

EUROPEAN MIGRATION NETWORK

ANNUAL REPORT ON MIGRATION AND ASYLUM 2017

NATIONAL REPORT PART 2

BULGARIA

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EXECUTIVE SUMMARY

The improvement of national policies on legal migration, integration, international protection, control of illegal migration and border protection, and policies related to the prevention of trafficking in human beings and unaccompanied foreign children continued in the year of 2017. The aspirations of the Bulgarian institutions are the complete harmonization with the achievements of the EU acquis and introduction of the European best practices in all aspects of migration policy. In 2017 our country was also working in direction of preparation of the Bulgarian Presidency of the Council of the EU. In this regard, efforts were directed at defining the main priorities of the Presidency in all areas of European policies.

For the first time in a few years, an active work began in 2017 on the planning of activities for the implementation of the National Strategy on Asylum, Migration and Integration 2015-2020. The plan for its implementation in 2018 is expected to be adopted by the end of April 2018. The Strategy is a key document formulating the policies and priorities of Bulgaria in all aspects of migration policy. It was updated in 2015, but plans for its implementation were not drafted due to the frequent change of governments over the past years. Part of the Action Plan for 2018 is also the National Integration Program for persons with granted international protection in Bulgaria. The plan has been prepared within the National Council on Migration and Integration and it contains activities in all areas of migration policy.

In the field of legal migration has begun the implementation of the Labor Migration and Labor Mobility Act, which impacts on all aspects of the legal migration policy in the country. The law was adopted in 2016 and codified the existing legislation on labor migration and labor mobility, which previously was scattered in various legislative acts. In the last year law amendments were made to harmonize the national and European legislation.

In the area of international protection continued the focusing on the implementation of the Republic of Bulgaria's commitments on relocation and resettlement. A number of new measures have been introduced to improve the procedures, quality and conditions for granting international protection. The emphasis on asylum policies was the adoption of a new ordinance specifically designed to regulate the conditions and procedures for admission and training of persons seeking or having international protection. The purposive work to include more children seeking or having protection in the education system has led to a higher number of refugee minors attending school in 2017. Continues the active cooperation of our country with the European Asylum Support Office (EASO) and the non-governmental and international organizations working in the field.

In the field of implementation of policies relating to the unaccompanied minors, the focus was on combining the efforts of all competent institutions for better interaction and coordinated action with this group of third-country nationals. A Coordination Mechanism has been established for interaction between institutions and organizations guaranteeing the rights of minors and their staying in the Republic of Bulgaria, including those seeking or having international protection. Its adoption in the Council of Ministers is pending.

In the field of integration, the Republic of Bulgaria has modern, well-developed and effective legislation in the area of equal opportunities, social inclusion and non-discrimination, which is fully in line with the European standards. The Implementing Regulations on the Labour Migration and Labour Mobility Act systematized the provisions regarding the procedures for implementation of the law, mainly with regard to the conditions and procedure for granting access to the Bulgarian labor market to third-country nationals, as well as for the functioning of the National Council on Labor Migration and Labor Mobility

(NTCMTM) and the Labor and Social Affairs Departments of the Ministry of Labor and Social Policy Abroad. Also concerning the integration of refugees, a completely new ordinance have been adopted on the conditions for concluding, implementing and terminating an integration agreement with persons granted international protection in the country. The mechanism for the integration of this category of persons has been improved in the new regulation.

In the field of counteracting the irregular migration, country's efforts to protect the state border effectively continued as well as to increase the measures for prevention and successful countering the irregular migration. Emphasis in the last year were the completion of the engineering fence facility on the Bulgarian-Turkish border to tackle the unlawful entry and active interaction with the Frontex Agency.

In the field of the return policy, amendments have been made to the Foreigners in the Republic of Bulgaria Act as introducing additional measures to guarantee the return of third-country nationals in accordance with the Return directive. The active cooperation with the International Organization for Migration (IOM) gave effective outcomes in the voluntary return activities. The results have also been improved in regard of the forced returned third-country nationals illegally staying in Bulgaria.

In the field of the combating trafficking in human beings the year of 2017 was extremely effective. Bulgaria adopted a National Strategy for Combating Trafficking in Human Beings 2017-2021. This main policy paper outlines the priorities and objectives related to the effective and long-term counteraction to this crime and its consequences. The goals and priorities set out in the National Strategy are in comply with those outlined in the EU Strategy towards the Eradication of Trafficking in Human Beings (2012-2016) as well as with the objectives and priorities in the overall European legislation on the issue. Our country has developed one of the most comprehensive institutional frameworks for counteracting human trafficking in the EU with coordination structures at both national and local level. In this area Bulgaria has a source of sustainable policies and practices and they serve as a platform for exchange of information and good experience in the development and implementation of anti-trafficking policies in the course of the accession of the Western Balkan countries to the EU.

In the area of migration and development, the national policy follows the European Union's priorities in this area.

1. INTRODUCTION

The present report constitutes an overview of the main debates, legal and political initiatives in the field of migration, integration and asylum in the Republic of Bulgaria for the year of 2017. The report is elaborated by the National Point of Contact of the European Migration Network (EMN) as an execution of article 9, para 1 and article 9, p. 1 of the Council Decision of 14 May 2008 establishing a European Migration Network (2008/381/EC).

The report consists a brief survey over the general structure of institutional and law enforcement system in the Republic of Bulgaria in the scope of migration, integration and asylum and delivers an explanation on the basic changes occurred in it during 2017.

In 2017 the main debates in all areas of the state policy were subordinated to the preparation of the Bulgarian presidency of the Council of the European Union in 2018 and to the formulation of priorities in the field of migration, integration, asylum and development.

During the last year main discussions referring the migration, integration of migrants and grant of international protection were in concern of finding a balance between the security and respect of human rights in the framework of the asylum system and successful countering of irregular migration, in the context of European debates on migration and security. The implementation of country's engagements for relocation and resettlement and elaboration of feasible mechanism for durable integration of persons with international protection in Bulgaria were also focal point for the institutions and society. In the area of labour migration and labour mobility have been formed contrary opinions by employers and trade unions in concern of protection the rights and interests of Bulgarians and EU citizens when access is given to third-country nationals to the Bulgarian labour market.

In response to the challenges in the field of migration, asylum and integration, as well as to improve and refine the legal framework of Bulgaria, in 2017 amendments were made to the following laws:

The Foreigners in the Republic of Bulgaria Act – the amendment of this law in 2017 is linked to the introduction of additional measures to ensure the return of third-country nationals in accordance with the Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals. The amendments seek to introduce into law the requirements of the directive relating to the use of detention for the purpose of removal. It should be limited and in accord to the principle of proportionality of the taken measures and pursued objectives, and detention is justified only in order to prepare the return or take-off process, and where the application of less coercive measures would not enough.

The Labour Migration and Labour Mobility Act (LMLMA) – the amendments in 2017 to this law are aiming the improvement of the regulation of third-country nationals' access to the national labor market as seasonal workers in accordance with Directive 2014/36/EC.

The Ministry of Interior Act (MIA) – with the amendments are clarified texts and eliminated imperfections in separate provisions of the Ministry of Interior Act (MIA), as well as amendments to other laws of the functional competence of the Ministry of Interior. One of these laws is the Foreigners in the Republic of Bulgariac Act.

The Bulgarian Personal Documents Act – the changes are in direct linkage with the amendments to the LMLMA and provide additions to the residence permission issuing to third-country nationals such as researchers, students, interns, students and volunteers.

The Ordinance on the terms and conditions and procedure for concluding, implementing and terminating the agreement on the integration of persons with granted asylum or international protection (Ordinance on Integration Agreements) – this ordinance provides a detailed mechanism for integration of refugees in Bulgaria.

The Ordinance on the conditions and procedure for admission and training of persons seeking or having received international protection – A brand new regulation which endorses the conditions and procedures for the admission and training of persons seeking or having international protection who do not have a completed class, stage or level of education. The present report is elaborated in accordance with the requirements of the Council Decision of 14 May 2008 establishing a European Migration Network (2008/381/EC). Besides it complies with the requiring annual reports of the national points of contacts reflecting the migration and asylum situation in the EU Member States to include both policy changes and statistics.

The report hereafter comprises actual, impartial, reliable and comparable information on these phenomena and has been prepared in response to the needs for information from the community of interests institutions of the specialized bodies of the EU Member States.

The ninth report for Bulgaria is executed in accordance with the directions of the the European Migration Network (EMN) in refer to the structure of such type of reports. The document presents general overview on the most important political activities and debates as well as the regulation amendments and concrete measures in the field of migration, integration and asylum in the country for the period January 1st – December 31st, 2017.

1.1. Methodology

The report is based on data from a wide range of domain sources which aims at providing actual, impartial, reliable and comparable information on migration and asylum. The information is taken from publicly available governmental documents, strategies, action plans, annual reports, published surveys and etc. Opinions and publications on non-governmental or international organizations are also included.

The information on the legal aspects of the report refers to free sources and subscriptions to the legal information systems as well as to the websites of the National Assembly and the institutions and organizations which opinions are quoted.

The analysis of political and legal debates is based primarily on Internet sources, printed and electronic domains, as well as public statements by ministers and other authority representatives.

1.2. Terms and Definitions

The terminology used in this report is based on the Glossary of the European Migration Network. The separate terms that refer in particular to the Bulgarian legislation framework are usually supplemented by explanations from the text or in a footnote.

2. ASYLUM AND MIGRATION POLICIES DEVELOPMENT SURVEY

2.1. Institutional Framework

During the 2017 structures of state institutions responsible for implementing the policies on migration and asylum were not change in compare with the previous year.

The Ministry of Interior (MoI) has two main structures with competence to the migration issues.

The Migration Directorate is a specialized structure within MoI, responsible for the coordination of migration process and development of migration policy as well as the regulation and control of migration of third-country nationals staying in Bulgaria. The directorate provides administrative services to citizens from the EU and EEA and deals with nationals who are to be expelled or forcibly taken to the state border.

The Border Police General Directorate is responsible for border controlling, border defence and countering the illegal migration and illegal traffic of humans. This directorate has regional units, called Regional directorates of Border Police directly subordinated to the director of the Border Police General Directorate.

In 2016 within the National Police General Directorate was founded a department (sector) „Crimes related with illegal residence and trespassing by foreigners in the country”. By the end of 2016 with an amendment to the law on MoI, powers to investigate organized crime related to the trespassing country's borders by individuals or groups as well as assistance to foreigners to reside or to pass through the country are given also to the **General Directorate for Combating Organised Crime (GDBOP)**.

Since summer of 2016 within MoI has been established a **Coordination Centre for Countering the Illegal Migration**, where operational information is exchanged in time between all structures of MoI as well as international partner services, countering the illegal migration.

The Consular Sevices Directorate works within the framework of the Bulgarian **Ministry of Foreign Affairs**. The Bulgarian consulars abroad are responsible for visa issuance and collaboration with the competent Bulgarian institutions and consular services of other EU Member States in concern of the visa regime. The Consular Sevices Directorate sustains the National Visas Database maintained by the National Visas Centre. It is in accordance with the requirements of EU and Schengen Agreement and in order of establishment and support a Centre for visas control. Within this system the visa applications are submitted to the consular offices but decisions for issuing are responsibility of the Consular Sevices Directorate and State Agency for National Security (SANS) as well.

The Ministry of Labour and Social Policy is responsible for elaborating and executing of the policies for third-country nationals to access the labour market in the country, ratifying bilateral labour of social-insurance agreements with third-countries as well as facilitating Bulgarians in EU and EU-citezens in Bulgaria when applying their labour and social and insurance rights. With the adoption of the Labour Migration and Labour Mobility Act, a council on labour migration and labour mobility is established at the Minister of Labor and Social Policy.

The National Employment Agency is an executive agency to the Minister of Labour and Social Policy for the implementation of the government policy on labour market defence and regulating access of third-country nationals for the purpose of employment. The Labour Offices of the agency register the EU citizens seeking employment in Bulgaria. The agency

assists Bulgarian citizens in finding work abroad within the framework of the international and labour agreements to which Bulgaria is a party and by the information and labor mediation network of the European employment services (EURES).

The Bulgarian Citizenship Directorate from the Ministry of Justice has the competency for the acceptance and verification of applications and proposals for granting Bulgarian citizenship. This directorate organizes at interagency level the coordination of procedures for granting citizenship.

The State Agency for Refugees with the Council of Ministers (**SAR**) is a legal body directly subordinated to the Council of Ministers and financed by the State budget. The SAR manages, coordinates and controls the implementation of the state policies relating to granting a refugee and humanitarian status to foreigners in the Republic of Bulgaria. SAR has territorial units in the country.

The National Commission for Combating Trafficking in Human Beings under the Council of Ministers organises and coordinates the interaction between separate institutions and organisations executing the Combating Trafficking in Human Beings Act. It determines and administers the implementation of the national policy and strategy in the area of combating trafficking in human beings. It carries out information, awareness and education campaigns aimed at potential victims of trafficking and the society at all.

The State Agency for National Security (SANS) is among the institutions which are countering the migration pressure to Bulgaria, ensuing of possible penetration on national territory by persons linked with international terrorism or organized crime groups inside Bulgaria.

The National Council for Migration and Integration was established in February 2015¹ and represents a collective consulting body for elaboration and coordination of implementation the state policies in the field of migration, asylum and integration of persons who are seeking or having international protection in the Republic of Bulgaria. Co-chairmen of the council are the Minister of Interior and Minister of Labour and Social Policy. Members are the deputy ministers from Ministry of Labour and Social Policy; Ministry of Interior; Ministry of Justice, Ministry of Foreign Affairs as well as chairpersons of the SAR and State Agency for Child Protection; representative from Steering Board of the National Association of Municipalities in the Republic of Bulgaria; the deputy chair of SANS; directors of the Border Police General Directorate and Migration Directorate from MoI and the secretary The National Commission for Combating Trafficking in Human Beings².

The National Council for Labour Migration and Labour Mobility. This council is founded under patronage of the Minister of Labour and Social Policy. The council consists of equal number of representatives from representing organizations at national level of employers and employees; representatives from ministries, agencies, commissions and bodies of local self-governing. Representatives of international organizations and non-profit legal entities carrying out activities in the field of labor migration, labor mobility and the integration of foreigners may also be invited to participate in the convention of the council. Chairman of this council is the Minister of Labour and Social Policy.

The National Council for Child Protection. It is a body from the State Agency for Child Protection with consulting and coordinating functions. The tasks of its members are related to the proposals, discussions and coordination of the strategic priorities in state policy

¹ State Gazette No 12, February 13, 2015 Decree by Council of Ministers No21 dated February 5,2015

² http://nsmp.mvr.bg/Za_nas/sastav.htm

on child protection; monitoring of the implementation of national, regional and international child protection programmes.

