Trends%202013.pdf> (accessed March 22, 2014).

⁵¹ Based on a population figure of 4.228 million for Lebanon (UN estimate for 2012) and 7.284 million for Bulgaria (2011 census) <http://www.nationsonline.org/oneworld/population-by-country.htm> (accessed March 22, 2014).

⁵² UNHCR, "Refugee Situation Bulgaria, External Update," March 21, 2014.

⁵³ Bulgaria received 5.6 million euro from the European Commission, 2.4 million euro from the European Refugee Fund, 1 million euro from the Czech Republic, 50,000 euro from Slovakia, and in-kind contributions from Hungary, Austria, and Denmark, in addition to \$3.6 million from UNHCR for food.

III. Abuses and Detention Conditions in Border Police Stations

The Elhovo Police Station

Until they started systematically returning migrants summarily to Turkey, the usual practice prior to November 6, 2013 was for Bulgarian border guards to take apprehended migrants, including families with children, to a police station near the border administered by the General Directorate of the Border Police (GDBP). Nearly all the migrants interviewed by Human Rights Watch in Bulgaria said that border police who apprehended them first took them to the Elhovo police station about 28 kilometers from the Lesovo checkpoint on the Turkish border.

A 24-year-old Palestinian from Syria who had been left for two days to sleep at the border before being pushed into Turkey on September 27, 2013, described what happened after the pushback when his group crossed back into Bulgaria some distance from where they had been expelled. He said that his group of 18 reached a Bulgarian village and that the villagers called the police. Black-uniformed policemen with POLICE written across their chests came and took them to Elhovo:

We were fingerprinted and signed papers. The women were kept in the building, but the men were made to sleep outside. It was very cold. There was a fence around the area. We were just on the earth, on the soil. There were no blankets. We told the police one of the men was ill. The police told us to make him run to warm him up. They gave us a food packet for one day consisting of biscuits, bread, and yogurt. I was there for three days.⁵⁴

At the time of Human Rights Watch's visit, December 10, 2013, the facility was completely empty (see Bulgaria's "Plan for the Containment of the Crisis"). The station chief first took us to see a modern and clean cell block, each of the cells having two or three beds and its own toilet. Down the same hallway were offices for fingerprinting, photographing, and interviewing new arrivals, including one office where Frontex guest guards and interpreters

⁵⁴ Human Rights Watch interview B21 (name withheld), Vrazhdebna, Bulgaria, December 5, 2013.

working with them conduct nationality determination interviews. The chief informed us that no one is held longer than 24 hours in this facility.

We asked where migrants were accommodated when their numbers exceed the available space in the cell block. The police chief then took us to an indoor basketball court, where we observed the detritus of what only a matter of days or weeks before had been filled with migrants.⁵⁵ The gym was divided by five large cages, one for women and children, we were told, and the other four divided for men according to broad “nationality” categories: “Syrians” (including Iraqis and Palestinians), “Afghans” (including Iranians and other South Asian groups), “Algerians” (meaning north Africans), and “Africans.” All that remained were filthy and torn blankets, thin, dirty mattresses, and the wooden, graffiti-filled planks on which they slept.⁵⁶

Many people from different locations described to Human Rights Watch their stay in the basketball court. A 31-year-old Afghan man who was held there with his sister and her two children described his 9-day stay in October 2013:

They gave us food one time, the first day. Every day we asked for food. They didn't give any, even for the children. We were terribly hungry for three days. On the fourth day, they let us to go to a market to buy food with our own money and to bring it back to the camp. We could only go to the market once every three days. We did not know how long we would be there. Some people had been there for 15 days. We could not sleep. We had no blankets. I had no blanket. It was very cold. I slept on the floor. At most I could sleep for one hour, then stand up, then try to sleep again. After three nights I got a blanket. But then [someone] robbed our food and stole my blanket. It was very dirty. There were insects. The police pushed us but did not hit us because there were cameras watching. But one time I saw them take two young people to a room where there were no cameras and hurt them.⁵⁷

⁵⁵ The gym held about 500 people at the time of Amnesty International's visit in early November 2013. Amnesty said that people were being held there for up to 10 days at the time of its visit. See Amnesty International, “Refugees in Bulgaria Trapped in Substandard Conditions,” EUR 15/002/2013, December 2013, p. 4. <http://www.amnesty.org/en/library/asset/EUR15/002/2013/en/722a9655-1caa-4c95-b387-e238f1bd56ec/eur150022013en.pdf> (accessed December 31, 2013).

⁵⁶ They were allowed to purchase food, but the authorities did not provide them food after the first day.

⁵⁷ Human Rights Watch interview B26 (name withheld), Kovachevtsi, Bulgaria, December 7, 2013.

An Afghan who said he was a 17-year-old unaccompanied child described what happened after Bulgarian border guards caught him on November 11, 2013:

They brought us to the first camp. We were there almost nine days, but with no food for eight days. We had to buy food. I had to share a bed and a blanket with three other people. Sometimes I slept on the floor. There was no shower, just a water tap, and just a dirty toilet on the floor that we had to ask permission to use. I never said a word [to the guards] but I saw them use tasers on other people who talked to silence them.⁵⁸

The nightmare of Elhovo began for many migrants we spoke to during their processing at the police station. A 26-year-old single Algerian man described his treatment at the Elhovo police station after being apprehended at a bus station inside Bulgaria on October 21, 2013:

One of the policemen in plain clothes took us to a camp about 10 minutes from the bus station. It sounded like “Ox bo” [referring to Elhovo]. I spent 12 days in hell there. I was beaten. I had to buy food with my own money. On the first day they beat me. They asked me how I got to the bus station. They used an electric taser shock on me. They asked questions, how I got to the bus station on my own. I was standing during the interrogation. One questioned me and the other beat me with his fist or with the electric prod. He hit me three times with electric shocks: on my arm, my side, and my leg.⁵⁹

A 29-year-old stateless man from North Africa recalled that at Elhovo “they used an electric taser to make you move. I was hit on the leg by the taser.”⁶⁰ A 20-year-old single Moroccan who said that he was caught crossing the border on September 9, 2013 said that the beatings started when he was first apprehended and continued at Elhovo:

The police at the border beat me with a police stick. A group of five guards beat all of us. Our group included Iraqis and Syrians. They broke one guy’s arm. They took us to the first camp, Elhovo. It was very overcrowded. We

⁵⁸ Human Rights Watch interview B33 (name withheld), Lyubimets, Bulgaria, December 8, 2013.

⁵⁹ Human Rights Watch interview B38 (name withheld), Lyubimets, Bulgaria, December 8, 2013.

⁶⁰ Human Rights Watch interview B31 (name withheld), Lyubimets, Bulgaria, December 8, 2013.

spent six days there but they only gave us food on the first day. The police there were insulting. They used bad words. If you asked for water, they beat you. I saw them beat a sick guy who had asthma. He was sick and asking to go to the doctor. They did not send him to a clinic. Nothing.⁶¹

A 33-year-old Syrian man who entered Bulgaria in early November 2013 said that Bulgarian border police at the Elhovo basketball court detention facility shocked him with a taser. His ill-treatment started at the Elhovo police station after a Frontex guest guard from Germany turned him over to the Bulgarian border police:

The man who caught me was a German in a guard uniform with an EU badge. He was very polite. He called for the Bulgarian border police to come get us. I could understand in German that the guard who caught us told the Bulgarian border police to give us food and water. They didn't give us anything. They took us to a police station and held us there for 48 hours and didn't give us any food. They wouldn't even allow us to buy food. I just ate the food I was carrying with me....

I told the police [at the basketball detention center] I wanted to use the toilet. The guard said no, he would not let me use the toilet. After that I walked some distance outside the building to urinate, but the guard saw me and used his taser on me. He shocked me with it twice. First, when I was urinating and then to make me move faster. He hit me on the side of my leg and on my back. It was a strong taser. I still feel the pain of the electric shock on my back. The other guards were about 10 meters from us when this happened. They just watched and laughed.

In general, the treatment here [at Harmanli] is very bad. They don't let you breathe on your own here... Of course, it is better than my country. I am escaping war. But now I prefer to die than to stay in these conditions.⁶²

⁶¹ Human Rights Watch interview B34 (name withheld), Lyubimets, Bulgaria, December 8, 2013.

⁶² Human Rights Watch interview B67 (name withheld), Harmanli, Bulgaria, December 12, 2013.

Family groups fared no better at the Elhovo police station. A 17-year-old girl from Pakistan who crossed into Bulgaria with her family in mid-October 2013 described her family's treatment during their 10 days at Elhovo:

We didn't get any food there. It was horrible and the family was split up. My father and brother stayed in one cage, and me and my mother and sister in another cage. The police used electric sticks to beat people. They beat my father. Two police officers beat him because he complained about the lack of medicines and the bad conditions and because he asked for information. They beat him several times with the stick upon his shoulder. My father is diabetic and they only gave him one pill. He's sick and he needs medicine.⁶³



The detritus after weeks of overcrowded detention in the now empty basketball court at the Elhovo Regional Directorate Border Police. ©2014 Human Rights Watch

⁶³ Human Rights Watch interview L42 (name withheld), Harmanli, Bulgaria, December 12, 2013.

A 35-year-old Afghan mother of three children who with her family spent eight days in the “cage camp” said that in addition to “not giving us any food” and poor conditions, the police were rude and violent:

A police officer kicked me twice in my stomach. Why did they do that? They called my number out and I was looking for my shoes and therefore was a bit late in replying to my number being called out. As I was crouching down, the police officer came over and kicked me in the stomach. I also saw three or four times people were hit with an electric shock when they asked to go to the toilet.⁶⁴



Scraps of mattress on the plywood beds at the Elhovo basketball detention center. ©2014 Human Rights Watch

Not everyone interviewed by Human Rights Watch said that the Elhovo police had beaten them, but every person interviewed who had been held at Elhovo said that they were only

⁶⁴ Human Rights Watch interview L43 (name withheld), Harmanli, Bulgaria, December 12, 2013.

given food, at most, for one day regardless of how long they spent there, and that they were exposed to the cold, in some cases being forced to remain on the bare ground, outside late into the night before being allowed into a building.

