UNHCR
United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

PROTECTION BRIEF
BULGARIA

INTERNATIONAL PROTECTION PROCEDURES

JANUARY 2025

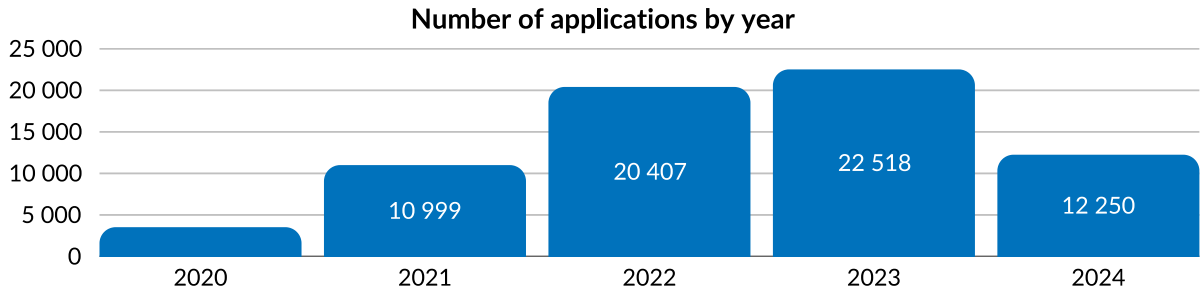
International Protection beneficiaries taking part in Bulgarian language classes at the Compass Centre in Plovdiv © UNHCR/Dobrin Kashavelov

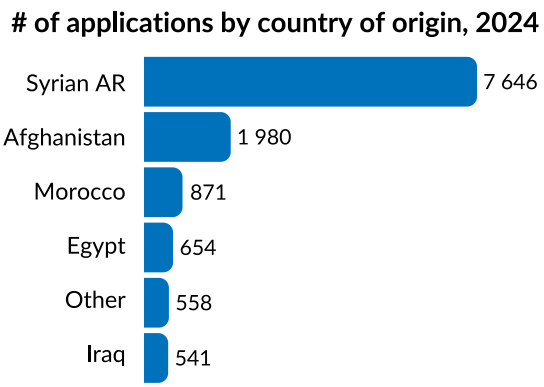
Operational Context

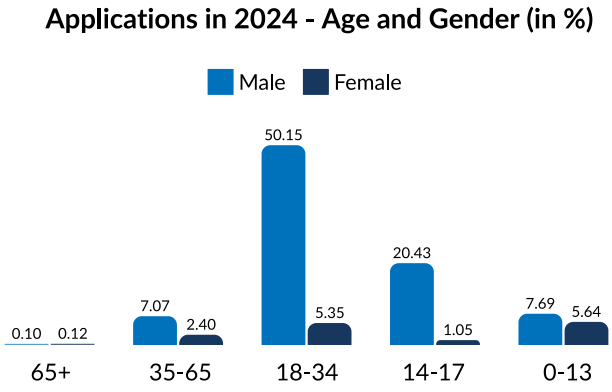
From 1 January 2024 to 31 December 2024, the State Agency for Refugees (SAR) received 12,250 applications for international protection including 2,601 from unaccompanied children. 8,090 total decisions on international protection status were made in 2024; additionally, 7,301 cases were terminated as the applicants deemed to have absconded or have moved onwards through the EU.1 Refugee status was granted to 56 persons, while 4,894 persons received subsidiary protection. Additionally, 1,525 individuals, including applicants from the Russian Federation, were rejected in accelerated procedures as manifestly unfounded, and 1,615 were rejected in regular procedures.This brief examines the current situation related to the procedure for granting international protection in Bulgaria, highlighting the progress achieved towards ensuring fair and efficient procedures, incorporating the relevant international and EU standards and safeguards, and outlining remaining challenges. The brief aims to support Bulgaria in aligning its policies its human rights and refugee law obligations and with the national implementation of the EU Pact on Migration and Asylum with respect to the asylum procedures. In Bulgaria, the recognition rates in deciding asylum applications are significantly lower than in other EU Member States, in particular for Afghan refugees and asylum-seekers, other than those by Syrian nationals (see below). Following the fall of the Ba'ath Government in Syria in December, Bulgaria has continued to process asylum applications while following UNHCR's advice to avoid premature returns of asylum seekers and refugees.