The Presidential Committees

Asylum Committee is a body that supports the Vice President of the Republic, on whom the President devolved by a decree the exercise of the functions within article 98, item 10 of the Constitution of the Republic of Bulgaria. The Commission has advisory functions performed at regular meetings. The committee prepares a reasoned proposal regarding each application for asylum submitted to the President of the Republic of Bulgaria. The committee may invite representatives of non-governmental human rights to participate in its meetings, without having the right to vote.

The Commission on Bulgarian Citizenship and Bulgarians Abroad is a permanent subsidiary body to the Administration of the President that acts in an advisory capacity. The commission supports the Vice President of the Republic, to whom the head of state issued a decree devolving the implementation of the functions in article 98, section 9 of the Constitution of the Republic of Bulgaria. The commission assists the Vice President in the implementation of policy on Bulgarians abroad.

Partially competences in the field of migration and asylum according to their specific mandates are taken by the Ministry of Economy, the Ministry of Education and Science, the Ministry of Health, the State Agency for Child Protection and the State Agency for Bulgarians Abroad.

2.2. Legal System for Migration and Asylum

Asylum And Refugees Act³, Bulgarian Citizenship Act⁴, Bulgarian Personal Documents Act⁵, Combating Trafficking in Human Being⁶, Employment Promotion Act⁷, Labor Migration and Labor Mobility Act⁸, Act on Entering, Residing and Leaving the Republic of Bulgaria by European Union Citizen, Who Are Not Bulgarian Citizen and Their Family Members⁹, Foreigners in the Republic of Bulgaria Act¹⁰, Penalty Code (regarding penalties for illegal migration and trafficking in human beings)¹¹, other relevant legislation as organizational codes of the competent institutions, and health, education and other laws that have specific provisions for migrants. The legal framework for foreign investment is also relevant.

2.3. Political Development Overview

In political aspect, the 2017 was very dynamic, with international events inevitably reflecting on national politics. Bulgaria's foreign policy continued its efforts to protect the Bulgarian interest in full compliance with its EU commitments and to maintain good neighborly relations with the Republic of Turkey. The Bulgarian position is to find a sustainable solution to the migration issue with the joint efforts of all parties affected or at risk. In the light of its EU presidency, Bulgaria successfully balanced the foreign policy aspect in the context of the refusal of the The Visegrád Group (V4) to accept more migrants, the robust of Hungarian Prime Minister Viktor Orban and the launched infringement

³Asylum and Refugee Act <https://lex.bg/laws/ldoc/2135453184> (SG 103/27.12.2016)

⁴ Bulgarian Citizenship Act, <http://www.lex.bg/bg/laws/ldoc/2134446592> (SG 103/27.12.2016).

⁵ Bulgarian Personal Documents Act..., <http://www.lex.bg/bg/laws/ldoc/2134424576> (SG 16.03.2018)

⁶ Combating Trafficking in Human Beings <https://www.lex.bg/laws/ldoc/2135467374> (SG24/16.03.2018)

⁷ Employment Promotion Act..., <http://lex.bg/laws/ldoc/-12262909> (SG. 103/28 Dec 2017)

⁸ Labour Migration and Labour Mobility Act <https://www.lex.bg/bg/laws/ldoc/2136803084> (SG24/16.03.2018)

⁹ Act on Entering, Residing and Leaving the Republic of Bulgaria by European Union Citizen, Who Are Not Bulgarian Citizen and Their Family Members, ,

<http://www.lex.bg/bg/laws/ldoc/2135535758> (SG14/13.02.2018)

¹⁰ Foreigners in Republic Of Bulgaria Act , <https://lex.bg/bg/laws/ldoc/2134455296> (SG24/16.03.2018)

¹¹ Penalty Code, <https://www.lex.bg/laws/ldoc/1589654529> (SG101/19.12.2017)

procedure against Poland following the Polish refusal to back down over controversial judicial reforms (the Law on the Ordinary Courts Organisation). Bulgaria outlined its foreign policy priorities entirely in a pro-European context, with a clear declaration of continuation "steadily on the path of Euro-Atlantic integration".¹² The key priority remains country's accession to the Schengen area and the necessity for a more radical reform of the Dublin Regulation, so that the burden of handling international protection requests is not only borne by the countries in the front line.

The presidential elections held on November 6, 2016 have turned out to be a cornerstone of the country's governance and administration, as during the election campaign, the leading party of the ruling coalition and mandate bearer clearly stated that the government would resign if run-up the election. With a newly elected president, backed by the opposition Socialist Party (BSP), the country has fallen into a political crisis with resignations and scheduling new early parliamentary elections in March 2017. The rise of populist sentiment in many countries of the European Union did not skip Bulgaria, primarily based on the reluctance to accept refugees. In the period 2013-2015, the country has slowly become a country subject to intensive migratory pressures, as only in two years 2014 and 2015 the number of asylum seekers escalated seven times per annual average for the period from 2000 to 2010. This pressure has created enormous tensions in the reception and asylum system. Despite the fact that in 2016 the efforts of the authorities and control over migration flows stabilized the system, the refugee issue and the decision for their permanent placement in Bulgaria was used by political actors throughout the political spectrum in the public debate on winning electoral support in the parliamentary elections in 2017. These elections were held during a very important period of preparation for the Bulgarian presidency of the Council of the European Union.

Since May 2017, on power is a coalition between the winning election party Citizens for European Development of Bulgaria (GERB) and the union of three nationalist formations under the name "United Patriots". The main task of the Bulgarian government in 2017 was the effective preparation for successful execution of the first Bulgarian presidency of the Council of the EU. For this purpose, the figure of the Minister of the Bulgarian Euro-Presidency was created, engaged in the overall coordination of the preparation and holding of the presidency.

The National Council on Migration and Integration worked actively through the year. Its effort has been dedicated to several tasks –to fulfill the engagements of our country on relocation and resettlement; to elaborate an effective mechanism for integration of persons granted international protection in Bulgaria, as well as to coordinate the efforts in working with unaccompanied minors. The Council had five sessions; it approved the draft Ordinance on Integration Agreements and elaborated a draft Action Plan`2018 for the implementation of the National Migration Strategy.

2.4. Overview of Major Debates Concerning Asylum and Migration

The major public debates on migration and asylum in Bulgaria last year were related to maintaining the balance between national security, respect for human rights and our core commitments as an EU member state.

One of the great achievements in 2017 was the drafting of a Strategy for Combating Trafficking in Human Beings and a Plan for its Implementation. Our country is among the leading countries in the European Union in the development of a comprehensive institutional framework for crime prevention and victim protection. In the field of policies for prevention

¹² www.government.bg

and counteraction of trafficking in human beings, Bulgaria can boast as one of the most well-developed European countries.

The execution of our country's commitments in the process of relocation and resettlement, coupled with the permanent integration of arrivals in order to avoid secondary migration was again at the focus of the institutions' attention. A number of institutional debates were held in 2017 regarding the designation of a leading institution responsible for the integration of persons granted international protection in our country. The already adopted Ordinance on Integration Agreements regulating rights and obligations of all parties in the process was completely abolished by the interim government at the beginning of the year on the grounds that it was an ineffective integrating mechanism. The preparation of an entirely new ordinance had begun and afterwards it was finalized and adopted by the new-elected government.

Despite the existing legislation, there is still no municipality in Bulgaria which expressed a desire to conclude an integration agreement with a person with granted international protection in Bulgaria. The main criticisms from the NGOs sector and international organizations to the state institutions are related to the lack of an integration coordinating body and additional state funding for integration activities.

The policy for the integration of persons with international protection is a strategic priority in the National Strategy on Migration, Asylum and Integration 2015-2020. In 2017, for the first time in three years, the preparation of an Action Plan for its implementation (for 2018) was launched. In accordance with the strategy, an integral part of this plan is the National Integration Program with measures for the integration of beneficiaries of international protection in the Republic of Bulgaria. The activities implementations set out in the Plan are not provided by any other means except those included in the budgets of the responsible institutions. The plan for implementation of the National Migration Strategy is expected to be adopted by the Council of Ministers in early May 2018.

The fence (obstruction facility) on the Bulgarian-Turkish border was finally completed and put into operation in 2017. The border fence was included in the list of strategic sites of national security importance. During the construction of the fence, the public space was actively debating the feasibility of such a facility and its effectiveness in protecting the national border. The statistics for 2017 indicate a significant drop in migratory pressure on our country. The Minister of the Interior attributes this as a result of the comprehensive measures taken and that the EU-Turkey agreement actually works.¹³

As a counterpoint to the positive assessments of the protection of the Bulgarian border and the efficiency of the facility, a documentary film by a Bulgarian journalist circulated as meanwhile she became a member of the opposition after the parliamentary elections in 2017. In this film¹⁴ the journalist has shown her point of view of the ineffectiveness of the fence on the Bulgarian-Turkish border to stop the unlawful entry by refugees from the Middle East. According to her allegations, Bulgaria has built a double expensive facility compared to the Greek one and nevertheless it does not stop the trafficking of migrants. The film shows how refugees can easily jump over the fence with the ladder. The author also claims that the sensors and cameras that must prevent the illegal crossing of our border are not in order. The video material has sparked sharp political and public debates about the journalist's credibility as well as whether the film creates preconditions for threats to our national security.

¹³ <https://m.investor.bg/ikonomika-i-politika/332/a/81-spad-na-migracionniia-natisk-otchetete-mvr-259742/>

¹⁴ <https://offnews.bg/obshchestvo/vizhte-filma-na-elena-joncheva-za-ogradata-na-granitcata-video-669283.html>

At the beginning of February 2018 when were discussed the amendments in the Labor Migration and Labor Mobility Act, the trade unions in Bulgaria made unified formal statement against the facilitation of the regime for hiring workers from non-EU countries on the Bulgarian labor market. They did not support the proposals to increase the percentage in a separate enterprise for employing third-country nationals – from 10% to 29% for big companies and 35% for small and medium-sized enterprises by rationale that small and medium-sized ones are 99, 8% of all Bulgarian enterprises. In addition, they argue that there is no proven need to take such a step.

The statistics data shows that in the last 18 months, only 10 employers have requested third-country nationals above the statutory 10%. These inquiries came from 9 micro companies (less than 10 workers), only one is a small company with a staff of 40 workers. Also, the trade unions mention that there is no assessment of the needs of the Bulgarian labor market as to prove the need to eliminate both the EU Blue Card permission market test as well as the list of professions where a shortage of highly qualified workers is linked to such authorization. Currently, the list of professions for which there is a shortage of highly qualified workers since January 30, 2018 includes 13 single occupational groups and over 1000 posts. For them, third-country nationals may be hired without a market test. The official data shows that in 2017, foreigners with access to the Bulgarian labor market were 5156 from 52 non-EU countries. Nearly 4000 are registered for short-term employment - seasonal employment and posting for up to 90 days. There are only 78 decisions to deny third-country nationals access to the labor market. Refusals show growth due to non-compliance with procedures and submission of non-compliant documents.¹⁵

¹⁵Statement of Podkrepa Trade Union, <http://podkrepa.org/wp-content/uploads/file-15.pdf>

3. LEGAL MIGRATION AND MOBILITY

Priorities of the Bulgarian Presidency

The priority of the Bulgarian Presidency in this area is to concentrate the efforts on successful negotiations with the European Parliament on the Proposal for a Directive of the European Parliament and of the Council amending Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, the European Accessibility Act and the discussions on the modernization of the EU legislation in the field of coordination of the social security. Bulgaria as an EU President will work to create a better environment for the development of the social economy and social entrepreneurship as a way for better opportunities for vulnerable groups in the labor market. Emphasis in the Bulgarian priorities are the gender equality and role of “The Women in the Digital World”. The effort is to achieve positive results under the Directive of the European Parliament and of the Council on work-life balance for parents and carers. The priorities are the negotiations on the proposal for a directive on the protection of workers from the risks related to exposure to carcinogens or mutagens at work time. Within the framework of the Bulgarian Presidency, the debate on the future of the European Social Fund and the programs supporting a social Europe will be stimulated. Work will be focused on the implementation of the principles of the European Social Rights Pillar.

3.1. General Overview

The implementation of policies for legal migration management in Republic of Bulgaria is subordinated to the priorities of the National Strategy in the field of migration, asylum and integration (2015-2020), where antecedence is given to the endorsement of principles of good govern on regulation of the legal migration in order to assist the economic development of the country.

The flow of third-country nationals aiming at a labor migration in Bulgaria is moderate. One of the basic factors for this tendency is the unbalanced economic presence of the country. From 2009 when Bulgaria was stricken by the Global economic crisis, the local GDP and labour market were decreasing while the unemployment was increasing. The level of employment descends from 70.7% (2008) to 63.6% (2013) and then was 67.1% in 2015. In 2016 the coefficient of employed persons between 20 and 64 of age is 67.7%.¹⁶ In 2017 tendency for slow ascent of the employment remains – currently it is 3.6 percentage points higher than 2016 and reaches 71.3%.

The unemployment increased from 5.6% in 2008 to 13.2% in 2013 г. (14% to males and 12.2% to females respectively) and 9.2% in 2015 (as it is 9.9% to males while to females is 8.5%)¹⁷. In 2016 the coefficient of unemployment decreased with 1 to 5 points in comparison with 2015 and reached 7.6%. In 2017 remained the tendency of decreasing the unemployment as it set 1.5% in compare with the previous year and reached 6.2%.¹⁸

Besides third-country citizens looking for job in Bulgaria, in recent years it is observing a return of Bulgarians who immigrated through the years. Description of these tendencies is part of analysis to the Bulgarian migration, delivered by Foundation “Institute Open Society”

¹⁶ http://www.nsi.bg/sites/default/files/files/pressreleases/LFS2016_A1UAAIP.pdf

¹⁷ National Statistical Institute.

¹⁸ http://www.nsi.bg/sites/default/files/files/pressreleases/LFS2017_XN4YZPF.pdf

in autumn 2017.¹⁹ Some fundamental conclusions are depicted there in concern of the Bulgarians' migration:

- In the last three decades most number of people left the country in the end of 80s (the exile of the Bulgarian Turks) and during the 90s of XX century; by then the migration significantly has decreased.
- Total number of people born in Bulgarian and living abroad is round figure 1.1 million, where 600 000 – 700 000 of them left due to economic reasons. The Bulgarian migrants live predominantly in EU, Republic of Turkey and USA.
- Bulgarian membership in EU provides a travel without visas in approximately 150 countries worldwide and free access to the EU labour market. However there is no migration increase after the beginning of membership but status legalization of already migrated people.
- During the last four years in Bulgaria are returned approximately 35 000 Bulgarians. The net migration weight is decreasing though still more people are leaving than returning.