Human Rights Watch asked the Ministry of Interior how many foreigners were held at Elhovo for more than 24 hours and for the average length of stay for detainees in 2013. The Ministry of Interior said, “Persons are not detained in the Border Police Stations for more than 24 hours,” and asserted that they are all transferred after 24 hours to the State Agency for Refugees (SAR)-administered Registration and Reception Centers (RRC) or to the Ministry of Interior’s Special Centers for Temporary Accommodation of Foreigners (SCTAF) “depending on whether they have applied for refugee or humanitarian status or not.”⁶⁵ The Ministry added a hypothetical: “If exceptionally the persons could not be accommodated in the centres of SAR, they could stay in a hotel.”

Human Rights Watch also asked the Ministry of Interior to provide information on the amount and type of food provided by state authorities per day and per person at the Elhovo police station, and whether this amount meets state guidelines for detainees in state custody. The Ministry of Interior responded, “All persons having illegally crossed the state border receive a warm food provided by the Bulgarian authorities with a value of 3.50 leva [about 1.77 euro or US \$2.35] for adults and 5.23 leva [about 2.65 euro or US \$3.50] for minors” per day.⁶⁶

Elhovo Distribution Center

After the initial—supposedly 24-hour—stay at the Elhovo police station, migrants are usually transported a short distance to a three-story building that has been converted into a detention center known as the Elhovo Distribution Center. On each floor is a row of large cells that at the time of the Human Rights Watch visit held about 25 people each. The hallway is barred and separated by a guard station. The purpose of the center is to hold migrants temporarily, to interview them to ascertain who they are, and to transfer them either to one of the detention centers or to a registration and reception center.

⁶⁵ Bulgarian Ministry of Interior, “Bulgarian replies of questions on the migration and asylum situation by the Human Rights Organisation,” (On file with Human Rights Watch.)

⁶⁶ Ibid.

Human Rights Watch researchers visited the center on December 10, 2013. The guards took down the names of every detainee whom we interviewed. The interviews took place in corners of one of the offices that were used by staff. Although the interviews were all private and out of earshot of any guards or staff, staff were able to see the detainees who were being interviewed. During the course of the day, Human Rights Watch was able to enter the living quarters of the detainees, to walk down the hallway and look at the rooms, which were overcrowded and dirty.

Human Rights Watch observed a heavy presence of black-uniformed guards at Elhovo, all of whom were armed with batons. The administrator of the center, a woman in civilian clothes, told us that the facility had a capacity for 240 but on the day of the Human Rights Watch visit was holding 300. She said that Harmanli and other camps were full, so they were not able to distribute migrants as quickly as before. She said that normally people are only detained there for a maximum of several days, but that people at the present time were being held there for as long as 18 days.⁶⁷ She said that priority for placement is given to Syrian families, but that men, particularly if they are neither Syrian nor Afghan, have longer waits. She said that most people in the facility were Syrian or Afghan. She also said that there were no separate accommodations for unaccompanied children, and that “conditions are not perfect.”

The most common complaints of the detainees at Elhovo (including former detainees) were about the food (Human Rights Watch observed the watery gruel that was being served during our visit); the dirty toilets (about 30 or 40 people per toilet) that are inaccessible at night because the room doors are closed and the toilets are at the end of the corridor; bad ventilation; and tension and conflict among the detainees.

⁶⁷ We interviewed three detainees at Elhovo who said they had been held there for 24 days. Human Rights Watch interviews L30, L32, and L36 (names withheld), Elhovo Distribution Center, Bulgaria, December 10, 2013.

IV. Abuses and Conditions in Migrant Detention Centers

From the Elhovo Distribution Center, and other police stations and distribution points, migrants, including children and their families, are sent either to a registration and reception center under the auspices of the State Agency for Refugees or to one of two detention centers run by the Ministry of Interior: Busmantsi, on the outskirts of Sofia, or Lyubimets, about 30 kilometers from the Turkish border. The Ministry of Interior calls these two centers Special Centers for Temporary Accommodation of Foreigners (SCTAF).

Detainees in both facilities had little understanding why they were being detained in these prison-like conditions, how long they would remain detained, and the process for release. For those who have lodged asylum claims, one common way to be released from detention has been to pay Bulgarian middlemen who present themselves as “lawyers” to establish an address outside the facility (see Chapter VII, Asylum Seekers Living outside the Centers).⁶⁸ Many of these addresses prove to be fictitious. Meanwhile those seeking release are required to sign a waiver of entitlement to any public social services, including the 65 leva monthly stipend and housing in an open center. As a result many asylum seekers become homeless and destitute after their release from detention.

Busmantsi SCTAF

Located on the outskirts of Sofia, Busmantsi SCTAF is used primarily to hold migrants pending their deportation. With a capacity for 400 detainees, the facility held 486 detainees on the first day Human Rights Watch visited. The commander said that it had been over capacity for the past six months. The Ministry of Interior said that 380 minors were held there in 2013.⁶⁹ Human Rights Watch was able to tour the living quarters and witnessed the overcrowding of about 30 men in a room. There is little space to sit in the rooms, but there is a small separate room with a television set and a recreation yard that detainees were using during the visit. The bedding looked worn and dirty. One of the dormitory rooms had no glass in one of the windows, and the men there were using a piece of a bedsheet to shield themselves from the cold wind.

⁶⁸ Average payments are 100 to 150 euro.

⁶⁹ Ministry of Interior, “Bulgarian replies.”



Busmantsi Special Center for the Temporary Accommodation of Foreigners (SCTAF) ©2014 Human Rights Watch

The most common complaints we heard related to the poor quality of food and to fear or annoyance about other detainees in the facility.

One of the most common complaints of detainees at Busmantsi SCTAF is that they do not know why or how long they will be held there and what steps they need to take to facilitate their release. A 27-year-old Syrian man told Human Rights Watch that he did not feel safe in the room in which he was being held with 35 other men. He said that some detainees talked loudly and made noise so he could not sleep and stole his clothing and other belongings. But he said that the lack of communication, lack of information, and uncertainty were his biggest problems:

I report when my things are stolen and the guard says, “It is not my problem.” I escaped the jail of Syria to come to another jail here. They tell me this is not a prison but a closed camp. The only difference is that with a prison you have a day in court. Here I am a prisoner without a judgment. I

want to go out for medical care, but nobody is answering us or telling us anything. I want to be released but no one will help me. If people in Syria knew the conditions here, they wouldn't come here.⁷⁰

One detainee we spoke to at Busmantsi SCTAF, a Syrian, described the “bad conditions:”

There are too many people in one room and too many cockroaches. It's a very dirty place and if new people come here, they have to sleep on the floor. I can't get to my medicines without bribing the guard. When the guards get mad, they press people up against the wall and shout.⁷¹

A former detainee at Busmantsi SCTAF, a 32-year-old chemist from Syria, now at one of the reception centers, told Human Rights Watch about the three-months he spent at Busmantsi:

Busmantsi was very dirty, not secure. [Someone] stole my dirty bedding. After two weeks I got a sheet. The food was not good, it was too little. Bulgaria is a poor country, but the guards do not organize anything. They let [other detainees] butt in line and take our food. The Algerians and Africans fought. The health clinic was very simple. I wanted to check my high blood pressure, but the monitor didn't work. The medicine was not sufficient.

I kept asking for an interview for refugee status. The guard told me no. I went to him three times in an hour. He pushed me. Then I told him not to push me. Then he beat me. First he hit me with his hand and then he kicked me.⁷²

Violence and Solitary Confinement

The authorities at Busmantsi SCTAF sometimes use solitary confinement to discipline detainees. One detainee, a 40-year-old Algerian, said he spent 15 days in solitary confinement there:

⁷⁰ Human Rights Watch interview B77 (name withheld), Busmantsi, Bulgaria, December 13, 2013.

⁷¹ Human Rights Watch interview L4 (name and details withheld). Busmantsi, Bulgaria, December 4, 2013.

⁷² Human Rights Watch interview B12 (name and details withheld).

The first day, they really beat me a lot. I felt nearly dead from it. They hit me on the chest, my side, my head. They hit me with their fists and kicked me. The cell had one window. Some days I was not allowed to leave the cell at all. During the 15 days I was in there, I was allowed out maybe two or three times for about a half hour each time.⁷³

Another Algerian man described highly abusive treatment while he was held in segregation in Busmantsi for eight days:

The police officer brought me to the isolation cell. He locked the door and covered the camera and started hitting me on my back with his electric truncheon. Outside, two officers were beating up on my friend. The officer hit me very hard several times. I lost count. This happened [date withheld]. The police officer was crazy. While I was in solitary confinement the police took my food rations. The officer would take my bread and apples off my plate. They threw me a dirty blanket. I have scabies on my leg and it's very bad so I need medical attention. After the beating, I wanted to go to the doctor, but when I asked the police, he just told me I was a donkey and pushed me on my shoulder. [Human Rights Watch observed and photographed the man's open and infected wound.]⁷⁴

Lyubimets SCTAF

The Lyubimets Special Center for the Temporary Accommodation of Foreigners (SCTAF), located near the town of Svilengrad on the border with Turkey, had a detainee population of 460 on the day of our visit, although the SCTAF has a 300-bed capacity. The center commander told us that the center had been over capacity by an average of about 50 persons during the past six months. He said that detainees are held, on average, for 60 to 65 days, but that 10 of the detainees currently were being held for as long as 90 days. He said that most of the detainees were from North Africa and that on the day of our visit there were no Syrians in the facility. He said that all of the detainees crossed the Turkish border. He also said that no deportations occur directly from Lyubimets, but only from Busmantsi

⁷³ Human Rights Watch interview B75 (name and details withheld).