Key Figures

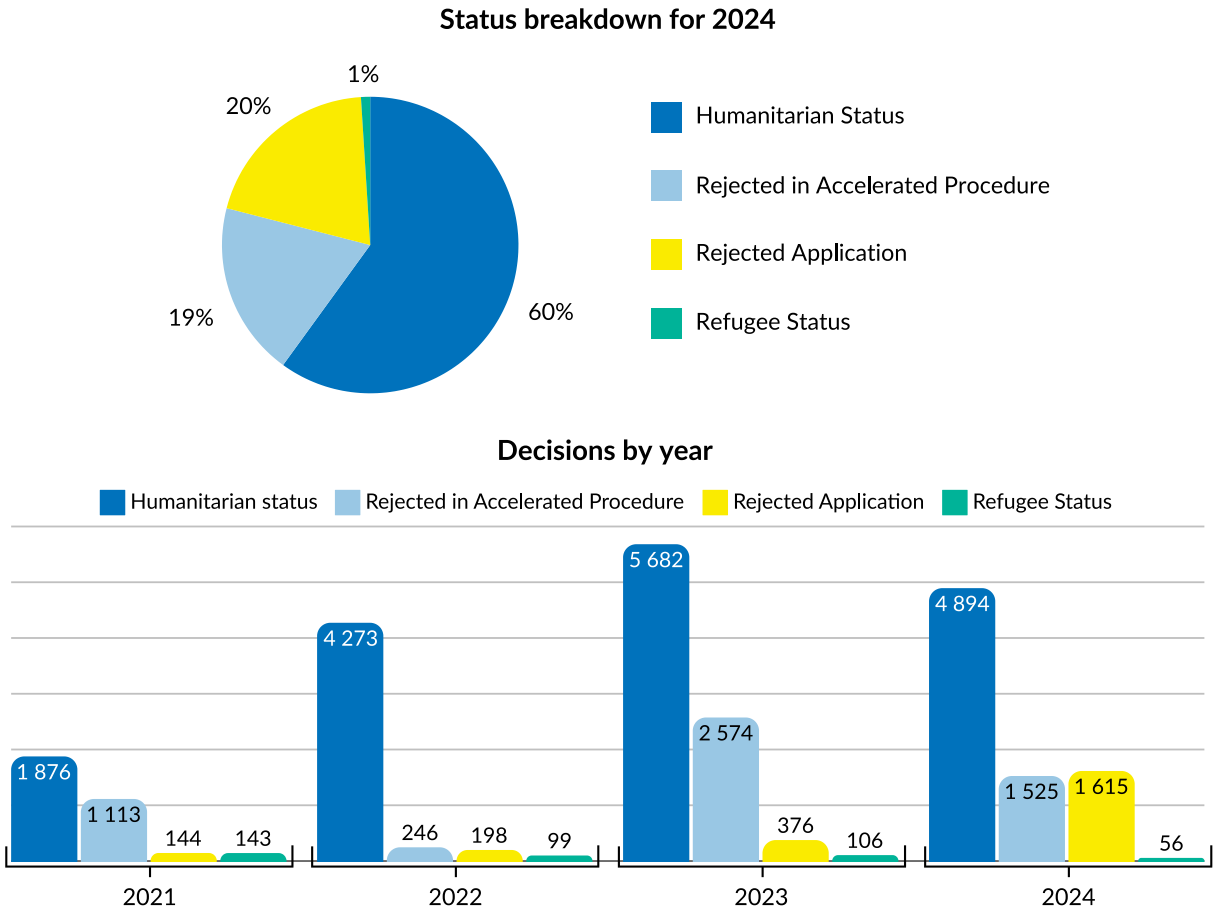
(Data: State Agency for Refugees)







[1] The applications which are determined or terminated include those filed in 2023 and 2024, and thus do not add up to the total number of applications in 2024.