In recent several years it is observed peculiar changes in the outgoing migration. On one hand, the number of people who are leaving Bulgaria keeps same high rates – round 25 000 yearly on average for the last 5 years. On the other hand however the contrariwise flow is increasing gradually – for the last 5 years it surpasses 21 000 average yearly. Thus, the net migration from the country is in average to Germany 32%, to Spain and Greece 18% and 11%, the United Kingdom 9%, Italy 8%, Belgium 5%, Austria 3%, the Netherlands 3%, France 3%, others 8% up to October 2017.

According to the National Statistical Institute of Bulgaria (NSI) in different years is observed large variations into the net migration – from 1000-2000 people during 2012-2014 to 9000 in 2016. However the net migration is far lower than in the previous periods. Based on national statistics, 21 241 people changed their residence from abroad to Bulgaria in 2016. In percentage of 46% were born in Bulgaria – namely these are Bulgarians, who returned to motherland, other 9% were born in EU countries, and the rest came mainly from Turkey, Russia and Ukraine. In recent three years in Bulgaria round 10 000 people born in Bulgaria are returning yearly. This is a double more in compare with 2013, when the number of returned people was 4771. Thereby, for the period 2013-2016 almost 35 000 Bulgarian migrants are back in the country. Such flow is still lower than the outgoing one, but shows a beginning of a process of home-coming migration and return in Bulgaria.

The temp of back home movement could be intensified if there is a presence of high economic growth, augment of employment and diminishing the differences in incomes and standards of living between Bulgaria and Western European countries. There are similar examples yet in the new member states in EU as Estonia, where for a second consecutive year the migration is negative, i.e. more people are settle down there than leaving it.²⁰

3.2. Policy and Legislative Developments

In the field of legal migration in 2016 and 2017 significant legislative steps were taken in order to completely utilizing the Bulgarian legislation with the EU one and for the improvement of implementation of the policies for labour migration and mobility.

¹⁹The analysis is part of serial editorials "10 years in EU" by the foundation: http://osi.bg/?cy=10&lang=1&program=1&action=2&news_id=750
²⁰http://osi.bg/downloads/File/2017/MigratsiaEU_Okt2017_new.pdf

In 2016 the Labour Migration and Labour Mobility Act (LMLMA) was adopted²¹. The adoption implemented the order of three directives into Bulgarian legislation:

Directive 2014/54/EU of the European Parliament and of the Council of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers

Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers and

Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer.

With the adoption of the law was carried out codification of the existing regulations in the field of labour migration and labour mobility, which is fractured in different by character normative acts. The Law on Employment Promotion has been on power and used as a basic legal tool for European legislation implementing till the adoption of this Labour Migration and Labour Mobility Act (LMLMA). With the law and its regulations in 2011 were implemented another two directives – Directive 2014/50/EU of the European Parliament and of the Council of 16 April 2014 on minimum requirements for enhancing worker mobility between Member States by improving the acquisition and preservation of supplementary pension rights and Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.

This law sets the regulation of access to the labour market by workers from third-countries, including freelance activities; freedom of movement in Bulgaria for workers from other EU member state; from country-member of the Agreement on the European Economic Area (EEA) or Swiss Confederation; same rights for labour engagements of Bulgarians in EU and EEA and bilateral regulations of employment with third-countries.

The leading role of executing the control over adherence to the law and regulations in the field of labour migration and labour mobility is assigned to the Minister of Labour and Social Policy. The specialized control activity is carrying out by the General Labour Inspectorate Executive Agency to the Ministry of Labour and Social Policy. Generally the law has large popularity among the professional organizations as the Confederation of Employers and Industrialists in Bulgaria (KRIB)²², Bulgarian Industrial Association²³ and Bulgarian Industrial Capital Association²⁴.

In December`2017 the National Assembly of Republic of Bulgaria adopted amendments to the Labour Migration and Labour Mobility Act (LMLMA). These changes aim the improvement of the access regulation for of third-country nationals for the purpose of employment as seasonal workers in accordance with the Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014.

In the beginning of 2018 a project for new amendment was elaborated to comply with the Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects

²¹ State Gazette No79, October 7, 2016.

²² Open Letter from KRIB to the Minister of Labour and Social Policy <http://krib.bg/bg/positions/Proekt-na-Zakon-za-trudovata-migratziya-i-trudovata-mobilnost/>

²³ Open Letter from BIA to the Minister of Labour and Social Policy, <http://www.bia-bg.com/standpoint/view/21436/>

²⁴ Open Letter from the Bulgarian Industrial Capital Association to the Chairman of Commission of Economic Policy and Tourism from the 48th National Assembly (11/01/2016), <http://parliament.bg/pub/cW/20160115122338kip-606-01-1%20-%20ZTMTM%20-%20AIKB.pdf>

and au pairing. It is expected these changes to pass by the mid of May`2018. The necessity of amendment is in concern of the term to May 23, 2018 when the Republic of Bulgaria has to introduce into its national legislation the requirements of the Directive (EU) 2016/801. This directive reforms the legal framework of the EU regulating the rights and obligations of the researches, students, scholarships and etc. in the EU as it includes Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service and Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research. Before its adoption these two directives have been the legal ground for executing the EU policy in the field of access of third-country nationals for the purposes of research, studies, training, voluntary service and educational activities.

The Directive (EU) 2016/801 considers the necessity of adaptation the current European legal frame in order to facilitate the access of abovementioned groups of migrants to the territory of the Union. Besides, it aims to enlarge the EU's attractiveness as a place to work in the sphere of science, master degree education and other cultural and social projects for exchange. In the two countermanded directives were determined considerable size of weak points referring the procedures for access (e.g. Visas), rights of third-country nationals (e.g. equal treatment with EU citizens, difficulties in access to the labor market after completing research studies, graduation, existing restrictions on the mobility of researchers and students within the EU and etc.) and some others as procedures guarantees (no time limit to examine the applications). These issues are encompassed by the Directive (EU) 2016/801.

According to a research ordered by the European Commission in 2010 from totally 3.7 million students worldwide a number of 1.2 million is educating in the EU. In comparison with the count of students in EU the portion of scholars from third-country decreases and it is just above 5%. In the meantime international students consist 10% of studentship in Australia, New Zealand and Switzerland. Referring to the researchers` engaging, European Commission estimates a need of another 1 million researchers to fulfill the goal of Europe`2020 Strategy for growth as 3% of the EU's GDP to be invested in Research & Development. Moreover the indicators for scientific quality, high results and influence show falling off the global positioning of EU in the sphere of science researches. Even it is obvious that most of the researches who are needed would come from inside EU, it is clear there are potential and interest for recruiting of a more and more researchers from outside EU, especially when the data shows in 2010 barely 6 945 researchers are welcomed in the Union and their number remains at the same level afterwards.

The above shown problems represent a serious risk for the EU's attraction as a destination for high-qualified specialists migration and are valid through EU at all as well as Bulgaria in case.

Currently the provisions of the Directive 2004/114/EC and Directive 2005/71/EC are implemented into Chapter III of the Foreigners in the Republic of Bulgaria Act and Chapter II, Section 6 of the Labour Migration and Labour Mobility Act (LMLMA). In such it is necessary the requirements under Directive (EU) 2016/801 to be included into the Law for amendments of LMLMA, and by this Law additional amendment to be made in The Foreigners in the Republic of Bulgaria Act as well as in some other normative acts.

The present Bulgarian legislation covers partially the requirements of the directive, but the provisions of the Labour Migration and Labour Mobility Act (LMLMA) and Foreigners in the Republic of Bulgaria Act need amendments by which to encompass all aspects about the residence and access to the Bulgarian labour market for third-country nationals for the

purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing. With the proposed to the above mentioned issues it is aiming besides amendments in the LMLMA but in the Foreigners in the Republic of Bulgaria Act and the law for the Bulgarian identity documents.

The amendments of the LMLMA concern Section 6 “Occupation of science workers, students and trainees” from Chapter II, which is converted and augmented as:

- There are new editions of articles 36, 37 and 38, by which are implemented the required amendments in concern of the professional occupation without work permission for science workers, including academia, on the territory of the Republic of Bulgaria in circumstances of mobility within the EU and after finalization of the research projects. This concerns also the occupation of their family members as well as the mobility and work of students.

- A new article 38 is introduced concerning the circumstances for access to the labour market without work permission for trainees under the terms of an employment contract for apprenticeship;

- A new article 39A is introduced where specially are shown the cases which this section does not cover by.

Furthermore the Chapter III “Equal Treatment” of LMLMA endorses the terms for equal treatment towards science workers, students, trainees, scholars and volunteers as well as the family members of Bulgarian, EU citizens and third-country nationals. This includes persons with granted asylum and international protection as for the latter is given a definition. It is regularized the equal treatment of foreigners permissible on the base of international agreements for labour migration as well as the cases with short-term occupation.

In Chapter IV “Labour Mobility within EU” of LMLMA is provided a liaison with the decrees of the new Regulation (EU) 2016/589 of the European Parliament and of the Council of 13 April 2016 on a European network of employment services (EURES), workers' access to mobility services and the further integration of labour markets, and amending Regulations (EU) No 492/2011 and (EU) No 1296/2013.

The required amendments are set in the Additional provisions of the LMLMA, where are described the legal concepts used by the directive as “volunteer”, “science worker”, “scientific research”, “science research organization”, “educational project”, “adoptive organisation”. “Programme for volunteering activity”, “intern” (trainee), “student” and “scholarship”.

In concern of the above mentioned there are significant amendments and supplements in the Foreigners in Republic of Bulgaria Act, where are arranged the provisions for residence of this category foreign persons. Concretely, there are new editions of article 24B and 24V, where respectively are described the requirements to the science workers and students/trainees. It settles the opportunity for mobility within the Union for students and science workers, members of their family and is given a definition for “EU program or a multilateral program providing for training in more than one Member State”. The criteria for issuing permission for residence to the third-country nationals as volunteers are described as well in the law amendments proposal. The obligations and engagements of the employer or adoptive organisation in concern of the return of third-country nationals are provided in the respective systematic content of the Foreigners in Republic of Bulgaria Act. Also in order of better regulation for residence issues of foreigners in Bulgaria to be confined in one administrative act, the opportunity is taken by this Law to transfer into the Foreigners in Republic of Bulgaria Act regulations regarding issuing long-term stay permission in Bulgaria

to foreigners, victims of trafficking under the provisions of the Combating Human Trafficking Act.

In a direct consequence from the above are proposed supplements in the Bulgarian Personal Documents Act about issuing residence permissions for third-country nationals as science workers, students, interns, scholars and volunteers. Besides there is a proposal for arrangement the opportunity for stay of third-country nationals as volunteers in the framework of the European Voluntary Service. Two articles from the Law of education and schools are under consideration for amendment.

Additionally to the already mentioned amendments and supplements linked with the directive's implementation, in the modified LMLMA are include several regulations aiming at the improvement of the standard order in the field of foreigners' occupation in Bulgaria by eliminating the ascertained disparity of legal character and providing an opportunity for better apply of the actual provisions of the LMLMA, as:

- Standardisation at every level of the regulations referred the institutionalizing of the professional field trip and deploying, including addition to the definition.
- Explanations about the execution of requirement for maximum time of occupation for third-country nationals and in which cases it may not enforce the regulation he/she to leave the country after its expiration.
- Settle upon the occupation of seasonal workers up to 90 days, including a creation of separate normative in the Foreigners in the Republic of Bulgaria Act for the visas for seasonal occupation.
- Establish an opportunity for prolonging the registered seasonal 90-day occupation in a next period that requires permission for seasonal worker.
- Settle in the LMLMA the existing opportunity from the Foreigners in the Republic of Bulgaria Act to execute an accelerated procedure when the seasonal worker has a stay in the last five years.
- Additions on the intercession for Bulgarian citizens' occupation abroad in accordance with the existing legislation on the ground of the Employment Promotion Act, where explanatory is given in this sphere.
- Transfer regulations from the Foreigners in the Republic of Bulgaria Act to Chapter X "Administrative and Sanction Decrees" of LMLMA in concern of connection with the occupation of foreigners but not their stay and in order to collect all in one place when execute by the control bodies introduced in Chapter IX "Control" of LMLMA.

As a consequence from the above mentioned, by the executed amendments will be reached not only compliance with EU legal requirements in the field of labour migration, but also improved legal order for perspective about occupation and residence of science workers, students, trainees, scholars, volunteers as well as defined specifications for highly qualified specialists, seasonal workers, professionally deployed third-country nationals and members of their families. The opportunity for their equal treatment will be better as well as their mobility within the EU. The complete correspondence of the Bulgarian legislation with the directive will be fulfilled after incorporating the amendments into the Implementing Regulations of the LMLMA and law on foreigners in Bulgaria after approval.²⁵

²⁵ <http://strategy.bg/PublicConsultations/View.aspx?lang=bg-BG&Id=3021>

3.3. Other Aspects of Legal Migration

In the State Gazette, No 97/2016 was promulgated the Law on Amendment and Supplement to the Foreigners in the Republic of Bulgaria Act. There is an introduction of a new chapter for granting a status of stateless person under the 1954 Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness, adopted on 30 August 1961 in New York, which the Republic of Bulgaria has ratified by a law promulgated in State Gazette, issue No 11/2012.

This required the elaboration of a detailed procedure for the granting of "status of stateless person" through amendments to its Implementing Regulations²⁶.

In 2017 the first status of stateless person was granted, in accordance with the new procedures introduced in our legislation. The Republic of Bulgaria is one of the few states in Europe that granted such status under the two cited Conventions.

Migration management, including visa policy and governance of the Schengen area

Visa policy

Priority of the Bulgarian Presidency of the EU Council is the modernization of the EU visa policy through agreement in the Council on the proposal for amendments to the Visa Code.

The Republic of Bulgaria applies the Common European Union's Visa Policy under the terms of the Accession Treaty as of January 1st, 2007.

Regarding the visa regime in the country with amendments to the Foreigners in the Republic of Bulgaria Act²⁷ since December`2016, new and amended old provisions on visa regime have been introduced. By change of article 9B, para 1 the Bulgarian legislation is in line with the recent judgment of the Court of Justice of the European Union in Case C-575/12, according to which third-country nationals may enter the territory of the Union with a valid travel document and a valid visa stamped in a declared invalid passport. The order for issuing visas, including short-term residence, as well as the capture of biometric data, has been changed. An appeal against the refusal of a visa may be submit in accordance with the Administrative Procedure Code before a court in concern of their lawfulness. This has created clarity as to the jurisdiction of the courts to appeal against refusals to issue visas. This amendment is also expected to contribute to preventing the use of the territory of Bulgaria as a transit point for persons intending to participate in terrorist groups²⁸. It also introduces a requirement for those doing business in the country and applying for long-stay visas on this base to open up 10 full-time jobs. Thus, this type of visa will be issued only to persons actually doing business²⁹. More restricted requirements are also introduced with regard to visa applicants as representatives of foreign commercial companies. It envisages providing a preliminary check on the actual activity of the company abroad and the origin of the capital³⁰. With the adoption of the law, the legal option, abolished in 2013, to extend the residence period of a foreigner already present on the territory of the country but unable to leave it for reasons beyond his control is restored.³¹

With the adoption of the LMLMA in its transitional and concluding provisions created a new article 24 in the Foreigners of the Republic of Bulgaria Act. The new article envisages that for the purposes of seasonal employment up to 90 days a foreigner should have

²⁶ State Gazette No.518 from 27.06.2017

²⁷ State Gazette No97, Dec 6 2016.