⁷⁴ Human Rights Watch interview L51 (name withheld), Busmantsi, Bulgaria, December 13, 2013.

SCTAF. He said that the facility only houses males, and that it included unaccompanied boys who were not segregated from adults.⁷⁵ The Ministry of Interior said that Lyubimets detained 912 minors in Lyubimets in 2013.⁷⁶

Tension was high at Lyubimets SCTAF on the day of the Human Rights Watch visit. A little over a week before, on the night of Saturday, November 30, 2013, there had been a violent confrontation between the Lyubimets guards and detainees. Because of the tense security situation, we did not have free access to the facility. We were allowed to sit at the guards station briefly and look at the bank of video monitors from security cameras positioned in the dormitories and in other locations, which allowed us to watch detainees milling about in rooms with cots and bunk beds. We did not see or interview any seriously injured people, but detainees we did speak to told us there had been serious injuries and the victims were still detained at the facility. Some of those we spoke to had black eyes and cuts and bruises that looked about a week old.

The main complaints Human Rights Watch heard from detainees and former detainees about Lyubimets SCTAF included brutality and insulting, disrespectful behavior by guards; overcrowding; loud behavior, stealing and fighting by other detainees; not being allowed to go to the toilet after 10 p.m; an insufficient number of showers and no toothpaste or soap for cleaning themselves or their clothes; lack of communication with the outside world; and being kept in ignorance about the status of their cases and when they will be released.

According to detainees interviewed, the November 30 incident started when a guard was teasing and humiliating one of the detainees. The guard was taunting the detainee by keeping his food tray just out of reach. The guard then threw the tray on the floor. The Algerians declared a hunger strike. Police guards then entered the block to remove the man they considered the ringleader, but other detainees resisted the attempt to remove him. The guards then returned in force, and according to the detainees, began beating the detainees, in the process causing serious injuries, including broken bones and kidney failure.

⁷⁵ Human Rights Watch interview with SCTAF commander, Lyubimets, Bulgaria, December 8, 2013.

⁷⁶ Ministry of Interior, "Bulgarian replies."

One detainee told Human Rights Watch:

The treatment here is less than zero. It is very racist. They spit on us and treat us like animals. On that day, it all started when a guard tried to make one man act like a dog, putting the food tray on the floor. At first it was just the local guards [who beat us], but then it was more than 50 brought in from the village, still in their civilian clothes. They beat me with a police stick on my back.⁷⁷

Another detainee injured in the incident said:

We were all hit with police sticks. We were shocked to see so much beating. I was hit on my side and on my chest. Many people were injured and many were not treated. A boss in civilian clothes came. He saw the problem, but he was drunk. He came drunk. I could smell the alcohol on him. He beat my friend in the stomach with a police stick. He did not beat me. He took my friend into a room to beat him. They did not take my friend to the hospital. The police broke the arm of another friend of mine.⁷⁸

A third, who says he was not involved in the action, told us:

I was not involved, far from it. But when the struggle stopped they continued to beat some of us in places where they do not have cameras. They took me to a place without a camera. One guard hit me in the chest, on my heart, and hurt me. He hit me with a police stick and kicked me. I couldn't breathe. They saw I couldn't breathe and took me to a small clinic outside. It was not a hospital. It had no x-ray. They said I had no problem. They gave a prescription for medicine, but I couldn't afford it.⁷⁹

A fourth detainee told us:

⁷⁷ Human Rights Watch interview B41 (name and details withheld), Lyubimets, Bulgaria, December 8, 2013.

⁷⁸ Human Rights Watch interview B34 (name and details withheld), Lyubimets, Bulgaria, December 8, 2013.

⁷⁹ Human Rights Watch interview B42 (name and details withheld), Lyubimets, Bulgaria, December 8, 2013.

We decided not to eat, to go on a hunger strike, and they attacked us.... They should have looked at the camera recording and seen who was responsible and punished them instead of beating everyone. I wasn't involved in this problem, but I was injured in the beginning. They beat me with a stick, hit my eye and my head, I fell to the ground and they hit me while I was on the ground head [he had a cut on his eyebrow and a black eye]. The big boss said to finish it and they put us through a gauntlet and beat everyone. I was three days in bed, but they didn't take me to the hospital.⁸⁰

The November 30 incident was not isolated. A 40-year-old Algerian man who spent 50 days in Lyubimets in 2013 recalled:

I was beaten there. I tried to escape from Lyubimets and they caught me. They took me to a room and beat me. One of the ones who beat me was in civilian clothes, the others were in uniforms. They punched me in the chest so hard that I fell to the floor.⁸¹

A 25-year-old Afghan man who spent two months at Lyubimets in mid-2013 said that he suffered with a severe toothache during his time there, but that he was refused medical/dental attention. To try to explain his needs, he asked for an interpreter. He said that the guards took him to a place where there were no surveillance cameras:

They beat me with an electric stick on my back many times. I kept asking them, "Why are you beating me?" and it was clear that it was because I insisted on getting an interpreter. Then they put me in an isolation cell for one day and made me clean outside the building.⁸²

To Human Rights Watch's knowledge, the government has not undertaken any investigations of allegations of brutality at Lyubimets SCTAF.

⁸⁰ Human Rights Watch interview B39 (name and details withheld), Lyubimets, Bulgaria, December 8, 2013.

⁸¹ Human Rights Watch interview B75 (name and details withheld).

⁸² Human Rights Watch interview L39 (name withheld), Pastrogor, Bulgaria, December 11, 2013.

V. Conditions in Registration and Reception Centers

In December 2013, the combined capacity of all the reception centers for asylum seekers was approximately 4,060 places. With more than 7,144 asylum seekers registered in 2013, the centers were stretched well beyond their capacity.⁸³

When Human Rights Watch visited Bulgaria in December 2013, every facility we documented was filled beyond capacity, and many asylum seekers were living outside the reception centers with no support from the government. UNHCR's situation report of December 10, 2013, which coincided with the Human Rights Watch visit, noted, "The reception conditions in the centers are inadequate and fall short of EU standards." The UN refugee agency noted, in particular, that the closed center in Harmanli "lacks proper beds, blankets, cooking tools, fuel, stoves, hygienic items and equipment. Asylum seekers in other centers are not regularly fed, getting inadequate food rations from time to time."⁸⁴

Further, according to UNHCR, conditions improved significantly in the first months of 2014. By mid-February, UNHCR said SAR had doubled its staff, taking on 160 new employees since December 2013.⁸⁵ As of March 21, 2014, UNHCR assessed that living conditions in all of the reception centers had improved, except Voenna Ramp and Vrazhdebna, "where conditions remain below standards."⁸⁶

Harmanli Center

Since Human Rights Watch researchers visited the Harmanli camp in December 2013 the center has been upgraded and officially gazetted as a registration and reception center, and all Harmanli residents have been issued green cards (for registered asylum seekers) and are permitted to come and go.⁸⁷

⁸³ Email communication from UNHCR to Human Rights Watch, January 28, 2014. (Statistical spreadsheet on file with Human Rights Watch.)

⁸⁴ UNHCR, "Refugee Situation Bulgaria, External Update," December 10, 2013.

⁸⁵ Email communication from UNHCR to Human Rights Watch, February 19, 2013.

⁸⁶ UNHCR, "Refugee Situation Bulgaria, External Update," March 21, 2014.

⁸⁷ Ibid.

However, at the time of our visit Harmanli held more than 1,400 mostly unregistered asylum seekers, including children and their families, in overcrowded and unsanitary conditions and was a closed facility in which residents were arbitrarily detained.



Asylum seekers sleep on the floor in an unheated building at Harmanli. ©2014 Human Rights Watch

Many residents were living in unfinished, unheated buildings with inadequate water and sanitation, including large, semi-finished buildings that had no insulation, no shower facilities, gaping open windows without so much as window frames, and insufficient beds so that most people were sleeping on the floor.



An unheated building in Harmanli where 70 to 100 single men slept on broken cots and mattresses on the concrete floor. ©2014 Human Rights Watch

People built bonfires outside the buildings to try to warm themselves and used portable toilets because of the lack of plumbing in some of the buildings.

SAR had no staff employed full-time in Harmanli at the time of the Human Rights Watch visit and the camp appeared disorganized. A busload of asylum seekers had just arrived from the Elhovo distribution center, but SAR staff had no advance knowledge of their arrival nor did SAR take any role in organizing their accommodations. At the time of the Human Rights Watch visit, the entire facility had only eight showers.



