

## Questionnaire

*“Pushback practices and their impact on the human rights of migrants”*

*UN Special Rapporteur on the human rights of migrants*

### **Information provided by the Republic of Bulgaria**

1. Please provide information on any relevant legislation or policy in relation to the right to seek and enjoy asylum in your country, which guarantees that migrants including asylum seekers’ protection needs are examined individually, and they are not pushed back at the international border without access to this assessment and other relevant procedures. Grateful if you could kindly submit the original text of the legislation or policy, accompanied by an English translation if it is in a language other than English, French or Spanish.

Border Police General Directorate of the Ministry of Interior (BPGD) follow the principle of *non-refoulement* included in the Charter of Fundamental Rights of the European Union, the Treaty on the Functioning of the European Union, the UN Convention Relating to the Status of Refugees, the Schengen Borders Code and other acts of secondary EU legislation.

Upon arrival of foreigners BPGD applies international law, bilateral and multilateral international agreements to which Bulgaria is a party. The procedures on reception of aliens, their examination, administrative processing, allocation and sending for accommodation from other qualified institutions are carried out in compliance with the applicable national law.

From the very beginning of the increased migratory wave BPGD implements open and transparent policy ensuring access to the border and all accommodation centers for a large number of official delegations, international and non-governmental organisations, national and international media which monitor for the respect of the rights of detainees.

In 2010 trilateral memorandum of understanding was signed between BPGD, the Delegation of UNHCR and the Bulgarian Helsinki Committee (BHC). It entailed legal protection program for refugees and migrants, by virtue of which active cooperation between the parties is put into effect.

In the embodiment of the memorandum, BPGD provides full and free access to UNHCR and BHC to the persons detained in the border area in order to ensure access to the territory and international protection of those who need it. Access to the places of 24-hour police detention on the borders and in the border area, and to the registered documentation relating to the people covered by the subject of the memorandum is also provided.

Delegates of UNHCR and BHC monitor all borders as well as the premises for the accommodation of detainees without limitation in the number of visits – 24/7.

According to the memorandum, UNHCR conducts annual trainings on a rotational basis with employees of the regional directorates “Border police” on the topic: *“Access to territory and protection proceedings in Republic of Bulgaria. Identification and communication with vulnerable persons”*. During training special attention is paid to human

rights issues and police ethics, especially when working with vulnerable groups - unaccompanied children, minors and people with special needs.

In order to regulate all applicable tactical actions in conducted specialized police operations (SPO) on the Bulgarian-Turkish border, all seconded employees are first instructed. The purpose of this briefing is to get acquainted with the current situation at the border, with the main provisions of the Handbook on Fundamental Human Rights developed by the European Border and Coast Guard Agency (EBCGA) FRONTEX for training of border police officers, as well as the instructions developed by the employees of BPGD on the procedure for requesting protection from police officers and actions when detaining aliens at the state border.

In respect of the ordered measures, during a SPO, daily control of the implementation of the immediate tasks and prevention of violence or inappropriate behaviour towards aliens, respect for their human dignity and assistance in situations threatening their lives and health is being carried out.

An additional guarantee for the legality and efficiency of the actions of the Bulgarian Border Police is the constant presence of employees of EBCGA FRONTEX who work together with the Bulgarian border police in the framework of a joint operation "Flexible operational activities" (FOA).

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| <p>2. Please provide information on any existing good practices or measures taken (such as screening and referral mechanisms at borders) in your country to ensure that persons crossing international borders in mixed movements are protected according to international human rights law. Please indicate any specific measures aimed at reducing vulnerabilities of migrants, including by applying a human rights-based, gender- and disability-responsive, as well as age- and child-sensitive approach.</p> |
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Regarding an alien detained in violation of the state border of the Republic of Bulgaria, actions prescribed in the domestic legislation are taken in strict compliance with the rights of detainees, regulated in the Constitution of Republic of Bulgaria, the Convention Relating to the Status of Refugees from 1951, the Protocol Relating to the Status of Refugees from 1967 and the European Convention on Human Rights and Fundamental Freedoms.

The BPGD has developed a "Mechanism for Action in Regard of Vulnerable Groups", which is part of the operational plans for joint operations conducted on the territory of Bulgaria, coordinated by EBCGA FRONTEX. The mechanism includes detailed explanations regarding the steps which are to be taken in regard of vulnerable groups – persons in need of international protection and asylum; unaccompanied minors, children without a guardian and accompanied children; victims of human trafficking and other vulnerable groups.

A detailed interview must be held with each person detained at the border, which should establish all the facts and circumstances related to the violation of the border regime and / or the illegal residence of the alien on the territory of the country. In the presence of signs that an alien detained in places of detention, special homes for temporary accommodation of aliens or located on BCPs including in transit zones, might wish to apply international protection the person is provided with information on the possibility to do so. For this purpose, translation is provided to facilitate access to the procedure. The application for international protection may be in oral, written or other form, with a translator or

interpreter provided if necessary. The request is sent immediately to the State Agency for Refugees (SAR) and the alien is accompanied to a territorial division of SAR.

In the event of an application for international protection submitted by an unaccompanied child or a minor, the child is immediately transferred to SAR. In the absence of such request, the child is submitted to the Social Assistance Directorate.

3. Please provide information on existing restrictions or limitations in law and in practice in relation to the right to claim and seek asylum at international borders in your country (e.g., border controls, restricted access to territory) and elaborate the impact of these restrictions on the protection of the rights of migrants crossing international borders.

Foreigners detained during an attempt to illegally cross the state border of Republic of Bulgaria or in the border area are imposed coercive administrative measures under the Law on Aliens of Republic of Bulgaria in order to prevent violations of the border regime and prevent and eliminate harmful consequences. It should be considered, however, that by virtue of Art. 67, para. 1 of the Asylum and Refugees Act, coercive administrative measures "deprivation of the right of residence", "return", "expulsion" and "ban on entry into the country" *are not enforced* until the conclusion of the proceedings for international protection by an effective decision. According to para. 2 of the same article, the coercive administrative measures under para. 1 shall be revoked when the alien has been granted asylum or international protection.

4. Please provide information on any concrete instances of pushbacks, including an analysis on the circumstances of the event.

As part of the joint operations coordinated by EBCGA FRONTEX, a mechanism for reporting grave incidents has been set up and single alerts have been received at the BPGD. In 2019 two reports of such incidents concerning cases of the so-called "pushback" have been received, and in 2020 – one. For each such report, the BPGD conducts a thorough verification of the received data and analysis of the additionally collected information. The conducted inspections did not establish sufficient data and evidence to show violations by the employees of the BPGD.

Upon receipt of a signal for violation of human rights, inspections are carried out both by the DGGP and by the "Inspectorate" and "Internal Security" directorates of the Ministry of Interior. Inspections may also be performed by the Permanent Commission on Human Rights and Police Ethics in the Ministry of Interior and the National Preventive Mechanism under the Ombudsman of the Republic of Bulgaria.