²⁸ MoI's rational on draft of the law, available: <https://www.mvr.bg/RegulatoryFramework/zakonoproekti.htm>

²⁹ MoI's rational on draft of the law, available: <https://www.mvr.bg/RegulatoryFramework/zakonoproekti.htm>

³⁰ MoI's rational on draft of the law, available: <https://www.mvr.bg/RegulatoryFramework/zakonoproekti.htm>

³¹ The National Political Report 2015 <http://migration.mvr.bg/NR/rdonlyres/D8DD04A3-0005-44D4-B0D6-B38E4C46F1EE/0/EMNReport2015forMoIBG.pdf>

a valid visa for short term stay in Bulgaria for seasonal employment if this is required and the employment is registered in the Misnistry of Labour and Social Policy. The registration is also in cases when a visa for short-term stay is not required. This amendment requires the Regulation on the Terms and Procedure for Issuing Visas and the Determination of the Visa Rules to be supplemented. The new item 4 of article 8 addresses the new requirement in the Foreigners in the Republic of Bulgaria Act and clarification that the visa for the purposes of seasonal employment is a visa type for short term stay up to 90 days and is issued under the conditions of item 1 of the same article.³²

Governance of the Schengen Area – priorities of the Bulgarian Presidency

The Republic of Bulgaria, as President of the EU Council, works to build and implement effective mechanisms to increase the security of EU citizens, strengthen border control and more effectively manage migration processes. One of Bulgaria's priorities in this area is the restoration of the normal functioning of the Schengen area. In this context, Bulgaria is working to reach political agreement in the Council on the amendments to the Schengen Borders Code, with which the Schengen legal frame will adapted to the new security challenges.

The accession of the Republic of Bulgaria to the Schengen Area is a top priority for our country. In 2017, the efforts of the Bulgarian authorities continued to achieve high Schengen standards and secure reliable external borders. Bulgaria's technical readiness for Schengen membership has long been confirmed, but our country is not yet a full member of the Schengen area. Nevertheless, at European level, the negotiations and promises of our country's access to different information systems within Schengen are becoming more and more intense. Bulgaria is already part of the new entry and exit system in the EU following a vote in the European Parliament on a common electronic system for speeding up checks at the external borders of the Schengen area and registering all non-EU travelers.

³² Report of the Minister of Labour and Social Policy in front of the Council of Ministers regarding the adoption of the Ordinances .

4. INTERNATIONAL PROTECTION

Priorities of the Bulgarian Presidency

In the field of asylum, the Bulgarian Presidency of the Council of the EU will continue work on the reform of the Common European Asylum System, based on the principles of shared responsibility and true solidarity. As regards the reform of the Common European Asylum System, the Bulgarian Presidency aims to make the most of progress by finalizing the work on the legislative dossiers which are at level negotiations with the EP and agreeing on the other dossiers in the Council with a view to launching negotiations in the European Parliament, including to reach a consensus on the Dublin Regulation.

4.1. General Overview

In 2017 continues the impact of factors influencing the migration processes on Europe. Despite the reduced intensity compared to previous periods, the migration flows to the European continent remain sustainable. The resources that national governments and the European institutions spend on handling emerging migration issues are increasing. For the year 2017, the migration pressure on Bulgaria is decreasing. Bulgaria remains a transit destination for the majority of migrants, while the relative share of economic migrants continues to be higher in view of the profile of asylum seekers.

In 2017 the tendency of a change in the profile of people seeking protection is preserved. While in 2015 the State Agency for Refugees registered and processed applications for protection predominantly from Syrians, where the domestic and then international conflict in their home country had largely predetermined the grant of international protection, in 2016 increased the number of applications by Afghan citizens, who mainly motivate their refugee history with socio-economic factors. In 2017, citizens of Afghanistan represent the largest share of international protection seekers in the country.

The statistics show that in 2017 the total number of asylum seekers in Bulgaria is 3 700, of which Syrians are 26 %, Afghans are 31 %, and Iraqis are 28 %. In comparison with 2016 this number descends almost five times, but the profile of the applicants remains the same. Children are 33% from the total in 2017, then 54% are aged 18-34 and 14% above 34 old. The division in sex is as follows – 64% male and 36% female.

Referring to the implementation of the Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person in 2017 are received totally 7842 inquiries for re-admission and responsibility, which is 2546 less in comparison with the 2016 number.

The biggest number of take-back requests has come from Germany – 2164; France – 1707 and Austria – 1395. Practically the transfers of persons from Member States to Bulgaria are 446. Bulgaria has submitted 162 requests to other Members as 50 of them concerns the family reunification of unaccompanied underage persons.

It is observed the increase of number of Bulgarian requests to other countries. For the here presented period they are 162, while in 2016 were 117.

Transfers and count of people re-admitted to other Member States in real are increased. For the period of 2017 are transferred totally 149 asylum seekers or in other words it is 123 more than in 2016.

In 2017 procedures on request for granting international protection are closed for 14 414 persons. From them 804 received a status of refugee, 900 were granted with humanitarian status, which is totally number of 1704 persons with an international protection. The requests from 3048 persons have been rejected as groundless and 9662 procedures were terminated.

4.2. Policy and Legislative Developments

The Law on Asylum and Refugees is the legislative norm which constitutes the defines the terms and conditions for granting international protection to third-country nationals on the territory of Bulgaria. With its amendments by the end of 2015 which introduced in the national legislation the Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection and Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection, it complies with the European and international acts in the field of asylum. As such this was a guarantee in 2016 for fair and lawful procedure for granting an international protection. In 2016 През 2016 amendments were made in accordance with Directive 2013/33/EU in order the improvement of administrative control to asylum seekers as well as consideration of public interest and order. It was incorporated into the national legislation with the amendments and supplements in the The Law on Asylum and Refugees from October 16th, 2015. According to the new legal arrangements the asylum seekers have the right of movement in a designated zone on the territory of Bulgaria.

In September 2017, the Council of Ministers determined the movement zones for asylum seekers accommodated in the State Agency for Refugees' (SAR) territorial divisions. For the purpose of informing and facilitating the persons seeking protection, special information boards have been created and located in specially designated places in the territorial units of SAR. The information on the change of rights and duties is provided there in most common languages used internationally. In concern of the asylum seeker's obligation not to leave the designated area during the proceedings, an administrative sanction is already foreseen, namely – in case of a repeated violation of this rule, the infringer will be accommodated in a center or campus by the end of proceeding with effective last resolution.

International protection granted procedures

Current national asylum legislation is in line with the EU law by introducing all minimum standards and ensuring fair procedures for examining applications for international protection.

In order to improve the quality of procedures and to reduce the time taken for consideration on applications for protection, during the year staff trainings were carried out by the SAR in cooperation with the United Nations High Commissioner for Refugees (UNHCR), International Organization for Migration (IOM) the European Asylum Support Office (EASO) and etc. which contributed to increasing the administrative capacity of the personnel.

Specialized courses of the SAR administration were carried out under different programmes:

- in the sphere of the European legal framework in concern of international protection;

- for personnel from the territorial divisions of SAR;
- for identification and working with vulnerable groups;
- for data registry personnel and interviewing staffs;
- for proceeding an international protection and lessons learnt exchange with other partners.

Three exercise modules have been organized nationwide by European Asylum Support Office (EASO) on topics as: “Interviewing vulnerable persons”, “Techniques of interview” and “Inclusion”. Officers from SAR are certified as national lecturers under “Dublin” module.

In 2017, the Agency's staff participated in the sharing of experience and good practice in the field of international protection by similar services from other EU Member states.

In order to optimize the process of granting international protection, 28 interpreters of the main languages used by foreigners are provided in international protection proceedings.

As a result of the adopted measures, the Republic of Bulgaria has improved the quality of interviews and decision making process. A progress has been made on the sustainability and continuity of knowledge needed to handle applications for protection.

Thanks to the measures and activities undertaken to optimize the process of granting international protection out of a total of 1311 court decisions confirmed 1119 of the SAR's ones or nearly 86% of the judgments.

In 2017 some tools for handling vulnerable categories of people have been updated, such as: a form for identification and needs assessment; a plan for the work of the social expert; a social consultation form; a form for rapid assessment of the best interest of the child; a form to fully assess the best interests of the child; a case transfer file and case termination.

The efforts of the country in 2017 were primarily aimed at creating an appropriate environment for the protection of children seeking international protection from physical, psychological and sexual abuse. In this regard, SAR participated in the elaboration of a Coordination mechanism for interaction between the institutions and organizations guaranteeing the rights of unaccompanied children residing in the Republic of Bulgaria, including those seeking and receiving international protection.

Unaccompanied minors seeking international protection are accommodated in separate premises in centres of Ovcha Kupel and Voenna Rampa. The Asylum, Migration and Integration Fund (AMIF) has provided means for the establishment of "safety zones" for the accommodation of unaccompanied minors. The construction is still under way.

In 2017, Bulgaria's efforts were also focused on measures to access education. A mechanism for joint work of the institutions on enrollment and retention in the education system of children and students in compulsory pre-school and school age was established. The establishment of the mechanism will support the implementation of the Strategy for reducing the share of early school leavers (2013-2020), which was developed in accordance with the aim of the Bulgaria 2020 National Strategic Framework for Development for the improvement of living standards through competitive education and training, creating conditions for quality employment and social inclusion and guaranteeing accessible and quality health care. It envisages the share of early school leavers up to 2020 should not exceed 11 per cent. The mechanism is in line with the wide-ranging measures to improve the accessibility and quality of pre-school and school education as set out in the National Strategy for the Child 2008-2018, the Strategy for Educational Integration of Children and Students from Ethnic Minorities, the National Integration Strategy the Roma in the Republic of

Bulgaria (2012-2020) and the National Strategy for Poverty Reduction and Promoting Social Inclusion by 2020³³. In connection with the measures taken and with the support of the Ministry of Education and Science, more children were enrolled in the state and municipal schools of the Republic of Bulgaria (193) during the school year 2017/2018.

To work with children and other categories of vulnerable groups, personnel from SAR have received training organized by the European Asylum Support Office (EASO), UNHCR, Bulgarian Red Cross, UNICEF, IOM, LUMOS and etc.

Executing activities of the Multi-annual Asylum, Migration and Integration Fund (AMIF 2014-2020) for improvement the accommodations for refugees and enhancement of the administrative capacity

The activities planned in the grant agreements are aimed at improving the accommodation conditions of the persons seeking protection, improving the existing infrastructure in the SAR territorial units, as well as increasing the administrative capacity of the Agency to fulfill the international protection commitments. The Transit Center Pastrogor village has been transformed from open to a closed one. At the final stage is the reconstruction of the premises from an open to indoor type of a part of the buildings in the Registration and Reception Center Harmanli.

The total number of personnel of the SAR is 403 as 100 of them are budgeted by the AMIF 2014-2020.

The efforts of Bulgaria in 2017 aimed at achieving sustainability of the already achieved level so far and maintaining the established capacity for reception and accommodation of persons applying for international protection. Also to assist the SAR personnel to optimize the process of examining asylum applications, speeding up the registration of refugees and improving living conditions, social and medical care for persons with international protection in Bulgaria.

In 2017 bi-lingual translation services were provided – from Bulgarian in other foreign languages and vice-versa. Psychological assistance, social mediation, adaptation, social and health support to persons seeking international protection were provided at the SAR centers, including with the assistance of NGOs. Transport to schools for children under international protection procedure and accommodated in ROC Sofia has been provided as well.

Within the multi-annual AMIF programme 2014-2020, the SAR implements two Indicative Annual Work Programs (IGRP). The first one is IGRP`2015, which ends in 2018 and IGRP`2017. In the IGRP`2017 four projects have been approved in the areas of 1) the SAR infrastructure improvement, 2) improvement of the administrative capacity, 3) exercising and training of the personnel and 4) translation and consulting.

During the whole year (2017) continues the implementation of the three granted agreements for emergency assistance with a focus on improving the accommodation and living conditions, providing medical care, translation and protection for persons accommodated in the SAR's territorial units and improving of the infrastructure.

Simultaneously, a project for training of social workers at SAR under the Erasmus ++ Programme was launched. The activities related to the donation from the Czech Republic continued. At the end of 2017 the first Czech donation was acquired and started the second

³³ https://www.actualno.com/education/kabinetyt-syzdade-mehanizym-za-zadyrjane-na-decata-v-uchilishte-news_620540.html

part of activity aimed at improving the conditions for accommodation and accommodation in the Registration and Reception Center Harmanli.

Negotiations have been made with Norway and reached an approval for a concept in the Norwegian Financial Mechanism where the SAR will participate with a project aimed at increasing the administrative capacity.

Effective cooperation with the The European Asylum Support Office (EASO)

In 2017, the EASO's operational activities continued to assist EU Member states in coping with increased migratory pressures, including by deploying teams and co-processing in hot spots in Greece and Italy. The Republic of Bulgaria, through its specialized agency SAR actively participated in the work of the EASO by increasing its national reserve of experts on asylum issues. Bulgaria has deployed 11 experts from SAR and 2 experts from the Ministry of Interior to support missions in Italy and Greece at the front line.

As of December 31, 2017, the total number of missions for support to Greece with SAR's experts was 5 and the support missions for Italy were 7. In support of the Greek side, 4 additional missions were carried out with the participation of two experts from the Ministry of Interior. National experts mainly participate in activities related to information provision, registration, Dublin Regulation processing, support in the context of the relocation process, support to the admissibility procedure, including vulnerability assessment, and country of origin. We are flexible in terms of the duration of business trips, which in some cases is greater than the minimum foreseen and ranges from 6 weeks to 4 months.

Despite the difficulties of the EASO with the provision of experts for participation in support of Bulgaria, 7 experts from EASO were here – 2 experts on vulnerability assessment, 1 expert in the management of closed-type centres with two short visits, 1 expert of AMIF, 1 admission expert, 2 experts in developing information applications. A mission was held in Sofia by representatives of the Dutch NGO NIDOS on the issues of custody and meeting the needs of unaccompanied minors. At the end of June 2017 a seminar on age assessment was held in Sofia. Six officials participated in study visits to the EU Member States to share experience and good practices in relation to closed-type center management and Dublin Regulation proceedings.

Taking into account the good practical results, Bulgaria's Special Support Plan was updated and its duration extended by one year (by the end of October 2018).