A bathroom in one of the residential buildings in Harmanli. The toilets had no doors and the windows had no glass. Temperatures were below freezing. ©2014 Human Rights Watch

In the weeks prior to our visit, conditions in Harmanli were even worse. We spoke with a 36-year-old Syrian man about his experiences from his earlier days at Harmanli when he lived in a tent, and, then, after he moved to an unfinished building, and, finally, into the container where, at that time, residents were not free to enter and exit the camp:

The tent was very, very bad. It was wet. You could not get warm. The water came under the tent. You could not sit as we do now. I was in the tent for five days. Then I moved to the first building. It was very cold, but better than the tent. Yes, I'm now in this container. But this is a jail.⁸⁸

A 20-year-old Syrian man who was living in an unfinished building that held between 70 and 100 single men jammed together with no privacy, no heat, no light, no water or

⁸⁸ Human Rights Watch interview B74 (name withheld), Harmanli, Bulgaria, December 12, 2013.

sanitation in the dank filth and freezing cold gave this account of his 10-day stay in Harmanli:

When I first came I was in in a tent. We could see the moon and stars because the tent had so many holes. We moved into this building because the tent was so cold and wet, but the conditions here are so bad. There is no organization at all. I don't feel safe here. Inside this building there are internal problems. There is a lot of fighting and the police don't do anything.⁸⁹

As noted, conditions at Harmanli have improved significantly since December 2013. Starting on February 1, 2014, the Bulgarian Ministry of Defense began providing hot meals.⁹⁰ By March 6, the buildings were heated.⁹¹ Most importantly, from a completely closed camp, Harmanli became progressively more open. By March 6, residents were permitted to come and go from 2:00 p.m. to 6:00 p.m., and by March 19, restrictions on movement in and out of the center had been lifted.⁹²

People living at Harmanli, therefore, are no longer being detained. At the time of our visit, however, conditions of confinement of asylum seekers at Harmanli amounted to arbitrary detention. UNHCR's *Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers (Detention Guidelines)* defines detention as "the deprivation of liberty or confinement in a closed place which an asylum-seeker is not permitted to leave at will, including, though not limited to, prisons or purpose-built detention, closed reception or holding centres or facilities."⁹³

There was no basis in Bulgarian law to justify the detention of people at the Harmanli center in 2013, and therefore any detention ran afoul of international and EU law. The International Covenant on Civil and Political Rights, to which Bulgaria is a party, states that "No one shall be deprived of his liberty except on such grounds and in accordance with

⁸⁹ Human Rights Watch interview B66 (name withheld), Harmanli, Bulgaria, December 12, 2013.

⁹⁰ Ministry of Interior, "Report on the Measures to Manage the Crisis," p. 8.

⁹¹ UNHCR, "Refugee Situation Bulgaria, External Update," March 6, 2014.

⁹² UNHCR, "Refugee Situation Bulgaria, External Updates," March 6 and March 21, 2014.

⁹³ UNHCR, *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, 2012, para. 5, available at: <http://www.refworld.org/docid/503489533b8.html> (accessed February 8, 2014).

such procedure as are established by law.”⁹⁴ The European Convention on Human Rights (article 5) carefully circumscribes exceptions to the right of liberty according to procedures prescribed by law.⁹⁵ The Charter of Fundamental Rights of the European Union, which is binding on Bulgaria when it applies EU rules on asylum and migration, enshrines the right to liberty (article 6) and that any limitation on that right “must be provided for by law” and subject to the principle of necessity and proportionality (article 52.1).⁹⁶

The detention of children at Harmanli in 2013 also contravened Bulgaria’s obligations under the Convention on the Rights of the Child (CRC), which mandates at article 37(b) that the detention of children “shall be used only as a measure of last resort and for the shortest appropriate period of time.”⁹⁷ UNHCR asserts that family detention should be a last resort, when alternatives to detention are exhausted.⁹⁸

UNHCR’s *Detention Guidelines* establish that “Any detention or deprivation of liberty must be in accordance with and authorized by national law.”⁹⁹ Detention at Harmanli in 2013 was not prescribed in national law.

Vrazhdebna

The reception center at Vrazhdebna, near the Sofia airport, is one of two where UNHCR said in March 2014 that conditions continued to be inadequate.¹⁰⁰ On the day of Human Rights Watch’s December 2013 visit, the open reception center at Vrazhdebna hosted 398 people, including 163 children. It has a capacity for 300. It is a converted school, never intended nor designed as a residential building, but it was converted into a center for asylum seekers 70 days prior to the Human Rights Watch visit. Five nationalities lived at the center

⁹⁴ International Covenant on Civil and Political Rights (ICCPR) adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp.(No.16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 entered into force March 32, 1976, ratified by Bulgaria on September 21, 1970, art. 9.

⁹⁵ Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, Europ.T.S. No. 5; 213 U.N.T.S. 221, art. 5.

⁹⁶ European Union, Charter of Fundamental Rights of the European Union, December 7, 2000, Official Journal of the European Communities, December 18, 2000 (OJ C 364/01) <http://www.refworld.org/docid/3ae6b3b70.html> (accessed January 26, 2014).

⁹⁷ Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, art. 37(b).

⁹⁸ UNHCR, *Detention Guidelines*, para. 53.

⁹⁹ *Ibid.*, para. 15.

¹⁰⁰ UNHCR, “Refugee Situation Bulgaria, External Updates,” March 6 and March 21, 2014.

at the time of our visit, though the largest group by far, numbering 318, were Syrian Kurds. A 27-year-old single Syrian man commented on conditions at Vrazhdebna:

This place is bad. There aren't enough military cots. People sleep on the floor. There is no furniture. There are three toilets for 120 people and only two of them work. We only get hot water occasionally. The money they give is not enough to buy food for a month.¹⁰¹

People who had been staying in the Vrazhdebna reception center for some time said that conditions had improved, though they were still not good. "In the beginning it was very, very bad here. We slept on the floor. It was cold and dirty, no food, nothing," said a 23-year-old Syrian man. "Now, it's a lot better. The level of cleanliness is still zero. There are no washing machines and only one water heater for two floors, so you have to wait two days for a turn to take a shower."¹⁰²

Like other open centers, refugees and rejected asylum seekers were living on the outskirts of Vrazhdebna and trying to find ways to sneak in for a relatively safe and warm place to stay, even for a night or two. Human Rights Watch met a registered Syrian asylum seeker, whose green card was taken away after he was caught trying to leave the country irregularly, squatting in the center after having been rendered homeless:

I finished my money. I slept in the park. I came to this camp, but the police at the front gate kicked me and told me to leave. I said I would sleep at the gate. I tried to sleep there. By chance I was able to get inside. At least I have heat and a bed here.¹⁰³

Voenna Rampa

The other center where UNHCR said in March 2014 that conditions remained inadequate was Voenna Rampa located in Sofia.¹⁰⁴ Human Rights watch visited the center in December 2013. Like Vrazhdebna, the Voenna Rampa open center has been converted from an

¹⁰¹ Human Rights Watch interview B18 (name withheld), Vrazhdebna, Bulgaria, December 5, 2013.

¹⁰² Human Rights Watch interview B19 (name withheld), Vrazhdebna, Bulgaria, December 5, 2013.

¹⁰³ Human Rights Watch interview B12 (name withheld), Vrazhdebna, Bulgaria, December 5, 2013.

¹⁰⁴ UNHCR, "Refugee Situation Bulgaria, External Updates," March 6 and March 21, 2014.

abandoned school. Its appearance was dank, dirty, and dismal on the day of our visit, when the center population was officially counted at 840, including 295 children, though the director said it had a capacity for no more than 400. He said that about 70 percent of the people in the center were not sleeping in beds and that the entire facility had only 14 toilets. There were no washing machines, so bathrooms were also used for washing plates and clothes. He said, “We have a lot of problem with water.”¹⁰⁵

When asked about health care for Voenna Rampa residents, the director said there was a Bulgarian doctor available “in another center” and that “it is difficult because I don’t have any transportation for them.” He said that Médecins Sans Frontières (MSF) volunteers come to the center three days per week.

The Voenna Rampa director, who represents the State Agency for Refugees (SAR), said that 90 percent of the residents had green asylum seeker cards, but that “until this moment, not one has been granted humanitarian status.” He said that when any are granted humanitarian status (he did not mention refugee status as an option) they would have to leave the center.¹⁰⁶

A private security agency controlled access to and from the facility. Residents were allowed to sign out during the day, but were subject to a curfew from 10 p.m. and 6 a.m. Some told us, however, that they did not go very far since they could not afford even public transportation and because they feared being attacked by skinheads on the streets of Sofia.

Although most residents came and went without any problem, some who were denied entry to the open centers alleged that the guards who control access treated them violently. A Syrian who had been returned to Bulgaria from another EU member state under the terms of the Dublin Regulation said that the police brought him to an open center in Sofia in March 2013, but said that the administrator refused him entry, saying that he should rent an apartment. When he refused to leave, he said, “Five police pulled my hair, hit me with a stick on my shoulder and across my ribs.¹⁰⁷ They hit my finger as I was trying to grab on, to the point where the blood flowed.”¹⁰⁸

¹⁰⁵ Human Rights Watch interview with director, Voenna Rampa, Bulgaria, December 6, 2013.

¹⁰⁶ Ibid.

¹⁰⁷ These were likely private security guards who control entry and exit at the open centers.

¹⁰⁸ Human Rights Watch interview L5 (name and age withheld). Busmantsi, Bulgaria, December 4, 2013.

VI. Detention and Lack of Care for Unaccompanied Children

Human Rights Watch has been unable to obtain official data on the total number of unaccompanied migrant children currently in Bulgaria from the State Agency for Refugees (SAR) or the Ministry of Interior. According to the Ministry of Interior, Bulgarian border police apprehended 34 unaccompanied migrant children in 2013. Most of the unaccompanied children whose presence Human Rights Watch documented were from Syria and Afghanistan; most were males between the ages of 14 years old and 17 years old.

The Ministry of Interior reported that no unaccompanied minors were held in migrant detention facilities.¹⁰⁹ Human Rights Watch researchers, however, interviewed at least three unaccompanied migrant children in Lyubimets SCTAF. However, under international and European standards, unaccompanied minors should never be detained for reasons related to irregular entry. In addition, the government has not established a fair and regularized age determination procedure to adequately identify those in need of protection, and does not offer remotely sufficient assistance to unaccompanied refugees outside detention.

Bulgaria's Law on Asylum and Refugees provides that unaccompanied minors should be appointed a legal guardian in accordance with the general procedure prescribed in the Family Code or the Law on Child Protection.¹¹⁰ If guardians are not appointed, the law states that children should be represented in asylum proceedings by the Directorate of Social Support at the Social Assistance Agency in the Ministry of Labor and Social Policy.¹¹¹ Such assistance, prescribed by international law, does not in practice happen in Bulgaria.¹¹²

¹⁰⁹ Email communication from Ministry of Interior to Human Rights Watch, February 11, 2014. (On file with Human Rights Watch).

¹¹⁰ Law on Asylum and Refugees, art. 25(1).