Overview

Legislative Framework

The Law on Asylum and Refugees (LAR) regulates the reception of asylum-seekers, the assessment of their claims and their rights upon recognition. The State Agency for Refugees (SAR) is responsible for registering and examining applications for protection. SAR has also adopted Internal Rules on the Procedure for Granting International Protection.

According to the Law on Asylum and Refugees, a person may express their wish to seek international protection before any authority, which is then obliged to refer it to SAR, registering the applicant within 3 working days if they appear directly before it and within 6 working days if the application is submitted before another authority. Under accelerated procedure, a decision on refusing the application as manifestly unfounded can be made within 14 working days of the registration of the applicant (see below). In other cases, the asylum authority (SAR) is obliged to issue a decision within 6 months of initiation of the procedure[2]. According to the annual report published by the UNHCR partner Bulgarian Helsinki Committee monitoring the procedure for granting international protection, the 6-months deadline is complied in 95 percent of all monitored cases in 2023[3] and in 98 percent cases in 2024. The decision may then be appealed before the respective administrative court and a cassation appeal before the Supreme Administrative court is also envisaged.

[2] The interviewer is obliged to prepare a statement to be presented to the Chairperson of SAR within 4 months after the opening of the procedure. The deadline may be extended by 9 months under specific circumstances. The maximum period within which a decision on the application must be issued by the administrative authority is 21 months.
[3] BHC, Annual Report on Status Determination Procedure in Bulgaria 2023, March 2024, p. 25.

The Law on Legal Aid enshrines the possibility to provide legal assistance to asylum-seekers also at the administrative stage, in addition to that of it being awarded by the court on appeal. However, in practice, due to financial and capacity limitations of the National Bureau for Legal Aid, such assistance and representation at the administrative stage are only available to unaccompanied children.

Protection Risks

Challenges for Applicants with Specific Profiles or Protection Needs

Asylum seekers, including those with specific profiles or protection needs, in particular children, survivors of trauma related to violence and abuse or trafficking in human beings continue to face major challenges in the international protection procedures. UNHCR observes that high rate of applicants abandoning their claims to move onward to other EU countries, including the most vulnerable among them, is linked, among other factors, to challenges embedded in the international protection procedures in Bulgaria.

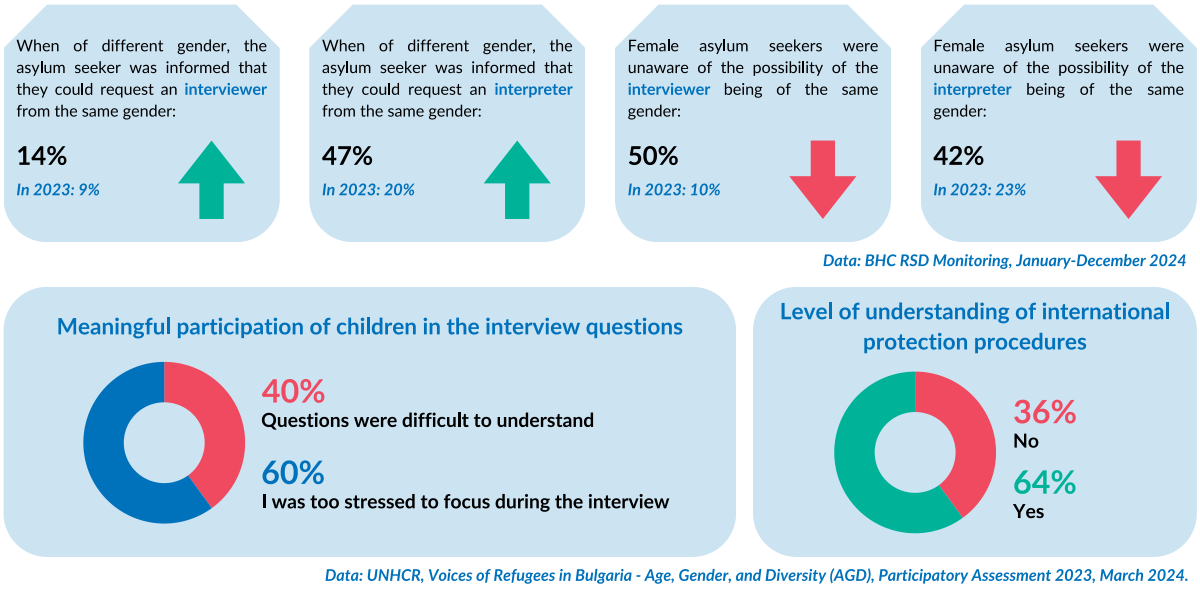
During the participatory assessment with asylum seekers and refugees conducted in January 2024, UNHCR found widespread and entrenched distrust in the international protection procedures among asylum seekers and refugees. UNHCR and its partner Bulgarian Helsinki Committee (BHC) monitor the international protection procedures in Bulgaria and provide feedback and recommendations on the procedures and individual cases through a tripartite coordination mechanism. While the national law encompasses some of the main safeguards to ensure fair and efficient asylum procedures, there is need for their implementation in line with international and European legal framework, including the judgements of the administrative courts and the Court of Justice of the European Union.