Integration of persons with international protection granted status in Bulgaria

By a Council of Ministers Decree dated August 2016³⁴ an ordinance is promulgated on the conditions and procedure for concluding, implementing and terminating an agreement for the integration of foreigners with granted asylum or international protection. This document is in order of an implementation of article 37A of the Law on Asylum and Refugees, according to which persons with granted asylum or international protection in the Republic of Bulgaria are offered the conclusion of an integration agreement, which defines their rights and obligations as well as the rights and obligations of the respective state or municipal authorities. The law states that the terms and procedure for concluding, implementing and terminating the agreement shall be determined by an ordinance adopted by the Council of Ministers.

By its very nature, this ordinance is based on voluntary wishes of municipalities and foreigners with granted international protection granted in the country. The initiative for the

³⁴ <http://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=106769>

implementation of the ordinance is a major commitment of the mayors of municipalities in the Republic of Bulgaria and of the local self-government bodies.

Each municipality wishing to accommodate persons with international protection shall submit an application to SAR for the number of refugees with whom it wishes to conclude an integration agreement, as informing in the application about the integration measures envisaged in the municipality.

The SAR has the obligation to prepare integration profiles of the beneficiaries in the country during the procedure for granting of international protection and to inform the persons about the possibility of concluding an integration agreement. The State Agency for Refugees should keep a register of the municipalities that have declared interest in integration and the number of persons with whom agreements can be concluded. The SAR provides information on the register of the National Association of Municipalities in the Republic of Bulgaria.

In the Chapter V of the ordinance are presented the possible sources of funding for integration as follows:

- European funding as the AMIF, operational programmes of the European Social Fund, European Regional Development Fund, Cohesion Fund, Fund for European Aid to the Most Deprived (FEAD) and etc.;
- International and multinational financial instruments as the Norwegian Financial Mechanism and etc.;
- International institution and organizations;
- National funding.

In para 2 of article 1 from Chapter V is presented the source of funding for measures for the integration of removed or resettled persons in fulfilment of Bulgaria's commitments under the two national mechanisms - relocation and resettlement. The EU grants financial assistance to each relocate and resettled person under the Asylum, Migration and Integration Fund.

In the transitional and final provisions of the ordinance is explicitly stated that foreigners who have been granted asylum or international protection in the Republic of Bulgaria after July 1st, 2014 may request the conclusion of an integration agreement under this ordinance but not later than three years after receiving the decision granting asylum or international protection.

In March the provisional government abolished the ordinance stating that a new one should be elaborated in order to create an actual mechanism for integration of persons granted international protection in Bulgaria. A working group has been formed to prepare new texts and the new ordinance was adopted by the present government on July 9, 2017.

The UNHCR stated in its commentary about the ordinance: *„Unlike the previous one, which was repealed on March 31, 2017, the new ordinance assigns responsibility to the Deputy Prime Minister for coordinating the integration processes. This is a positive step and UNHCR encourages the government to set up a dedicated administration to fulfil these responsibilities.*

The new ordinance preserves the principle that integration support is based on an agreement between the refugee and the municipality. While municipalities are not willing to participate and contribute to this process, such a system cannot be effective“.

One of the cornerstones of refugee integration is the rapid access to education and training. In this respect, in April 2017, the Minister of Education approved an ordinance on the conditions and procedure for the admission and training of persons seeking or having international protection. This ordinance sets out the conditions and the procedure for the admission and training of such persons, who did not grade a completed class, stage or level of education. According to the provisions of Ordinance No 3, the admission of a minor is compulsory and is in pre-school or school educational system. It is carried out after an application submitting by a parent (guardian, custodian, representative of the unaccompanied minor asylum or granted international protection) to the head of the relevant regional department of education. The head of the regional education authority within 7 working days after the submit directs the person to a particular kindergarten or school according to his/her domicile and the parents' wish. The reception is in state or municipal kindergartens and schools above the designated quota of the common reception plan. According to the provisions of Ordinance № 3, the enrolment of children seeking or having international protection may occur throughout the school year but not later than 30 class days before the end of its second term.

The accent in the ordinance here is the requirement that before being enrolled in a Bulgarian school, a refugee children's card will be filled in for an educational level. This card is an integral part of the interview protocol, with which a special committee will direct the children into what class to enrol, as well as whether additional training is required in Bulgarian and other subjects. Adults wishing to enroll in a Bulgarian school will also be directed to vocational education. The card is in line with the idea of introducing a European Qualification Card for Refugees discussed in the Council of Europe. It will be filled in by the host country and will serve as a job search across the EU.

In the school application submitted to the Regional Education Authority, the parent or guardian of the child will state the level of knowledge in Bulgarian, information on the courses attended, the mother language of the child, what other European languages skill has and at what level. Prior to enrollment, it is also necessary to indicate the last completed group/class/grade/stage or level of education, profile or profession, as well as the preference in what class the student should be enrolled. A Commission at school also will offer the profile or specialty of a profession to teach the student/scholar as well as the form of learning – by correspondence, part-time, individually, remote or evening. The regional education authorities have an obligation to facilitate and provide a translator if necessary.

If those who are enrolled in the grades of V to X class cannot provide a document for a completed previous class, they will be able to validate the acquired knowledge. If such student cannot validate the competences of all subjects for the previous class or stage of education by the end of the school year, he/she can be enrolled in the next grade after successful completion of the class he/she has taught during the respective school year. Up to three subjects of the previous class can be transferred for validation in the next school year.

When the pupil does not validate the transferred three subjects, he/she does not receive a certificate of primary education or a first stage high school certificate. At the discretion of the school commission, the student may repeat the class or be returned to a previous class, but not more than three years under the class in which he/she studied during the relevant school year.

Resettlement, relocation and humanitarian host

In 2017 the SAR executed its commitments regarding the transfer of applicants for international protection to Italy and Greece. By the end of 2015 to the end of 2017 in

compliance with applications for relocation of 910 persons from Greece (applications exceed the number determined for Bulgaria), 50 persons have arrived and accommodated in the country. For the same period, 120 applications have been transferred to Italy, and 10 persons have arrived.

Additionally 21 Syrians arrived from Greece and were admitted only in the year of 2017 while another 10 of Eritrea came from Italy.

By Resolution No. 263 dated April 12, 2016, the Council of Ministers approved the National Resettlement Mechanism Framework, setting the terms and number of persons (110 in total) to be resettled. The framework was amended in August 2017 to regulate the distribution of financial resources for operational and integration activities.

In regard to the EC Recommendation, Sept 27, 2017 on enhancing legal pathways for persons in need of international protection and the new timeframe, the Decision No 730 of Bulgarian Council of Ministers in 2017 was adopted for the resettlement of 110 persons by October 31, 2019.

Negotiations with IOM are ongoing to prepare and negotiate a draft agreement on the regulation of joint resettlement activities and in line with the National Resettlement Mechanism Framework.

5. UNACCOMPANIED MINORS AND OTHER VULNERABLE GROUPS

5.1. General Overview

Over the last four years, the trend of increasing mixed migratory flows to the Republic of Bulgaria. They are generated as a result of the ongoing regional conflicts in the Middle East, the humanitarian and refugee crisis in Syria, the unstable situation in Afghanistan, the activities of Da'ish (Daesh) in Syria and Iraq, as well as social tensions in Africa. Despite a certain decline in the number of third-country nationals in the country in 2016, the continuing mixed migration flows remains a major factor in influencing the migration processes affecting the Republic of Bulgaria, especially after the closure of the Western Balkan route in March 2016. The lessons learnt show a significant part of the refugee and migratory flow is made up of children, including unaccompanied minors.

Unaccompanied minors may conditionally be categorized in three main groups according to the specificity of their legal status after the entry into the country:

1) Those who have applied for international protection under the Law for Asylum and Refugees. The State Agency for Refugees is a leading institution in ensuring the rights of this group of persons. In the framework of the administrative proceedings under the LAR, applications for international protection are examined, depending on the inquiry and the information gathered in the course of the proceedings, the administrative body makes a decision. Pending the entry into force of this decision, an unaccompanied person shall be entitled to the benefit as a person seeking international protection.

2) Those who have granted international protection as a refugee or humanitarian status;

3) Those who are unwilling to apply for international protection and their legal status is settled under the Foreigners in the Republic of Bulgaria Act. Those who do not wish to apply for international protection or have been rejected for this type of protection are subject to special care measures by the territorial units of the Social Assistance Agency

Unaccompanied migrant children, including those seeking or having international protection in Bulgaria are into the category of "children at risk" according to the Child Protection Act. In this respect, the Bulgarian state has committed to create the appropriate conditions and guarantees for the rights of these children as described both in national and international legislation. Children in this target group have the same rights as the Bulgarian children without parental care³⁵.

5.2. Policy and Legislative Developments

In 2017 continued the efforts to implement a consistent policy to establish conditions and guarantees for care and protection of unaccompanied minors.

The National Council for Child Protection (NCCP) is the supreme coordination mechanism for children's policy in the country. Established on the basis of the Child Protection Act, it gathers representatives from all child-protection bodies presented by their highest operational level - Deputy Ministers, representatives of all relevant organizations at managers' level directly involved in children's policy and a quota of NGOs, which is 1/3 of the members of the Council.

In 2017 within the NCCP was set up an interministerial working group on refugees. Its goal was to develop a methodology for working with foreign children. It serves as a

³⁵ Analysis of the legislative responsibilities in relation to the provision of care and protection to unaccompanied minors and the necessity of legislative changes for the construction of temporary accommodation for unaccompanied minors, UNHCR, April 2017.

coordination mechanism for the interaction between institutions and organizations dealing in cases of unaccompanied minors seeking or having international protection.

Representatives of state institutions, international organizations with representation in the Bulgaria and NGOs involved in the protection of children from this target group participated in the group. The main accents in the discussion and drafting of the Coordination Mechanism project were the gaps in the current legislation, on-site good practices, the commitments of each of the institutions/organizations as well as the monitoring of the future activities.

In July 2017, a draft of Coordination Mechanism for Interaction between Institutions and Organizations in the case of unaccompanied minors residing on the territory of the Republic of Bulgaria was elaborated at a meeting of the NACP with a potential view to conduct a conciliation procedure among the members of the Council. The adoption of the Coordination Mechanism by the government is in the Action Plan for the Implementation of the National Strategy on Migration, Asylum and Integration for 2018.

In 2016, the State Agency for Child Protection (SACP) and State Agency for Refugees (SAR) concluded a Cooperation Agreement. In accordance with the Agreement, in 2017 the child protection agency has received daily information from SAR for any children who seek international protection on the territory of the Republic of Bulgaria.

The analysis shows that during the year in the SACP system is received data about 1750 refugee children, who are located in the SAR divisions – 1500 boys and 250 girls. Most of the information received concerns unaccompanied minors. The country-of-origin indicator for foreign children shows that the largest number of registered are from Iraq – 680, followed by Afghanistan 569, Syria – 379, Pakistan 80 and other 32 are from other origin. The SACP observation shows that during the year more than 60% of the minors left the SAR's dormitories.³⁶

³⁶ Report, Available at www.sacp.government.bg

6. INTEGRATION

Priorities of the Bulgarian Presidency

The benefits of the free movement of workers for the smooth functioning of the Single Market and for the development and competitiveness of the European economy are indisputable. European citizens should be able to make the most of the job opportunities within the Single Market. The Bulgarian Presidency will work on: promoting the concept of early childhood development and investing in early childhood education and care; a better environment for the development of the social economy, with a focus on social innovation; equal opportunities and non-discrimination with a focus on gender equality and the role of women in the digital world; full participation of people with disabilities in society; active policies to combat poverty and social exclusion; facilitating the free movement of workers and the provision of services in the EU by revising the regulations on the coordination of social security systems and improving the existing rules on the posting of workers in the framework of the provision of services; taking into account the role of legal migration in the development of the European economy and regulating the entry and residence conditions of third-country nationals for high-skill employment (the Blue Card Directive); protecting health and improving the health performance of EU citizens by providing access to affordable, affordable medicines and stimulating healthy eating for children; promoting physical activity; ensuring healthier and safer working conditions. The Bulgarian Presidency sees the "Future of Labor" in identifying the right skills for new jobs and better planning and linking education, training and employment policies, with a focus on youth employment and skills and competences.

6.1. General Overview

The integration policy for immigrants who are legally staying in Bulgaria is conducted in accordance with the the Common Basic Principles for Immigrant Integration Policy in the EU. The balance between rights and obligations of the migrants in the Republic of Bulgaria is guaranteed. Integration policy is an integral part of the state policy of our country in the field of legal migration. The Republic of Bulgaria has a modern, well developed and effective legislation in the area of equal opportunities, social inclusion and non-discrimination, which is fully in line with the EU standards. The Protection against Discrimination Act fully implements the provisions of the European equality directives by regulating the protection of all individuals on the territory of the Republic of Bulgaria against all forms of discrimination and at the same time assists in its prevention and affirms measures for equality in opportunities.

According to the current legislation (article 3 of the LMLMA), the policy on free movement of workers, labor migration and the integration of foreigners is carried out in cooperation and after consultation with the representative organizations at national level of employers and employees, as well as with representatives of other non-profit legal entities registered under the provisions of Chapter II of the Non-Profit Legal Entities Act.

The cooperation and consultations are carried out by the National Council for Labor Migration and Labor Mobility, which is established by the Minister of Labor and Social Policy. The NTCMTM consists of an equal number of representative employers 'and employees' organizations at national level, representatives of ministries, agencies, committees, and local authorities. Representatives of international organizations and non-profit legal entities carrying out activities in the field of labor migration, labor mobility and the integration of foreigners may also be invited to participate in the council. The chairman of the council is the Minister of Labor and Social Policy.

The Minister of Labor and Social Policy can, after consulting the National Council on Labor Migration and Labor Mobility, impose restrictions on the access of third-country workers to the labor market, including the highly qualified specialists and freelanced persons, according to the situation, development and public interests of the labor market.

6.2. Policy and Legislative Developments

Promoting integration through socio-economic participation

The Labor Migration and Labor Mobility Act is the main law in the Republic of Bulgaria governing the rights and obligations of third country nationals for access to the Bulgarian labor market as well as the issues of free movement of workers within the European Union, , the bilateral regulation of employment, the functioning of the labor and social services of Ministry of Labour and Social Policy abroad, etc. It has merged, systematized and developed the provisions previously available in several pieces of legislation and entered into force on May 21, 2016.

The Implementing Regulations on the LMLMA also systematised the provisions regarding the procedures derived from the law, mainly with regard to the conditions and order for granting access to the Bulgarian labor market to workers from third countries, as well as the functioning of the National Council on Labor Migration and Labor Mobility and Employment and Social Affairs Departments of the Ministry of Labour and Social Policy abroad.

Following the entry into force of the Implementing Regulations on the LMLMA on September 30, 2016, certain difficulties were encountered in the application of the rules in respect of certain categories of workers and appropriate opportunities for relieving the administrative burden for Bulgarian employers - mainly in the area of information technology and hotel and restaurant services.