¹¹¹ *Ibid.*, art. 25(5).

¹¹² UN Committee on the Rights of the Child, General Comment No. 6: Treatment of Unaccompanied and Separated Children outside their Country of Origin, (Thirty-ninth session 2005) UN Doc. CRC/GC/2005/6, para 33 <http://swided76.hcrnet.ch/refworld/docid/42dd174b4.html> (accessed March 23, 2014).

Detention of Unaccompanied Migrant Children

Unaccompanied migrant children in Bulgaria, like adults, are usually detained after being caught crossing the border irregularly. Like adults, after apprehending them, border police first take them to the police station at Elhovo. A 16-year-old Afghan child told Human Rights Watch about his experience at the Elhovo border police station:

Nobody talked to me. The police just searched me and we slept under the trees in front of the buildings. I was cold and very hungry. I only got some food the first day. I spent four days outside and three days inside the station.¹¹³

Children were being detained at the time of our visit because open reception centers were overcrowded. They were being routinely detained in border police stations for several days and even weeks at a time.

After being transferred from border police stations, some children are detained together with adults in the two detention centers for irregular migrants in Busmantsi and Lyubimets. No separate units exist for unaccompanied migrant children in these facilities, despite the vulnerability of these children to abuse and exploitation when detained with adults. The commander of Lyubimets SCTAF, confirmed to Human Rights Watch that 15 year-old to 17-year-old children are detained at the center.¹¹⁴

A 16-year-old stateless boy detained in Lyubimets SCTAF told Human Rights Watch that he had spent 17 days in detention at the time of the interview:

I am staying in the same room with adult men. I thought that because Bulgaria is in the EU, I would be free earlier. I have family in Germany and I can't get in touch with them. I have tried to tell them [Bulgarian authorities] that but they don't say anything. I am so tired of this and just fed up with Lyubimets. I want to be free.¹¹⁵

¹¹³ Human Rights Watch interview L8 (name withheld), Vrazhdebna, Bulgaria, December 5, 2013.

¹¹⁴ Human Rights Watch interview with SCTAF commander, Lyubimets, Bulgaria, December 9, 2013

¹¹⁵ Human Rights Watch interview L24 (name withheld), Lyubimets, Bulgaria, December 9, 2013.

He told Human Rights Watch that he had spent five days at the Elhovo Border Police Station and another nine days at the Elhovo Distribution Center and was held together with adult single men in both places.

Other unaccompanied minors made similar statements about being detained together with adults. One 17-year-old Moroccan child said that Bulgarian border police beat him to make him say that he was older than 17:

The border police beat me. I told the police that I am 17 years old, and then they kicked me and took my clothes off. I was scared and when they asked me again, I lied and said I was older. I was at the station for six days without food. I wrote about my problem at the border, about the beatings, and they [the authorities at Lyubimets] said it's not their problem.¹¹⁶

The boy added that he felt unsafe at Lyubimets SCATF, the detention center where he was detained at the time of the interview:

I don't feel safe here because I live with adults and they are very noisy. Two weeks ago, a Nigerian [detainee] beat me. I made a complaint to the guard who talked to the Nigerian guy but there was no punishment for him. I told the Moroccan consul that I am 17 and that I want an interview [with SAR] but they [SAR] never accepted.¹¹⁷

The commander of Lyubimets acknowledged to Human Rights Watch that no legal guardians are appointed for these unaccompanied minors.¹¹⁸ Both Bulgarian law and international standards require that the state appoint legal guardians for unaccompanied minors in detention. Instead of meeting this obligation, detention center authorities informally appoint random adult detainees to take charge of minors in the facilities. Human Rights Watch documented a case in Lyubimets where the center police ordered a 22-year old Afghan man to “assume responsibility” for six Afghan unaccompanied minors. He explained to Human Rights Watch:

¹¹⁶ Human Rights Watch interview L53 (name withheld), Busmantsi, Bulgaria, December 13, 2013.

¹¹⁷ Human Rights Watch interview L53 (name withheld), Busmantsi, Bulgaria, December 13, 2013.

¹¹⁸ Human Rights Watch interview with SCTAF commander, Lyubimets, Bulgaria, December 9, 2013.

The [Bulgarian] police told me that I had to be responsible for six underage boys, but I didn't know them and didn't understand why. I didn't feel like I had a choice but to say yes.¹¹⁹

According to article 37(b) of the Convention on the Rights of the Child (CRC), detention of children “shall be used only as a measure of last resort,” and the UN Committee on the Rights of the Child, the body charged with overseeing implementation of the CRC, has explicitly asserted that unaccompanied migrant children should not be detained.¹²⁰ The Commissioner for Human Rights for the Council of Europe has stated that, “as a principle, migrant children should not be subjected to detention.”¹²¹

The 2013 European Council (EC) Reception Conditions Directive, which Bulgaria and other EU member states are required to incorporate into their national legislation, states that unaccompanied minors shall be “detained only in exceptional circumstances,” that “all efforts shall be made to release the detained unaccompanied minor as soon as possible,” and that “[u]naccompanied minors shall never be detained in prison accommodation.” The directive also stresses that unaccompanied minors should be placed in facilities with competent staff that “take into account the needs of persons of their age.” The Directive also calls on member states to ensure that unaccompanied minors “are accommodated separately from adults.”¹²²

By detaining unaccompanied minors and by holding them with adult detainees, Bulgaria is in breach of its international and EU obligations and should act immediately to rectify its practice and refrain from routinely detaining unaccompanied minors and children in general. In exceptional cases when detention of unaccompanied minors and children is necessary, Bulgaria should ensure appropriate accommodation and ensure that it is for the shortest possible time.

¹¹⁹ Human Rights Watch interview B8 (name, age, dates of entry and exit, dates of incarceration, place and date of interview withheld).[~]

¹²⁰ UN Committee on the Rights of the Child, General Comment No. 6, para. 62.

¹²¹ Council of Europe, Commissioner For Human Rights, Positions on the Rights of Minor Migrants in an Irregular Situation, Position Paper (2010)6, Strasbourg, June 25, 2010 <https://wcd.coe.int/ViewDoc.jsp?id=1654377> (accessed March 23, 2014).

¹²² European Union: Council of the European Union, Directive 2013/33/EU of the European Parliament and Council of June 26, 2013 laying down standards for the reception of applicants for international protection, recast (Reception Conditions Directive recast), June 29, 2013, L 180/96, art. 11(3) <http://www.refworld.org/docid/51d29db54.html> (accessed January 26, 2014).

Lack of Legal Guardians for Unaccompanied Minors

Despite domestic legal provisions obliging authorities to appoint legal guardians for unaccompanied migrant children, in practice this does not occur leaving children without assistance ensuring basic needs.¹²³ Human Rights Watch did not document a single case where an unaccompanied child stated that he had been assigned a legal guardian. For example, one Afghan boy, age 16, said:

Nobody is responsible for me here. I am the only one responsible for myself. Nobody has told me what is going on or how long I have to stay in this prison.¹²⁴

A 17-year-old Afghan minor told Human Rights Watch how he was first detained for four days “under the sky,” and then sent and registered in the open reception center in Banya. He explained the difficulties he faced after being told he could move from Banya to be with a family friend in Vrazhdebna, approximately 180 kilometers away:

Because I moved from Banya to Vrazhdebna, I can’t get the 65 leva (about 33 euro or US \$44) per month as I need to change my official address and I have to have an adult do that. I was never given a legal guardian. I am even scared to leave this center because my card says I’m registered in Banya. I don’t understand anything and nobody is explaining anything. I only know that I have to go for another SAR interview on December 24 in Banya but I have no money to get there.¹²⁵

If and when they receive refugee or humanitarian status, unaccompanied minors without legal guardians lack legal capacity, which prevents them from accessing social assistance and puts them at further risk of exploitation and homelessness.¹²⁶

UNHCR in Bulgaria confirmed that it is common practice that unaccompanied minors are not appointed legal guardians and added that UNHCR addressed this issue on several

¹²³ Law on Asylum and Refugees, art. 15(1).

¹²⁴ Human Rights Watch interview L25 (name withheld), Lyubimets, Bulgaria, December 9, 2013.

¹²⁵ Human Rights Watch interview L7 (name withheld), Vrazhdebna, Bulgaria, December 5, 2013.

¹²⁶ Human Rights Watch email correspondence with Valeria Ilareva, January 20, 2014.

occasions in meetings with Bulgarian authorities.¹²⁷ An analysis by a Bulgarian asylum law expert indicates that there are no explicit criteria or procedures set out for legal guardians for foreign children in Bulgarian law.¹²⁸

The Committee on the Rights of the Child specifies that unaccompanied migrant children must be assigned a guardian to protect their interests. According to the Committee, the guardian's job is much broader than that of a legal representative, to which the child is also entitled: the guardian, who need not be a lawyer, should be consulted on all actions taken for the child whether they are legal in nature or not, and should be knowledgeable about child care in order to ensure that the child's "legal, social, health, psychological, material and educational needs are adequately covered."¹²⁹

The 2013 EU Procedures Directive says that member states "shall take measures as soon as possible to ensure that a representative represents and assists the unaccompanied minor to enable him or her to benefit from the rights and comply with the obligations" as set out in the Directive."¹³⁰ Human Rights Watch's research shows that this is not the case and Bulgaria is therefore in violation of the Procedures Directive.

Lack of Separate Facilities for Unaccompanied Minors in Open Reception Centers

Unaccompanied minors in Bulgaria are routinely accommodated together with adults in overcrowded reception centers in poor conditions. The only center with accommodation for unaccompanied minors is in Ovcha Kupel, housing mainly single mothers with children and therefore not a center exclusively for unaccompanied children. The center is operating close to full capacity. As of January 23, 2014, 753 people were accommodated in Ovcha Kupel which has a total capacity for 840 persons.¹³¹ According to Deputy Minister of Interior

¹²⁷ Human Rights Watch interview with UNHCR, Sofia, Bulgaria, December 13, 2013.

¹²⁸ Valeria Ilareva, Dublin II Regulation, National Report, European Network for Technical Cooperation on the Application of the Dublin II Regulation, Bulgaria, May 2012.

¹²⁹ UN Committee on the Rights of the Child, General Comment No. 6, para. 33.

¹³⁰ European Union: Council of the European Union, Directive 2013/32/EU of the European Parliament and of the Council of June 26, 2013 on common procedures for granting and withdrawing international protection, recast (Procedures Directive recast), June 29, 2013, L 180/60, art. 25(a) <http://www.refworld.org/docid/51d29b224.html> (accessed January 26, 2014).

¹³¹ SAR Statistics on the number of people accommodated at SAR territorial divisions, as of January 23, 2014. (On file with Human Rights Watch.)

Plamen Angelov, authorities are still in the process of establishing a facility in Banya exclusively for unaccompanied children.¹³²

Human Rights Watch visited open reception centers and witnessed how unaccompanied children were housed with adults in large dormitory-like rooms with 30 or more people in each room.¹³³ Without guardians, their individual needs were ignored; without legal status, children cannot obtain the paperwork necessary to improve their situation.

Access to education is non-existent in the open reception centers for unaccompanied and accompanied children alike. In Vrazhdebna, the commander told Human Rights Watch that children do not go to school and said a reason was that most asylum seekers want to go to other parts of Europe. “Education is a later question,” he said “and once we know how many will stay we can start arranging for education.”¹³⁴ The situation was similar in Voenna Rampa where the commander told Human Rights Watch that the only type of education provided is English and Bulgarian language classes given by Red Cross volunteers.¹³⁵

¹³² Human Rights Watch interview with Plamen Angelov, deputy minister, Ministry of Interior, Sofia, Bulgaria, December 6, 2013.

¹³³ Human Rights Watch visit to Voenna Rampa reception center, Sofia, Bulgaria, December 6, 2013 and to Vrazhdebna reception center, Sofia, Bulgaria, December 5, 2013.

¹³⁴ Human Rights Watch interview with the center commander, Vrazhdebna, Bulgaria, December 5, 2013.

¹³⁵ Human Rights Watch interview with the center commander, Voenna Rampa, Bulgaria, December 6, 2013.

VII. Asylum Seekers Living Outside the Centers

About half of the registered asylum seekers in Bulgaria live outside the reception centers. In mid-December 2013, of 9,247 registered asylum seekers, 4,631 were living in private accommodations at their own expense and 4,616 in reception centers; three months later, the number of registered asylum seekers had decreased to 6,832 but still about half, 3,358, were living in one of seven centers while 3,474 were living outside on their own.¹³⁶

Some asylum seekers desperate to leave the Ministry of Interior SCTAF detention centers have opted to forfeit their entitlement to residence in reception centers, social services, and a monthly stipend in order to live on the outside. This has left many vulnerable to deprivation, fraud, and exploitation. Many detainees told Human Rights Watch that the only way out of detention was to produce an address, usually facilitated by a “lawyer,” individuals who have access to the detainees who, for a price, will provide an address where the migrant will supposedly find private accommodation. A UNHCR commissioned study, *Where Is My Home? Homelessness and Access to Housing among Asylum-Seekers, Refugees and Persons with International Protection in Bulgaria*, observed:

Due to the sometimes prolonged detention in SCTAF, some asylum-seekers declare that they have accommodation and provide a fictitious external address. They do so in order to be released from detention, which directly results either in homelessness or in dire living conditions below the poverty line.¹³⁷

A 24-year-old Cameroonian man living in an abandoned, unfinished building near the Ovcha Kupel reception center explained how he came to be homeless:

I was in Busmantsi for three months, where we had no rights. I took a fake address to get out by paying 100 euro. I gave the money to someone doing collaboration with the authorities in the camp. I knew it was not a real address, but I did it to get out of prison. I was shocked to be in prison. I

¹³⁶ UNHCR, “Refugee Situation Bulgaria, External Update,” March 21, 2014.

¹³⁷ UNHCR, *Where Is My Home? Homelessness and Access to Housing among Asylum-Seekers, Refugees and Persons with International Protection in Bulgaria*, 2013, p. 5.

never saw a judge, never went to a court. I never signed a paper to say I will not take 65 leva or that I would support myself. I just paid 100 euro for my release. I've never had a job here. I tried to work many times, but nobody accepts me.¹³⁸

A 54-year-old Afghan woman who was detained together with her family in the Busmantsi SCTAF was persuaded to pay a lawyer to get the whole family out. She told a Human Rights Watch researcher what happened:

We paid the lawyer.... I was also given some paper by the authorities in Busmantsi to sign, but nobody explained to me what I was signing. We currently live in a garage where there are 12 rooms with 24 families, so two families in each room. We pay 15 euro per night to stay there. We pay it to a Bulgarian man every day. But we are running out of money and don't know what to do. We only eat once a day because our money isn't enough.¹³⁹

We met a 26-year-old man from Ivory Coast living in a place called "the Ritz," an unfinished, abandoned building site across from the Ovcha Kupel reception center. The man said he had paid a lawyer 500 euro to get out of the Lyubimets facility but then became completely destitute as he waited for his asylum interview:

I signed some paper but I don't know what it was and nobody explained. They put me on a bus and brought me to Ovcha Kupel. They gave me a paper which was my asylum application. They told me now I can go to a hotel. I am living at the Ritz. I have an asylum appointment on February 14. My friends inside the Ovcha Kupel camp help me with food and blankets because I don't get any help from the Bulgarian state.¹⁴⁰

¹³⁸ Human Rights Watch interview B14 (name withheld), Ovcha Kupel, Bulgaria, December 14, 2013.

¹³⁹ Human Rights Watch interview L55 (name withheld), Sofia, Bulgaria, December 14, 2013.

¹⁴⁰ Human Rights Watch interview L58 (name withheld), "the Ritz," near Ovcha Kupel, Bulgaria, December 14, 2013.



“The Ritz”—an unfinished building where homeless refugees and asylum seekers live.

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Some homeless refugees and rejected asylum seekers congregate around open centers that have abandoned buildings nearby, squatting in buildings that are—as in the case of “the Ritz,” next to the Ovcha Kupel open center—the barest, unfinished structures with no exterior walls, plumbing, or electricity. Among the homeless people Human Rights Watch interviewed in the Ritz were undocumented foreigners whose refugee claims had been rejected, who were out of money, and had no resources to leave or, for that matter, to stay. A 35-year-old Congolese man explained how he was rejected as a refugee and how he is barely surviving:

It has been one month since my rejection, since they took away my green card. I was a refugee in South Africa for many years. I showed [SAR] my documents, but they didn’t accept them. Nobody believes you, they say you are lying. I can’t leave. I can’t go back to Congo. I would be in danger.

I am not living in the center. I am living outside. I have been living in “the Ritz” for three months. The police come and chase people. This is not life. I was in Lyubimets for two months and two weeks. It was better than this. I am suffering. There are no jobs at all. I go to a church for bread, but today I will not eat anything because it is a Saturday. I will have no food until Monday. Without money you can’t leave. You can’t do anything.¹⁴¹

When they have the opportunity, these homeless refugees and migrants sneak into the open centers, doubling up with the residents, and adding uncounted additional people to centers that are already overcrowded by official count. The Ovcha Kupel center had officially filled its capacity of 860 people at the time of the Human Rights Watch visit, but residents told us that many unregistered people had snuck in and were living there. On January 16, 2014, Bulgarian police raided Ovcha Kupel and arrested over 70 people residing there allegedly “illegally,” but hosted by friends. The “illegal” residents with asylum claims were transferred to Harmanli, at that time a closed center, and those with rejected asylum claims to the Busmantsi or Lyubimets detention centers. Similar raids have been planned for other open reception centers.¹⁴²

A Syrian who was detained at Busmantsi until he provided an address and was released said that he lived in the park across from the Vrazhdebna open center after his money ran out. He begged to enter the center, but, he said, “the police in front of the camp kicked me and told me to leave.”¹⁴³

A 17-year-old unaccompanied Afghan minor who had been staying in the Vrazhdebna open center told Human Rights Watch that as a result of the police having caught him trying to cross irregularly from Bulgaria to Serbia, he could no longer stay at the open center. “When I got back, the commandant told me to leave so I slept under a bridge for about 16 days because I had no money. I kept coming back to Vrazhdebna and finally, because journalists happened to be there, the commandant let me in.”¹⁴⁴

¹⁴¹ Human Rights Watch interview B82 (name withheld), Ovcha Kupel, Bulgaria, December 14, 2013.

¹⁴² “Police Raid in Bulgarian Refugee Center, 70 Evicted,” Sofia News Agency, Novinite.com [http://www.novinite.com/articles/157307/Police+Raid+in+Bulgarian+Refugee+Center%2C+70+Evicted_\(accessed+January+26,+2014\)](http://www.novinite.com/articles/157307/Police+Raid+in+Bulgarian+Refugee+Center%2C+70+Evicted_(accessed+January+26,+2014)).

¹⁴³ Human Rights Watch interview B12 (name withheld), Vrazhdebna, Bulgaria, December 5, 2013.

¹⁴⁴ Human Rights Watch interview L7 (name withheld), Vrazhdebna, Bulgaria, December 5, 2013.