During several sessions of the National Council on Labor Migration and Labour Mobility in the end of 2016 and beginning of 2017, the representative organizations of employers at national level demanded on steps to mitigate the existing procedures for employing certain categories of third-country nationals. The Ministry of Labour and Social Policy has received written proposals from them for ammendments in the Implementing Regulation of LMLMA regarding those demands (The Confederation of Employers and Industrals in Bulgaria, the Aassociation of the Industrial Capital, the Institute for European Education and others).

The proposed are focused mainly at the improvement of procedures for:

- granting access to the labour market of foreigners as EU Blue Card obtaining for professions with a shortage of highly qualified specialists and to be defined in a specific list by single occupational groups of the National Classification of Occupations and Positions – article 18 of LMLMA;

- registration of the short-term seasonal employment of third-country nationals up to 90 days and informing the European Commission of the List of Economic Sectors, including activities dependent on the change of seasons;

- refining the number of representatives on a tripartite basis in the National Council.

In 2017, the Implementing Regulations (of LMLMA) were amended as follows:

In Chapter II, "Third-Country Labor Migration", Section 2, "EU Blue Card", article 15 outlines the necessary documents, which should be submitted by the employers to obtain an Employment Agency decision for access for highly qualified employment. The requirement

for the so-called "market test" regards the list of shortages of certain highly qualified specialists in certain professions.

A new paragraph is created which defines what evidence and forecasts should be submitted by the nationally representative employers' organizations in their motivated proposal to the Minister of Labor and Social Policy. This allows for a real assessment of the degree of shortage of highly qualified workforce and of the respective single occupational groups.

Again in Chapter II, Section 7, "Registration of employment of third-country nationals", three important changes are made regarding the registration of seasonal employment to 90 days within 12 months due to short-term employment and usually low-skilled nature of seasonal work in identified economic sector.

On March 1, 2018, the National Assembly adopted the Law on Amendment and Supplementation of the LMLMA (promulgated in the State Gazette No 24 of 16 March 2018), which transposed the requirements of the EU Directive No 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of scientific research, study, work experience, volunteering, pupil exchange programs or educational projects and work on programs "Au pair". In addition, some of the requirements regarding the access to the labor market of third country nationals for the purposes of highly qualified and seasonal employment, etc. have been modified on the proposals of MPs in LMLMA. The abovementioned amendments require updating of its implementing acts, including in order to complete the transposition process of the Directive.

In this respect, the following changes are proposed in the Regulation for the Implementation of the LMLMA :

- The procedure for employment without a work permission for researchers, including academics on the territory of the Republic of Bulgaria is updated, including in the conditions of mobility in the EU and after completion of their research projects; this also applies to the employment of their family members;
- The procedure for access to the labor market without a work permit for trainees under the terms of an employment contract for apprenticeship is regulated;
- -An employment registration procedure is established for persons of Bulgarian origin to exercise employment without authorization (Article 8, para 3 of the LMLMA);
- The requirement for an employer to provide evidence of a prior labor market survey (so-called "market test") when applying for an EU Blue Card is abolished. In this regard, the provisions on the list of professions for which there is a shortage of highly qualified specialists are also excluded;
- A procedure for access to the Bulgarian labor market for foreigners, victims of trafficking in human beings is included.

By the transitional and concluding provisions of the law amending and supplementing the Ministry of Interior Act (promulgated in State Gazette 97/05.12.2017), the LMLMA has been supplemented with provisions regarding the access of TCNs to the Bulgarian Labour Market as seasonal workers. With view to comply the current legislation with the new provisions, the amendments of the Implementing Regulations of LMLMA are necessary. The following changes are proposed:

- The provisions of the accelerated procedure for issuing a decision on a permit for a seasonal worker who has worked at least once in the territory of the Republic of Bulgaria as a seasonal worker during the last 5 years;
- The procedure is set for cases where the seasonal worker continues to work with the same employer after the expiry of the registration period of seasonal employment, whereby the authorization regime is extended to 9 months;
- The procedure is set for cases where the seasonal worker continues to work with another employer after the expiry of the seasonal employment registration, where the authorization regime is extended to 9 months.

7. IRREGULAR MIGRATION

Priorities of the Bulgarian Presidency

The Republic of Bulgaria, as President of the Council of the European Union, will work on building and implementing effective mechanisms for enhancing the security of EU citizens, enhancing border control and more effective management of migration processes; will seek to bring forward the fight against terrorism and organized crime by ensuring better interaction and exchange of information and data between the competent authorities of the Member States and the adoption of a new legal framework for the functioning of the Schengen Information System.

7.1. General Overview

Defining the external security environment in 2017 are the geopolitical confrontation, the struggle for supremacy in the political, economic, diplomatic and military aspects and the dynamics of the existing crises and conflicts in the Middle East. The stagnating decay of statehood and destabilization in the region, the establishment of strategic areas of stakeholder influence, the volatile balance of forces and the lasting establishment of the Daesh terrorist organization as a geopolitically destabilizing factor generated uncertainty and threats to Europe. The ideology of the organization and its propaganda attract self-acting and self-radicalized individuals who undertake terrorist attacks without centralized command, with generally available means and easy-to-acquire weapons. As a major challenge to the Bulgarian and other European security services, following the defeat of Daesh, the trend of the return of foreign fighters to their native countries in Europe is outlined. The possibility of crossing foreign fighters infiltrated into the migratory flows through our country is a prerequisite for the formation of terrorist and logistic cells on our territory as well as for the radicalization of groups and individuals, especially those in a marginalized socio-economic situation. The concentration of a significant number of migrants on the territory of Turkey and Northern Greece is a potential risk of increasing illegal trafficking to Bulgaria. A deterrent effect leading to a reduction in the migration flow to our country in 2017 is Turkey's compliance with the two agreements with the EU regarding migrants, the measures taken to control the Bulgarian-Turkish border and the completion of the temporary fence facility with a length of 236 km along the entire Bulgarian-Turkish border, compensatory measures at the Bulgarian-Greek border and the support of the European Border and Coast Guard Agency (FRONTEX).

In 2017 there is a significant reduction in migratory pressure on Bulgaria, but the flows from Syria, Afghanistan and Iraq continue to affect the country's environment. During the year, 8044 attempts were made by third country nationals to trespass the border of the country, which is 81% less than in 2016 (42 466 persons). At the entrance of the state border are arrested 743 third-country nationals, of which 501 on green border and 242 at border checkpoints. There is a decrease of 84% compared to the previous year (4600 persons). People from Syria (35%), Iraq (22%) and Afghanistan (19%) predominated. The most dynamic is the situation on the Bulgarian-Turkish border, where 651 third-country nationals were detained, a decrease of 84% compared to 2016 (4127).

At the exit of the state border were arrested 2413 third-country nationals, of which 445 persons were not registered by the MoI authorities. Compared to 2016, when 14 310 persons (4977 without AFIS) were detained, a decrease of 83% was recorded. A total of 2126 people are detained at the green border, which is 85% less than in 2016 (14 019) and at 287 border checkpoints, which is 1.4% less than in 2016 (291). Again persons from Afghanistan (53%), Pakistan (18%) and Iraq (14%) predominated. The highest number of illegally cross attempts

were registered at the Bulgarian-Serbian border where 2017 persons were detained, which is 85% less compared to 2016 (13 894 persons).

For the first time since the start of the migration influx in the summer of 2013, special facilities for temporary accommodation of third-country nationals operated. They were occupied under capacities, up to 40 to 60% to the maximum. The number of persons accommodated in 2017 was similar to the figures reported before the migration crisis. Foreigners staying during the year 2017 in these specialised centers are 82% less than in 2016.

7.2. Policy and Legislative Developments

National measures towards the irregular migration

The construction of an engineering fence at the Bulgarian-Turkish border was initiated as an additional measure for resolving the migrants influx situation, as set out in the Plan of Measures for the Most Significant Border Areas, approved by the Council of Ministers at the end of 2013. The facility was fully completed in 2017 and has been included in the list of strategic sites that are relevant to the national security of the Republic of Bulgaria. After the facility was put into operation, there was a sharp decrease (almost 7 times) in 2014 of attempted illegal crossing of that part of the border.

In 2017, police operations were regularly carried out to counteract illegal migration flows and to improve the border effectiveness of the Bulgarian-Turkish border during the security activities. They were combined with units from the Bulgarian Armed Forces following joint orders of the Ministers of Interior and Defense with regard to logistics, in accordance with the Operational Plan with specific measures and activities for the organization and interaction between the Ministry of Interior and the Ministry of Defense.

In case of additional migratory pressures, the armed forces have the right to use an additional 350 persons of their military personnel within 24 hours.

In order to adequately counteract illegal migration and to ensure security at our external borders, the cooperation and interaction of Border Police with Frontex Agency was of utmost importance.

The Border Police General Directorate from Ministry of the Interior has involved personnel and technical equipment in joint operations coordinated by Frontex agency both on the territory of other EU Member States and as a host country for joint operations with seconded officers and technical resources from other member states.

In view of the risk of mass influx of the GTC faced by our country, Frontex Agency has provided our country with additional technical and operational assistance for the protection of the external borders.

Considering the risk of mass migration influx faced by our country, Frontex Agency has provided additional technical and operational assistance for the protection of the Bulgarian external borders.

Activities to improve the efficiency of external border controls

At the beginning of April 2017, the amendment to article 8, para 2 of the European Parliament and Council Regulation 2016/399 on the Schengen Borders Code entered into force. In order to ensure EU security by avoiding any threat to internal security and public order in EU members, the amendment introduces the strengthening of border checks at the external borders by carrying out systematic checks on the relevant databases of all citizens

crossing the EU's external borders as well as persons who have the right to free movement within the EU.

The Republic of Bulgaria has fulfilled the provisions of article 8, para 2 of the Schengen Borders Code, and systematically checks the databases at the border checks at all border crossing points at their external borders.

The Integrated Maritime Spatial Observation System of the Republic of Bulgaria provides continues the control over the the maritime state border protection. There is a good interaction with the Executive Agency "Maritime Administration", the State Enterprise "Port Infrastructure", the Executive Agency "Fisheries and Aquaculture" and the Navy. By the Black Sea Cooperation Forum between border services – the Black Sea Coastguards provides real-time information on ship traffic and the movement of small crafts with a destination or course to and through Bulgarian territorial waters.

The countering of irregular migration was also very active inside the country. The efforts of the competent authorities were aimed at strengthening the control of the third-country nationals residence and strict observance of the rules applicable to the return and removal procedures set out in article 5 of the Schengen Borders Code or other conditions for the entry, stay or residence. In 2017, the control of the migrants residence in the country and those from migratory third-country countries with a completed protection procedure and persons who did not observe the period of voluntary departure of the country were strengthened. The tendency is majority of persons residing in the SAR centers to be sustained for applications under the Asylum and Refugees Act, which automatically stops the imposed administrative measures. Bulgaria continues to be used as a transit route on the road to Central and Western Europe, and the application for protection is used as an opportunity to circumvent the obligation to return to the country of transit.

For the purpose of preventing and counteracting irregular migration in 2017 the administrative control over the stay of the third-country nationals in the Republic of Bulgaria was strengthened. Above 2% were applications for residence permissions issued by Migration Directorate in 2017 in compare to the previous year. More permits have been issued for long-term and permanent residence, short-term residence permits have decreased, while the number of permits issued for long-term residence in the country remains stable. In the past year, the refusal to issue visas to third-country nationals increased. About twice of the permanent residence permits were withdrawn. A granted status for 461 persons was denied, compared to 291 in 2016.

Specialized police operations to counter irregular migration were regularly carried out during the 2017 and have a proven preventive effect. As a result of the measures taken, 1801 illegally staying third-country nationals were detected in Bulgaria. This is a decrease of over 80% in comparison to the previous year (9267). The main migratory flow is concentrated mainly in the capital, in the regions close to the Bulgarian-Turkish border and in the districts on whose territory there are reception centers of the State Agency for Refugees (SAR). The Ministry of the Interior initiated 195 pre-trial proceedings for the illegal transfer of persons across the border and for facilitating illegal residence in the country (as articles 280-281 of the Penal Code).

A lasting preventive measure is to maintain good communication with countries of origin. In the year 2017, regular meetings were held between representatives of the Migration Directorate and diplomatic representatives of countries of origin of migrants – Algeria, Afghanistan, Palestine, Iraq, Iran, Pakistan, Nigeria and others.

The International Organization for Migration is implementing in Bulgaria a project "Implementing a Migration Flow Monitoring System". Within the framework of the project, the IOM personnel hold interviews with migrants and persons seeking international protection at the SAR Centers and the Migration Directorate. In 2017, more than 2000 people were interviewed within two components of the project. The information gathered allows a better understanding of the difficulties and challenges migrants go through. Its purpose is the timely planning of activities related to the successful management of migration processes.

A key point in terms of irregular migration, especially in the last few years, is the inclusion into the migratory flows of persons involved in extremist structures activities, which complicates the issue of so-called foreign fighters. Upon their arrival in countries of final destination or their return from conflict zones, these persons increase the risks of committing a terrorist act and radicalization of local communities. Bulgaria implements the Strategy for Counteraction to Radicalization and Terrorism (2015-2020), adopted in 2016. The strategy reflects the will of the Bulgarian government to counteract some of the most serious asymmetric risks and threats, with a stronger focus on prevention, without underestimate the importance and role of reactive measures.

Coordination and collaboration among key actors

The effective counteraction to irregular migration is a result from active cooperation between the engaged institutions and the continuous cooperation between them. Cooperation and coordination with neighboring countries, countries of origin and with European partners is of utmost importance.

The migration is a common problem thus a feasible solution can be found only with combine efforts and active involvement of all EU Member States. Bulgaria is part of the Euro-Atlantic security area and at the same time it is an external border of the European Union. Therefore Bulgaria actively persuits to support the international cooperation with key European partners, such as the Frontex for joint actions in handling the irregular migration. The interaction with foreign police services through the Europol and Interpol channels for the exchange of information on persons who built-up illegal migration channels, their routes, cars and techniques to avoid border control as well as other good practices in counteracting illegal migration. Joint international operations to counter illegal migration are executed regularly.

8. RETURN

Priorities of the Bulgarian Presidency

Among the priorities of the Bulgarian Presidency of the Council of the European Union is the promotion of legal channels and tackling the roots caused migration in long terms while at the same time not to slam the EU's external border and to enhance the effective return of illegal migrants as a key element of the migration management.

8.1. General Overview

The policy on return is a key element of the migration process management.