Being self-sufficient is extremely difficult for asylum seekers in Bulgaria, who are not allowed to work legally. Even unauthorized work is hard to come by as unemployment is high and few asylum seekers speak even basic Bulgarian. In addition to lack of employment and exploitative landlords, there is a growing fear of racist and xenophobic violence on the streets. A 30-year-old Syrian asylum seeker told Human Rights Watch about being assaulted by skinheads during the day in a public place in Sofia on December 1, 2013. When he reported the assault to the police, he said they responded with hostility towards him and showed no interest in pursuing the perpetrators:

It was about 6 p.m. There were three of us. We were riding the tram. A group of about 25 skinheads came and started yelling at us in Bulgarian. We were sitting on the bench, but they came to us step by step and pushed us. We didn't say anything. We didn't want to make any problem. Two of them spoke to the driver of the tram and they knocked on the door to go out. They then pushed us out. They beat one of my friends, punching him on the back of his head and hitting his hands. My friend said they threatened him with knives, but I did not see the knives with my own eyes. They also beat me. They chased us for a bit, and then they stopped. I went to the hospital, but nothing was broken. We went to the police and told them what happened, but the police abused us and told us not to go on the street. But it was only 6 o'clock.¹⁴⁵

¹⁴⁵ Human Rights Watch interview B23 (name withheld), Voenna Rampa, Bulgaria, December 6, 2013.

VIII. Protection Gaps in the Asylum System

The State Agency for Refugees decided 2,816 asylum claims in 2013, of which 183 were granted refugee status, 2,279 were granted humanitarian status, and 354 were rejected, a protection rate of 87 percent of cases decided. No cases were appealed or decided on appeal in 2013 and no cases were referred for judicial review.¹⁴⁶ Despite the high approval rate, at least for humanitarian status, Human Rights Watch assesses the quality of first-instance interviews in 2013 to have been poor, based on the many accounts of asylum seekers we interviewed.

Asylum seekers consistently told Human Rights Watch that they had little understanding of the written asylum applications because of bad interpreters and because they were told to sign their names to statements written in Bulgarian that they did not understand. Most of the accounts asylum seekers gave us of the first-instance asylum interview are quite short, an indication of how abbreviated they were in late 2013:

A 32-year-old Syrian man, interviewed at Elhovo, told Human Rights Watch:

They asked why I ran from Syria but it was mostly about smuggling. They translated what I said and told me it was from the interview, and I signed it.¹⁴⁷

A 46-year-old Syrian man, interviewed at Elhovo, said:

They gave us a paper in the Bulgarian language to sign that says we want to be a refugee. It was already typed. All we had to do was add our name and sign it.¹⁴⁸

¹⁴⁶ UNHCR provided asylum statistics in a January 28, 2014 email. Statistical tables are also on file with Human Rights Watch. The Bulgarian Ministry of Interior also provided statistics in “Bulgarian replies.” The Ministry of Interior statistics say that 3,640 asylum cases were decided, which would be a protection rate of 68 percent, but their statistics do not account for how 824 cases were decided, so we use the statistics provided by UNHCR, which show a higher protection rate. It appears that these 824 were cases administratively closed after the applicant absconded. The nationality group most often granted some form of protection was Syrians (149 refugee status; 1,862 humanitarian status) followed by Iraqis (0 refugee status; 53 humanitarian status). Although 309 Afghans lodged asylum claims in 2013, only one was granted refugee status and three granted humanitarian status. During the year, 7,144 asylum claims were lodged. The groups registering the largest numbers of applications were Syrians (4,511), stateless people (565), and Algerians (434). At year’s end, many asylum seekers had lodged claims that SAR had not yet registered.

¹⁴⁷ Human Rights Watch interview B14 (name withheld), Vrazhdebna, Bulgaria, December 5, 2013.

A Syrian man at Busmantsi recalling his experience at Elhovo, told us:

They asked me some questions after I arrived and I had to sign 10 or so documents. I have no idea what I signed as nobody spoke English and there was no interpreter. I also got fingerprinted. I asked for asylum.”¹⁴⁹

A 24-year-old Palestinian man from Syria interviewed at Elhovo, said:

They asked why and how I came. How much money I paid the smugglers. Why did you come to this poor country.¹⁵⁰

Some detainees in the Ministry of Interior migrant detention centers said they did not know whether they had submitted asylum applications or not. “No one interviewed me,” said an Afghan man at the Lyubimets detention center. “No one asked me to write down anything. I did not write any paper saying I want to be a refugee here.”¹⁵¹ Yet, he was being transferred to the Harmanli center on the day of our visit, which suggests that an asylum application had been submitted on his behalf but had not yet been registered.

A 27-year-old Syrian from Latakia city, a Syrian government-controlled stronghold, expressed great frustration at his inability to convince the authorities at the Bulgarian Ministry of Interior-administered migrant detention where he was being held that he had a refugee claim that should be forwarded to the State Agency for Refugees (SAR):

I have been in [name of center withheld] for 48 days. No one tells me anything. No one explains why I am here. I am here far from home. I am not a criminal, not a drug dealer. I obey the law. I’m a normal Syrian person. I don’t want to tell you about my problems in Syria, but that is why I came here. Here, I ask for a refugee interview. They say, ‘Go.’ They treat me as a sub-human. I ask them why I am here. They say, ‘I don’t know.’ I beg them for an interview. They say,

¹⁴⁸ Human Rights Watch interview B15 (name withheld), Vrazhdebna, Bulgaria, December 5, 2013.

¹⁴⁹ Human Rights Watch interview L4 (name and age withheld), Busmantsi, Bulgaria, December 4, 2013.

¹⁵⁰ Human Rights Watch interview B21 (name withheld), Vrazhdebna, Bulgaria, December 5, 2013.

¹⁵¹ Human Rights Watch interview B33 (name withheld), Lyubimets, Bulgaria, December 8, 2013.

“This is not my problem.” They treat me like a criminal. They say to leave this place you need an outside address and that is all.¹⁵²

Termination of Asylum Proceedings

Migrants who are caught trying to leave Bulgaria irregularly, or who are caught and returned by border guards of neighboring states, may be subjected to Article 279(1) of the Bulgarian criminal code, which criminalizes irregular border crossing.¹⁵³ The penalty for each instance of crossing the border irregularly is six months in prison. The sentence is usually suspended, but judges warn migrants that if they break the law again, particularly article 279(1), they will be sentenced for the latest infraction as well as the previous, suspended one. Article 279(5) of the criminal code provides an exception to criminalizing irregular border crossing for asylum seekers that should insulate them from prosecution. However, LAR article 16(1)13 authorizes SAR to terminate asylum proceedings if the applicant “has made an attempt to exit the country through the border without a permit.”¹⁵⁴

A Syrian who deserted the Syrian army told Human Rights Watch how his asylum proceedings in Bulgaria were terminated. He first entered Bulgaria in 2012 and spent a month in Lyubimets and another two months at the facility in Pastrogor, which he said at the time had no food and no heat. With his asylum proceedings seemingly stuck, with no money, and propelled, in part, by months of constant cold, he decided to go back to Syria the way he came, hoping that his desertion might not be noticed. He said, “I was psychologically confused. I had no food, no money, no heat. I was so cold I didn’t care.”

Bulgarian border guards caught him trying to cross irregularly back into Turkey. He was taken to court and sentenced to one year in the Sofia Central Prison. He said that the foreigners section at the prison was overcrowded but conditions generally were “okay,” except “when we made protests.” The great distress he expressed, however, was that he was no longer eligible to seek asylum, despite his great fear about being returning to Syria:

¹⁵² Human Rights Watch interview B77 (name and details withheld).

¹⁵³ Criminal Code, Publication State Gazette No. 26/April 2, 1968, in force as of May 1, 1968, Last amendment SG No. 32/April 27, 2010, in force as of May 28, 2010 <http://legislationline.org/documents/action/popup/id/8881/preview> (accessed March 12, 2013).

¹⁵⁴ Law on Asylum and Refugees, art. 16(1)13.

Now I do not want to go back. But they told me I can't apply for asylum because I was in prison and tried to cross the border illegally. I can't go back. They tell me my only options are to go back to my country or to pay money to an advocate to go out. But when I go out, what will I do? I am so cold [he is crying]. I left everything. My psychology is bad. I have never been weak like this. I can't sleep at night. I'm very nervous. My stomach is not accepting food.¹⁵⁵

Many asylum seekers—perhaps most—interviewed by Human Rights Watch said that they did not want to lodge asylum claims in Bulgaria, but rather in another EU member state. Many had family ties in other countries. Others were embittered by their treatment by Bulgarian authorities and had no confidence that the Bulgarian government would protect them. In no case did any asylum seeker interviewed by Human Rights Watch express any level of confidence in their ability to integrate in Bulgaria, to find a job there, and lead a normal and secure life.

Delays in Registering Asylum Claims—A Protection Gap Apparently Resolved

Until recently, there were chronic delays of several months between the time an asylum seeker submitted an asylum claim to border police or other authorities and when SAR registered the claim.¹⁵⁶ During this time, the asylum seeker was considered an irregular immigrant, was likely to be detained, and was at risk of being deported.

The chronically slow Bulgarian asylum process improved dramatically during the spring of 2014 with the support of the European Asylum Support Office (EASO) and additional staff and resources. Throughout 2013—and in previous years—there were long delays between the time an asylum claim was lodged and registered. The process was prolonged, in part, because of multiple agency interviews, multiple fingerprinting, and waiting for results of EURODAC fingerprint checks that would indicate whether the asylum seeker might be the responsibility of another party to the Dublin Regulation. While enduring these long waits, asylum seekers often lived in destitution, as was the case for the overwhelming majority of people at the Harmanli closed centers in late 2013. Without the green card that officially

¹⁵⁵ Human Rights Watch interview B8 (name and details withheld).

¹⁵⁶ In February 2014, UNHCR said that there was a delay of three to four months between the lodging of asylum claims and their registration. See UNHCR, "Refugee Situation Bulgaria, External Update," February 7, 2014.

acknowledges that they were registered asylum seekers, they had no status, and did not receive the minimal 65 leva (about 33 euro or US \$44) per month stipend from the government or other basic humanitarian assistance.