Following the migration crisis in the summer and autumn of 2013 and in 2017, the tendency for activation of return policy has been sustained with a focus on voluntary return as a successful European tool to counteract illegal migration, contributing to the good management of migratory processes as a whole. Since 2013, there has been a significant increase in the implementation of return procedures and the competent institutions have successfully cooperated with their European counterparts and relevant international organizations. Bulgaria continues to participate in joint flights organized by other EU Member States, coordinated and co-funded by the Frontex for the return of illegally staying third-country nationals. Bulgaria's cooperation with the International Organization for Migration has been strongly intensified with successful voluntary returns.³⁷

In 2017, as a result of the successful implementation of the activities of the Asylum, Migration and Integration Fund and the active interaction with the International Organization for Migration, measures were taken to optimize the procedures for the forced return of illegally staying third-country nationals and increased the number of persons returned under voluntary return programs. For the reporting period, number of 1904 illegally staying third-country nationals were returned, which stands for over 40% than the previous year. The citizens of Afghanistan, Iraq, Pakistan, Syria, Iran and Turkey predominated. Number of 484 third-country nationals were returned, 350 voluntarily left the country with their own funds, 855 were returned under voluntary assisted return programs, 64 were persuaded to leave the country without imposing coercive administrative measures, 151 were returned to EU Member States as the readmission procedures under the Dublin Regulation was executed. In 2017 Bulgaria returned 10 EU citizens with orders imposed by the State Agency for National Security (SANS).

By December 2017, a number of 284 persons were accommodated in the specialized facilities for temporary accommodation of the Migration Directorate in Sofia and Lyubimets, and 3104 have passed through the Elhovo Distributor Center for the year. In the closed-type centers of the Migration Directorate, persons from 51 risk third-countries were accommodated. The tendency for the last years to accommodate mainly Syrian, Afghanistan and Iraqi citizens continues.

A Protocol was signed in 2017 between the Ministries of the Interior of Bulgaria and Romania on the implementation of the Agreement between the Governments of the two countries on the readmission of their own citizens and third-country nationals. This protocol introduces a mechanism for the implementation of the readmission agreement, setting out the procedures and conditions for readmission under all possible assumptions. It also identifies

³⁷ https://www.mvr.bg/NR/rdonlyres/F11ABFF3-87B5-4799-AB4B-A686D091BB83/0/03_NSMUI.pdf

the competent authorities of the two countries, the border crossing points for reception, way of communication and models of documents and others.

8.2. Policy and Legislative Developments

The amendments to the Foreigners in the Republic of Bulgaria Act, dated December 2016, have achieved more complete harmonization with the EU legislation concerning the terminology in the field of return as the words "*forced removal*" being replaced by "*return*". As a further step towards the consistent application of the return rules, new grounds for return are explicitly introduced: – to a third-country national with a decision of refuse, termination or withdraw international protection or asylum, or to whom the proceedings under the Asylum and Refugee Act has been terminated by an enforceable judgment unless the termination has been given against a foreigner for whom a readmission decision has been taken; and of a foreigner who is found to have entered the country's border according to the statutory order but tries to leave it not through the designated places or with a false, redrafted travel document or a substitute document (by article 41).

In 2017, amendments were made to the Law on the Ministry of the Interior, which clarified texts and eliminated imperfections in separate provisions of the law as well as amendments to other laws of functional competence of the Ministry of Interior. One of these laws is the Foreigners in the Republic of Bulgaria Act. It introduces additional measures to ensure the return of third-country nationals in accordance with Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals. The amendments seek to introduce into the law on MoI the requirements of the Directive concerning the use of detention for deportation purposes. It should be limited and subject to the principle of proportionality in relation to the measure taken and the objectives pursued, and detention is justified only in order to prepare the return or take-off process, and where the application of less coercive measures would not enough.

The amendment to the law introduced additional measures such as a monetary guarantee, a document pledge and an obligation to comply with the regime for crossing state borders and protecting public order. The introduction of the monetary guarantee will have an additional positive effect as in the case of confiscation the funds from the submitted guarantees will be entered into the budget and thus will support the financing of the compulsory administrative measures for control of the third-country nationals in the Republic of Bulgaria.

There are changes of the deadlines for the exercise of official judicial control over the administrative detention of third country nationals and rules for carrying out such controls as well. According to the old provision of article 46A of the law on foreigners, the official judicial control is carried out after the expiration of 6 months from the placement in a special facility for temporary accommodation. With the proposed amendment, judicial control of forced accommodation is organized within one month of the placement, in order to comply with both the provisions of community laws and the standard established under article 5, para 3 of the European Convention on Human Rights and Fundamental Freedoms.

Finally, with the amendments made, the attorney of the police authorities are increased in the context of identifying the illegal unaccompanied minors in accordance with the ban order on forced accommodation and the unification of the regime of measures under the Child Protection Act. This provides a legal opportunity to comply with the statutory order on forced accommodation in special facilities for the temporary accommodation of unaccompanied minors and clarifies the rules for interacting with Child Protection Departments of the Social

Assistance Agency of the Ministry of Labor and Social Policy. This would reduce the possibilities for different interpretations of the legislation by the authorities applying them.

The purpose of the changes is to reduce the costs of enforcement of administrative and legal costs, including the provision of translation and legal defense, increasing the means of exercising effective administrative control over third-country nationals, reducing the preconditions for convicting Bulgaria for non-observance of the standards of administrative detention and the right to freedom of movement and facilitation of the actions for execution of the forced deportation to the border and expulsion of third-country nationals illegally staying in the Republic of Bulgaria.

The amendment to the law also created a new article introducing the requirements of the Regulation (EU) 2016/1953 of the European Parliament and of the Council of 26 October 2016 on the establishment of a European travel document for the return of illegally staying third-country nationals, and repealing the Council Recommendation of 30 November 1994.

The Foreigners in the Republic of Bulgaria Act also introduces a new chapter which regulates the legal status of family members of Bulgarian citizens who have exercised their right to free movement in the EU. This category of persons remained outside the scope of the law on the entry, stay and departure of the Republic of Bulgaria of EU citizens and members of their families in its amendment in 2016.³⁸

Currently a new amendment to the implementing regulations of the Foreigners in the Republic of Bulgaria Act is ongoing, in order of the already made law changes. The proposed amendments to these regulations derive from the amendments and supplements to the law on foreigners and requirements of Regulation (EU) 2016/1953 of the European Parliament and of the Council of 26 October 2016 on the establishment of a European travel document for the return of illegally staying third-country nationals, and repealing the Council Recommendation of 30 November 1994, the amendment of Tariff No 4 on the fees collected in the system of the Ministry of Interior under the State Fees Act (promulgated on March 10, 1998).

In 2017 began the practical implementation of the amendments to the law on foreigners, which are in force, concerning the legal possibility, in the presence of specific hypotheses for the short-term accommodation of third-country nationals in a special facilities for the temporary accommodation unit for a period of not more than 30 days. In this respect, changes were made to the basic status of the Migration Directorate with the creation of conditions for implementation of the new short-term measure. The practical implementation of the measure began at the end of 2017, with 7 third-country nationals being accommodated in such unit. Five of them have applied for international protection before a representative of the Bulgarian Helsinki Committee³⁹

Measures to promote voluntary return

In 2017 Bulgaria continued its ambition to promote and support third-country nationals in decisions for voluntary return in their countries of origin, in a close cooperation with the Mission of the International Organization for Migration in Bulgaria. In the framework of an IOM project on "Protecting vulnerable migrants and supporting the voluntary return and reintegration of third-country nationals", in 2017 the Migration Directorate provided a free service at the special facilities for the temporary accommodation for the staff of the IOM, which was transformed into a permanent office of the organization.

³⁸ <https://lex.bg/bg/laws/ldoc/2134455296>

³⁹ The Migration Directorate Annual Report for 2017.

As a result of the good cooperation established with the IOM Mission in Bulgaria in 2017, there is a significant increase in the number of third-country nationals returned under assisted voluntary return programs. Their number is 855 in comparison of 639 in 2016.

An important element in the implementation of the return procedures is the identification of the illegally staying third-country nationals in the Republic of Bulgaria. Carrying out this activity, the Ministry of the Interior is working with representatives of the Frontex Agency. The unit of special facilities for the temporary accommodation in Ljubimetz was visited by the agency's teams for debriefing and screening on the spot each month in 2017. In the unit of Sofia, the Frontex teams work together with migrant officials to conduct interviews for identifying the accommodated persons. Over the past year, 512 foreigners have passed identification procedures, 117 of whom have submitted a return declaration.

Forced return

The Republic of Bulgaria has reported a significant increase in the effectiveness of the return procedures in recent years. Guided by the principle that one of the most effective tools to counteract irregular migration is the return, Bulgaria takes action in the direction of:

- Promoting voluntary return.
- Strengthening the partnership with the Frontex agency in joint operations for the return of illegally staying third-country nationals in the EU.
- Effective expenditures of AMIF's funds related to the return of illegally staying third-country nationals.
- Sustaining an active cooperation with the consular services at embassies of countries of origin in order to facilitate procedures for identifying individuals and issuing travel documents.

There was a serious increase in 2017 in the number of third-country nationals returned by our country. It consists 40% more than the previous year. By the total number of persons who were forcibly returned (484), 329 were returned by AMIF funding and 101 persons were returned to the readmission agreements for third-country nationals, in the so-called readmission. In this context, it is necessary to note that in 2017 Bulgaria registered an increase in the efficiency of the AMIF funds spendings. During the year of 2017, a number of activities were successfully carried out by the AMIF Grant Agreements and Mechanism for Emergency Assistance, aimed at implementing the forced return procedures of third-country nationals, improving the accommodation conditions of foreigners and meeting their basic needs as to take into account their specific requirements.

The policy of lasting interaction with other EU countries and Frontex continues in the implementation of the return operations. Since 2011 the Ministry of Interior (Migration Directorate) has an active participation in joint return flights operated by other EU Member States, co-ordinated and co-funded by Frontex. In 2015 Bulgaria organized such a joint flight to Pakistan. As a result of the accumulated practical experience, in 2017 the Migration Directorate for the first time organized via-Frontex a national flight to Sri Lanka. With this flight, 32 Sri Lankan citizens were returned to their country of origin. In 2017, the Migration Service took part in two more joint flights coordinated and funded by Frontex for returning to a country of origin a total of 8 illegally staying Pakistan citizens.

In order to increase the administrative capacity in the field of return, in 2017 the MoI officers took an active part in a joint operation "Frontex Intervention", organized by the Frontex in Greece, which aimed to assist local authorities in the implementation of the EU-Turkey Return Agreement. Bulgarian police officers took an active part in operations

conducted by sea and air. Bulgarian participation was also in the Triton Operation in Italy as a debriefing expert.

9. ACTIONS AGAINST TRAFFICKING IN HUMAN BEINGS

Bulgaria developed one of the most complete institutional frameworks for combating the trafficking of human beings in EU with structures for coordination on national and local level. Bulgaria has sustainable policies and practices and could be used as a platform for informational exchange and good practices in the fight against trafficking in human beings in the process of the accession of the countries of the Western Balkans to the EU. In this regard, the National Commission for Combating Trafficking in Human Beings plans to organize an International Forum to mark the progress, challenges and opportunities in the field of combating human trafficking in Southeastern Europe in the context of the European integration of the region.

9.1. General Overview

Based on the data of the report⁴⁰ of the National Commission for Combating Trafficking in human beings Bulgaria is still generally a country of origin for the victim of trafficking as taking into account the global migratory situation the country is transforming into a transit destination for the victims. The formally or informally registered victims of trafficking are mostly Bulgarian citizen. According to the official statistics of the Prosecutor's Office of the registered in 2017pre-trial proceedings there is an ongoing trend the majority of the victims to be girls and women – nearly 90% .

As on global and European level in Bulgaria most of the registered cases of trafficking are with the purpose of sexual exploitation. At the same time there is an increase in the trafficking of Bulgarian citizen for the purposes of organized mendicancy and the experts more often focus on the trafficking in human beings for labor exploitation as well as on other not so easily recognizable forms of trafficking.

One of the reasons the trafficking for the purposes of sexual exploitation to prevail as a crime with most data and information is that often the victims of all the other forms of trafficking, especially labor exploitation, do not recognize themselves as victims and/or do not seek protection of their rights or other kind of assistance (including accommodation in special and protected centers for victims of these crimes). On European level the challenge in front of all institutions is to be able to differentiate between human trafficking for labor exploitation and the violation of the labor rights.

There have been informally identified single cases of TCNs subject to trafficking in 2017. Their countries of origin are in Africa (Burkina Faso, Sierra Leone) and the Middle East (Afghanistan, Iraq, Iran and Syria). Over the last couple of years there has been work on several cases of Romanian citizens and citizens of “unknown identity” (usually from the former Soviet Union republics).

Bulgaria is among the leading EU countries regarding the complete institutional framework for crime prevention and protection of victims. The human trafficking is incriminated in the Penalty Code in the Chapter „Crimes against the person“and since 2003 there has been a special Law on the Trafficking in Human Beings along with two Implementing Regulations, one of which regulates the establishment of the National Commission for Combating Trafficking in Human Beings and its administration (NCCTHB). After revising with a Decision of the Council of Ministers the National Mechanism for

⁴⁰ www.antitraffic.government.bg

Targeting and Assisting Victims of Trafficking has been adopted in 2016. The administration of the Commission is the Coordinator of the Mechanism. The roles and tasks of the competent institutions and organizations towards targeting and assisting the victims are clearly described in the national Mechanism. Also it clearly describes the significance of the formal and informal identification, the special rights of the victims of trafficking and the possibilities of assistance. During the process for the establishment of the draft Mechanism in the period of 2008-2010 Bulgaria participates in one of the first international projects for the creation of the Transnational Mechanism for Coordination and Targeting (TRM) under a program of the International Center for Migration Policy Development (ICMPD).

In 2017 there was the greatest number of specialized services for victims of trafficking, funded or co-funded by the national budget since the adoption of the specialized Law on the Trafficking in Human Beings. The services tailored only for this specific target group, funded by the budget of the NCCTH and managed by NGOs are 8, including shelters for temporary accommodation and reintegration and centers for assistance, crisis centers for children victims of trafficking as well as for persons that according to information of the investigative authorities are endangered of the highest risk of trafficking (especially in cases of minors).

Based on information in the Situational Report of Europol for 2016 the trafficking of human beings for the purposes of sexual exploitation continues to be the most reported form of trafficking within the EU and the most common victims are the women from Central and Eastern Europe, including Bulgaria. The most reported victims of labor exploitation are men from Bulgaria, Czech Republic, Estonia, Poland and Slovakia.⁴¹

Based on data from the Ministry of Interior there is a distinguish difference between the profiles of victims regarding the different types of trafficking they have been involved in. The profile differs depending on the country of final destination as well as on the place the victim has been exploited.