The EU's recast Asylum Procedures Directive requires all EU member states to register asylum claims within three days of the asylum application being lodged.¹⁵⁷ Remarkably, by March 21, 2014, UNHCR reported that Bulgaria was meeting this standard.¹⁵⁸

Draft Amendments to the Law on Asylum and Refugees

As a member state of the EU, Bulgaria is obliged to bring its national asylum and refugee law into conformity with the European Commission (EC) directives that comprise the Common European Asylum System (CEAS). Two of the principal directives that form the foundation of the CEAS, the Qualification Directive, which establishes the standards to qualify for refugee status or subsidiary protection, and the Reception Conditions Directive, which establishes standards for receiving asylum seekers, have been amended. Bulgaria, therefore, must transpose these changes into its asylum and refugee law.

On November 19, 2013, the Council of Ministers introduced a bill to amend the Law on Asylum and Refugees to bring it into conformity with the EC directives. At the time of the writing of this report, the Parliamentary Commissions on Legal Issues and on European Affairs had proposed that the Parliament adopt the draft bill, and, it was still pending its first reading in a plenary session of the parliament.¹⁵⁹

Although transposition of EC directives into national law is intended to bring each member state's practices toward asylum seekers into conformity with one set of standards, the draft amendments to the Bulgarian Law on Asylum and Refugees appear designed to twist Bulgarian practices to allow much broader detention of asylum seekers than in other EU member states. The Bulgarian Helsinki Committee commented on the government's draft amendments saying that they "turned completely contrariwise" the principle in the

¹⁵⁷ EU Procedures Directive, recast, art. 6(1).

¹⁵⁸ UNHCR, "Refugee Situation Bulgaria, External Update," March 21, 2014.

¹⁵⁹ The draft law and the parliamentary commissions' reports are available at <http://www.parliament.bg/en/bills/ID/14681> (accessed February 10, 2014).

Reception Conditions Directive that people should not be detained solely because they have applied for international protection:

In their essence, the proposals introduce a general detention regime for all categories of asylum seekers, regardless of their individual characteristics, vulnerability, age, health status, special needs or other relevant circumstances and irrespective of the stage of their status determination procedure as set in the Law on the Asylum and Refugees (LAR). As a rule all persons seeking protection are being subjected to wide, overall and unconditional detention in closed-type centers.¹⁶⁰

¹⁶⁰ Bulgarian Helsinki Committee, "Position on the Law on Asylum and Refugees Draft Amendments," November 25, 2013, <http://www.bghelsinki.org/en/news/press/single/bhc-position-law-asylum-and-refugees-draft-amendments/> (accessed March 24, 2014).

IX. Failure to Support and Integrate Refugees

Bulgaria's Law on Asylum and Refugees holds that "the refugee shall acquire the rights and obligations of Bulgarian citizens," except for the right to participate in elections and to occupy positions that require Bulgarian citizenship, such as military service.¹⁶¹ Beneficiaries of humanitarian status are accorded the same rights as other foreigners holding permanent resident permits.¹⁶² The law also provides that:

A foreigner with a refugee status or humanitarian status can be given financial support for accommodation in a flat for a period up to 6 months from the enactment of the decision for providing status.¹⁶³

Despite this explicit provision in law for financial support for housing for six months after the grant of refugee or humanitarian status, residents of open centers were being told in 2013 that they had to leave open reception centers within five days of being granted refugee or humanitarian status, and were told they would be evicted after 14 days. The 14-day grace period before eviction appears to have been derived from article 35 of the Law on Asylum and Refugees:

A foreigner with a refugee or humanitarian status shall be obliged, within 14 days from receipt of the permit for providing status, to appear at the municipality of the populated area where he will settle in order to be entered into the register of the population.¹⁶⁴

A legacy of the Soviet-era *propiska* system, establishing a residential address with the municipality where one resides is a prerequisite for civil registration, identity documents, and eligibility for social assistance. But this becomes a Catch-22 as key Bulgarian municipalities discriminate against refugees and prevent them from obtaining permanent addresses. The UNHCR-commissioned study on homelessness reports:

¹⁶¹ Law on Asylum and Refugees, art. 32(1).

¹⁶² *Ibid.*, art. 36.

¹⁶³ *Ibid.*, art. 32(2).

¹⁶⁴ *Ibid.*, art. 35.

Due to the discriminatory provisions of the ordinances of most big cities, municipal housing is actually not possible for persons with granted status. For example, the municipal councils of Sofia and Plovdiv have set a requirement that at least one family (household) member should be a Bulgarian national having address registration and permanent address on the territory of the municipality for more than 10 consecutive years. The municipal council of Varna requires that the applicant and the family members should be Bulgarian citizens and should not have dual citizenship.¹⁶⁵

Overcoming bureaucratic hurdles to obtain personal documents is difficult enough for adult refugees in Bulgaria, but unaccompanied minors fare even worse due to the state's failure to appoint legal guardians, rendering minors without legal capacity. The failure to appoint legal guardians to unaccompanied minors makes it nearly impossible for them to acquire ID cards necessary to register an address, which is needed in order to apply for social assistance and puts them at risk of becoming homeless.¹⁶⁶

Human Rights Watch walked around the abandoned, unfinished building known as “the Ritz” with a middle-aged Iraqi man who had lost his wife and children when their Baghdad home was bombed. He said that he had refugee status in Bulgaria but that he had been living in utter destitution in the Ritz for the past year. He said, “I was recognized as a refugee and then told to leave. I have no job, no social welfare, nothing.” He showed us the squalid corner of the building where he lives, a building with no plumbing, no electricity, no exterior walls. The interior walls and floors are bare concrete; his room is completely exposed to wind and cold. His corner is filled with the dirty remnants of blankets and other odds and ends. As he saw us taking pictures, he said, “People come and take pictures. It doesn't help at all.”¹⁶⁷

¹⁶⁵UNHCR, *Where Is My Home?* p. 13.

¹⁶⁶ Human Rights Watch email correspondence with Valeria Ilareva, January 20, 2014.

¹⁶⁷ Human Rights Watch interview B83 (name withheld), Ovcha Kupel, Bulgaria, December 14, 2013.



An Iraqi refugee living in “the Ritz” shows a Human Rights Watch researcher his room.
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The fear of winding up like this man was a cause of great anxiety for the asylum seekers living in the Ovcha Kupel center with whom Human Rights Watch met. We interviewed a Syrian woman in her mid-thirties who was living in the center with her husband and two children:

My husband is out now trying to find us a place to live. I have been recognized as a refugee but he has yet to be recognized. As soon as he is recognized we will have to leave this place. I don’t want to leave. We have no money. We cannot find work. I don’t think when I leave this place I will have any right to a house or to social welfare. We will have to survive on our own.¹⁶⁸

¹⁶⁸ Human Rights Watch interview B84 (name withheld), Ovcha Kupel, Bulgaria, December 14, 2013.

By March 2014, SAR authorities were showing greater flexibility in allowing people to remain in reception centers after being recognized as refugees or granted humanitarian status. UNHCR reported that 1,200 recognized refugees who did not have the means to live independently were still living in reception centers after expiration of the 14-day period when they were supposed to have left.¹⁶⁹

Although a National Program for Integration of Refugees (NPIR) exists on paper, only relatively few refugees or beneficiaries of humanitarian status have been able to access the program; a total of 83 people started in the NPIR in 2011, of whom only 37 partially completed the program.¹⁷⁰ At the time of the Human Rights Watch visit, funding for the program had run out and new funding had not yet been approved. Therefore, no refugees at the time of our visit were able to benefit from transitional assistance after being granted refugee status.

Even in the absence of a functioning integration program, SAR fails to provide any guidance regarding tenants' rights; laws and expectations with regard to rental contracts; the importance of establishing permanent residency for purpose of obtaining national identification documents and a host of other social benefits; or basic assistance in finding fair and low-cost housing. The UNHCR-commissioned study on homelessness among refugees notes "the complete absence of the SAR in assisting the refugees in finding a home," and adds that this "places the refugees in a very unfavorable situation and makes them easy victims of fraud and deceitful attitudes on the part of landlords" after they leave the SAR reception or transit centers.¹⁷¹

¹⁶⁹ UNHCR, "Refugee Situation Bulgaria, External Update," March 21, 2014.

¹⁷⁰ UNHCR, *Where Is My Home?* p. 13.

¹⁷¹ *Ibid.*, p. 28.

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Since the Bulgarian government announced a plan in early November 2013 to contain and reduce the number of asylum seekers and other migrants irregularly crossing the border with Turkey, Bulgarian authorities have systematically prevented Syrians, Afghans, and other undocumented people from entering Bulgaria to lodge asylum claims.

Refugees, asylum seekers, and migrants gave Human Rights Watch detailed accounts of 44 incidents involving at least 519 people in which Bulgarian border police apprehended and summarily returned them to Turkey without proper procedures and with no opportunity to lodge asylum claims, often using excessive force.

Containment Plan also documents Bulgaria's failure to provide new arrivals with basic humanitarian assistance in 2013 such as adequate food and shelter, the brutal conditions of detention, inadequacies in Bulgaria's asylum procedures, shortfalls in its treatment of unaccompanied migrant children, and failure to support and integrate recognized refugees.

With the help of the European Union, the humanitarian situation in Bulgaria has improved in 2014, but this coincides with the implementation of the pushback policy and a drop in arrivals of new asylum seekers. This suggests that those fortunate enough to have entered before the door was slammed will now be treated decently, but the rest will face a closed door.

Containment Plan calls on the Bulgarian government to end summary expulsions at the Turkish border and to stop the excessive use of force by border guards. It also calls on the Bulgarian government to improve the treatment of detainees and detention conditions in police stations and migrant detention centers.

(above) Border police patrol at Bulgarian-Turkish border near the village of Golyam Dervent, Bulgaria, November 28, 2013.

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(front cover) Asylum seekers in Bulgaria, October 17, 2013.

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