The differences are most visible for the different sexual exploitation – elite, street or club based. Often are involved as victims in the elite clubs exploitation girls and women of Bulgarian origin with good or higher status, coming from good families, educated, with foreign language knowledge. Forced to prostitute on the street are girls and women of Roma origin, with lower social status and lower or no educational degrees. Because those girls and women could not or did not want to have any professional realization in different fields they have been attracted from the possibilities to earn good money and to have a higher standard of living abroad. Mostly the victims come from the regions of Pleven, Sliven, Plovdiv and Pazardzhik.

Regarding the labour trafficking the victims come from almost all regions in Bulgaria especially the poorer regions with high levels of unemployment and low salaries. Usually these are low qualified mostly from the minorities and they work abroad without contacts and insurances mostly in constructing business and agriculture.

Regarding the trafficking in women for the purpose to sale their new-borns in Bulgaria and abroad the observations that Bulgarians are victims as well as they participate in organizing or facilitating this type of crime have been confirmed. The victims are mostly Roma people with no education and living under the social minimum, single mothers or mothers with a lot of children or young girls from poor families. There are single cases registered of victims' women with Bulgarian ethnical origins who are drug or alcohol addicts.

⁴¹ Europol, *Situation Report: Trafficking in Human Beings in the EU*, February 2016, p. 3-4.

The observed in the recent years so called “soft methods” which assume the usage of addictions and limited violence against the victims is a precondition to decrease the number of the identified victims of trafficking. Popular remains the so-called “loverboy” method. The cases where there is a trafficker-victim relationship with the purpose of sexual exploitation are evolving. In some of the cases women get into a trafficking situation in the process of finding a mediator for sexual services. The numbers of cases where the victim and the trafficker share the profit are increasing lately. If there is break in the principle for sharing the profit only that the victim alarms the authorities.

Having in mind the victims’ profile their social status and the new forms of relationships with the trafficker there are not so few cases where the victim is not able to realize the possibility to be part of human trafficking. Often the victims do not recognize themselves as such. That is why the initial identification of the potential risk or the real victim is of a great importance.

The timely identification of a potential and/or real risk as well as the recognition of the persons already involved in trafficking is one of the basic challenges in front of the state authorities and the organizations in the field. The formal or informal identification is the initial position from which the personal needs of the victims of trafficking could be detected most accurate and clear and they could be offered social, legal, health, psychological assistance and a plan for a reintegration.

There is a stable tendency those victims that have been taken out from the trafficking situation to remain strongly vulnerable in regard to be involved in trafficking again. Of great importance for the prevention of re-victimization is the focused social, psychological and advisory work with victims with the consideration of the potential risk

Based on the data from the NCCTHB and the analysis of the regular researches many of the cases of trafficking (women and men) involve individuals with specific needs:

- Health problems and/or chronic diseases
- Permanent /or continuing physical disabilities
- Victims with mental disabilities
- Trafficking of human beings for mendicancy – in many of those cases the victims are chronically ill, often alcohol addicts, unemployed or homeless people.

Based on data from the NCCTHB and the Mission of IOM in Bulgaria for the last three years there are more cases of trafficking for forced mendicancy – Bulgarian citizen, forced to beg in Sweden and France. The IOM state the tendency to increased fake marriages with TCNs for the purposes to grant long term residence status on the territory of the EU and following involvement in labour exploitation.

The civic organizations in Bulgaria, active in the field of counteracting trafficking in human beings and supporting victims, share similar observations with regard to trends.

The annual reports on shelters and crisis centers operating at the NCCTHB show that a large percentage of victims (around 70%) are prone to cooperate with investigative and law enforcement authorities in anti-trafficking proceedings.

Despite the reported trends related to some changes in the profile characteristics of victims, their economic status remains the leading factor determining the potential threat to persons and/or groups of vulnerables. Data collected by the NCCTHB and NGOs points out trafficked and re-trafficked people are mostly representatives of poor economic regions, small

settlements where jobs and livelihoods are limited. There is also a direct correlation between the level of educational and the risk of trafficking.

In regard of the new migration realities, it becomes visible the process of spreading the criminal practice as women and girls from marginalized communities are becoming potential and/or real victims of human trafficking by forced marriage. Therefore, it is a major challenge the organizing and conducting preventive activities that impact the general public and those who have a high level of vulnerability.

Last but not least, it should be taken into account the dissemination of trafficking practices through new methods, tools and approaches, based on the use of information technology. Such a large and targeted range of preventive activities should be achieved by enhancing fruitful interinstitutional interaction and conducting joint information, practice-oriented (setting up and working out an individual and institutional response mechanism) for preventive campaigns, activities and events. Additional value could be achieved by enhancing the exchange of information on cases of victims of trafficking in human beings and synchronizing the steps taken and measures to be taken with them through the overall coordination and allocation of professional responsibilities according to the key competences of the parties and specialists involved.

The trafficking in human beings can rarely be distinguished as an independent illegal act. In a larger percentage of cases, it is a combination of various violations and crimes. At the same time, reducing the force as a mechanism of imposing and impact of so-called “soft methods” of control affect victims’ ability to self-estimate themselves as victims and call a signal against the perpetrators. The possibility of residing in the EU as full-fledged citizens of the Union, lack of worldly opportunities and prolonged criminal proceedings reduce the motivation of victims to testify against traffickers in the trial.

Achieving a balance between the rights and needs of victims on one hand and the objectives of investigating the crime on the other hand is very important.

The globalalization and spread of technologies have created additional challenges to counteract the trafficking in human beings. Increasingly is important the usage of the Internet in the organized crime groups operations, including the targeting and involvement of victims in the crime, access to personal data, organization of transport and logistics, control and exploitation of victims. At the same time, the traces of evidence via-Internet-space could increasingly be used to effectively investigating the crime.

One of the successful models of co-operation in crime investigation is the establishment of Joint Investigation Teams (JITs), which are particularly effective, especially when investigating cross-border organized crimes. The General Directorate for Combating Organised Crime (GDBOP) of the Ministry of Interior has accumulated extensive experience in implementing this European tool against the trafficking in human and being an example of good practice. Currently, the Directorate is involved in 6 such teams with EU Member States to investigate trafficking in human beings (with the Netherlands, the Benelux, Germany, Spain and Sweden). The JITs involved the Europol and Eurojust as well.

Migration processes create new challenges related to the primary identification of victims of trafficking and among migrants from third countries. Although Bulgaria is predominantly a transit destination for migrants Middle East whose ultimate goal is the Western European countries. According to the profile and needs of this particular vulnerable group measures have been taken to identify the signs of exploitation and trafficking in human beings and to adapt the services and protection provided under the law against illegal trafficking,. In concern of the migratory attitudes of third-country nationals, there are specialized information and prevention activities that alert the risks of irregular migration and

trafficking. The NCCTHB includes activities for the development of specialized and specific prevention materials in its National Programs for information of migrants and asylum seekers (in the centers of the State Agency for Refugees) as well as for the specialists from SAR dealing with these target groups.

Highly vulnerable groups in regard to human trafficking are unaccompanied minors and third-country nationals crossing Bulgaria. A comprehensive and integrated approach to work with unaccompanied minors, particularly in the communicative/linguistic and cultural specificities, is a key element for the authorities, institutions and organizations to meet the challenges including in terms of protecting and guaranteeing the rights of this group. In this connection, Bulgaria is working on the establishment of a Specialized Center for accommodation of unaccompanied minors from third-countries in order to provide complex and integrated services for them.

Another 3 specialized/profiled services for victims of trafficking in human beings were disclosed to the NCCTHB in 2017. Namely they are the Asylum Home, Center for Temporary Admission of Adults, Victims of Trafficking in Human Beings and the Crisis Center for Children Victims of Trafficking in Human Beings. The three service facilities are located in Sofia and have a total capacity of 20 seats. Together with the other five functioning services of the NCCTHB in the towns of Varna and Bourgas (two shelters for temporary accommodation, two counseling centers and one shelter for subsequent reintegration), the total number of specialized services becomes 8. By guaranteeing their work, the state has the highest capacity to assist the 34 victims of the crime (24 adults and 10 children). The specialized/profiled services are provided by NGOs under the administration of the NCCTHB and can accommodate both women and men (minors and adults), victims of trafficking in human beings (formally and informally identified) regardless of their nationality, ethnic and religious.

During the revised period, the number of accommodated persons in the NCCTHB shelters is 22 persons. Adults are 11 of them (all women) and were placed there in 2017. Along with 3 of these women are accommodated their children (total number of 3). Separately, 3 minors who have been formally identified as victims at high risk were placed in the Crisis Center for Children, Victims of Trafficking to the NCCTHB, functioning since September 2017. Additionally:

- Five women accommodated by NCCTHB during previous years were still under guardianship in 2017 r.
- One of the accommodated women in Bourgas is informally identified as a trafficking victim for labour exploitation. She is citizen of Sierra Leone.

In services provided by NCCTHB all accommodated persons victims receive legal, psychological, social and medical assistance and support, based on identified needs and on a case-by-case basis.⁴²

9.2. Policy and Legislative Developments

Countering trafficking in human beings and protecting victims is a national priority, the achievement of which requires the development of a system of specific measures in areas such as prevention, prosecution and punishment, inter-agency communication, protection and reintegration of victims. In this regard, in 2017 the government of Bulgaria adopted the National Strategy for Combating Trafficking in Human Beings 2017-2021⁴³. It is a key policy

⁴² Report on actions by NCCTHB, available on: www.antitrafficking.government.bg

⁴³ <http://www.strategy.bg/StrategicDocuments/View.aspx?lang=bg-BG&Id=1237>

document that sets out the priorities and objectives related to the effective and long-term response - both to the crime and its consequences.

The aims and priorities set out in the National Strategy for Combating Trafficking in Human Beings 2017-2021 are in line with those outlined in the EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016 and the objectives and priorities outlined in the overall European legislation , regulating the work on the issue.

Key points of the National Strategy for Combating Trafficking in Human Beings:

1. The Strategy outlines five areas of priority:

- Active public prevention focused on vulnerable groups.
- Enhanced identification, protection, assistance and support to victims of trafficking in human beings, regardless of their ethnic, national, religious and gender.
- Effective prosecution and punishment.
- Enhanced interagency and international coordination and cooperation.
- Immediate, competent and responsive actions to the real needs of the victims of trafficking.

To implement the priorities and objectives of the Strategy, a number of measures should be carried out in the following areas:

- Timely identification (formal and informal) of the victims of trafficking in human beings and providing them with assistance and support that is comprehensive and relevant to their needs.
- Efficiency, effectiveness and scope of prevention activities and practices at institutional and interinstitutional level aimed at preventing trafficking in human beings and re-trafficking.
- Acknowledge the crime of trafficking in human beings and carrying out effective and at the same time victim-friendly investigation and prosecution.

2. Implementation and reporting of the Strategy

The National Strategy for Combating Trafficking in Human Beings is implemented through the annual National Program for Counteracting Trafficking in Human Beings and Protection. The program contains activities, expected results and performance indicators. They are also the equivalent of an action plan to implement the strategy. The program has been developed on the basis of the key priorities and objectives of the strategy and offers solutions for the implementation of the measures envisaged, taking into account new realities and trends in the crime of trafficking in human beings.

The national program for preventing and counteracting trafficking in human beings and protection of victims for 2017 was adopted by the Ministerial Council and includes activities divided into seven sections: Institutional and organizational measures, prevention, capacity building, statistics data collection and analysis, support and protection of victims, international cooperation, legislative amendments, and others for effective implementation of policies. The program is developed annually by the members and the administration of the NCCTHB.

The anti-trafficking program for 2017 included 40 activities that were implemented by the administration and members of the NCCTHB. Apart from these activities, it is important to

mention those implemented at the regional level and by the local commissions, especially in prevention requiring a local and regional approach. For the purpose of more targeted prevention and support for crime detection, the specialized mapping, including mapping of regions, through the analysis of focus groups in vulnerable communities in 2016, continued to be carried out jointly with external specialists in the field in 2017. The analysis of this pilot activity naturally leads to greater clarity about the trends in human trafficking crime, the profile of victims and perpetrators, better understanding, about their environment, and sheds light on the complex dynamics of their relationships. Given that in a few cases victims can easily cross the threshold and become perpetrators. The increasingly important role of the Internet and new technologies, both in crime and in its prevention and tracking traffic-related crimes is becoming apparent. Personal relationships and creation of emotional dependence between a victim and a trafficker remain the key, both in obedience and subsequent manipulation.

10. MIGRATION AND DEVELOPMENT

Priorities of the Bulgarian Presidency

The link between migration and development will continue to be a priority for the Presidency. Bulgaria will continue the objectives of the Migration Consensus. The work on renewing partnerships with the countries from Africa, the Caribbean and Pacific coast will be prompted to raise the level of cooperation at a higher level within the changing international environment. The Cotonou Agreement expires in 2020 and the Bulgarian Presidency will be involved in working towards a common position within the Council on the draft of a new negotiating mandate of the steering committee. The activity of the previous presidency of the dossier on "Digitization for Development" will be continued.

The Bulgarian Presidency stressed the importance for enhancement of crisis resilience as a key element of the EU Global Strategy. It will work to further implement the link between humanitarian aid and development, especially for the EU's neighboring states. Bulgaria as President will focus on coordinated implementation of the European Consensus on Humanitarian Aid and finding an effective collective response to emerging, outgoing and ongoing crises, with a special emphasis on frozen crises. In the run-up to the World Humanitarian Summit, the Bulgarian Presidency will promote the effective use of innovative solutions.

10.1. General Overview

In regard of the negative net migration of Bulgaria and the significant volume of Bulgarian citizens emigrated since 1989, the potential for development in migration policy is mainly considered on the potential of Bulgarian emigrants abroad. Similar priorities are set out in the National Strategy on Migration, Asylum and Integration (2015-2020) and in the National Strategy for Bulgarian Citizens and Bulgarian Historical Communities around the World. The strategy aims at creating a policy framework for the development of a long-term and integrated state policy for Bulgarian citizens and Bulgarian historical communities abroad. The strategic objectives are aimed at the inclusion of Bulgarian citizens who are temporarily or permanently resident abroad in public life in Bulgaria; preserving Bulgarian ethnic and cultural spaces abroad; improving the migratory balance in the country; dissemination of a positive image of Bulgaria in the world and support for the Bulgarian lobbies abroad.

Since year of 2006 the Ministry of Labor and Social Policy has established a network of labor and social services in some embassies of the Republic of Bulgaria abroad. Presently, 8 of such offices operate at the Bulgarian diplomatic representations in Athens, Berlin, Bern, Dublin, London, Nicosia, Madrid and Vienna. The main functions of the services include assistance in the implementation of the states' policies in the field of free movement and in compliance with the social security systems in the EU and in defense of the rights of Bulgarian citizens in these spheres⁴⁴.

No new policies or legal amendments in the area of migration and development have been adopted for the reported period.

⁴⁴ <http://www.mlsp.government.bg/index.php?section=CONTENT&I=266&lang=>