The risk of the procedure disadvantaging people with specific profiles or needs remains in practice. The internal rules of SAR provide that social workers should be present in registration including to identify asylum seekers with specific needs or vulnerabilities, stemming from their age, gender, disability or experiences of torture, gender-based violence, or other serious forms of psychological, physical or sexual violence. In 2023, BHC monitoring indicated that social workers were present in 50 per cent of the registration interviews, and identification or needs assessment reports were not available in 91 per cent of the cases monitored. In international protection procedures, unaccompanied children (see Protection Brief - Protection of Unaccompanied and Separated Children) and women were particularly disadvantaged in terms of meaningfully participating in the interview. Further information in the UNHCR "Voices of Refugees in Bulgaria" [4] Gender-based violence or sexual orientation, gender identity and expression, or sex characteristics are not recognised yet as a ground for providing protection despite the provisions of EU legislation and case law, including a judgement by the Court of Justice of the European Union in January 2024.[5]

Following the judgement, at the national level the administrative court of Sofia city rescinded the negative decision on the admissibility of the subsequent application of a survivor of domestic violence and returned the case to SAR, highlighting also its "categorical and undoubted conclusion" that the applicant fulfils the criteria for being granted refugee status (Administrative Court Sofia-city, Decision No 2043, 28 March 2024). The Supreme Administrative Court (SAC) ruled in favour of a gay man highlighting that SAR should have

[4] UNHCR, Voices of Refugees in Bulgaria - Age, Gender, and Diversity (AGD), Participatory Assessment 2023, March 2024.
[5] CJEU, WS v Intervyuirasht organ na Darzhavna agentsia za bezhantsite pri Ministerskia savet, 16 January 2024.

conducted a detailed assessment of the substance of the law in the applicant's country of origin, particularly in light of the evidence that it was assessed by UNHCR to be discriminatory. The court clarified that it is not necessary for measures in place in the country of origin to have directly targeted at the applicant and highlighted that the fact that he has not publicly declared his sexual orientation does not mean that he should be expected to continue to conceal it on his return to his country of origin to avoid discriminatory treatment (Supreme Administrative Court, Decision 8554, 9 July 2024). Despite this positive development, challenges in the interview and assessment claims remain, including in relation to credibility assessment, legal analysis and assessment of risk of persecution in the absence of specific country of origin information. Reception conditions, including friendly or specialized services and accommodation for such applicants, also have a negative impact on their ability to fully present their claim.



Expanded Scope of Accelerated Procedures

In Bulgaria, accelerated procedures are used extensively. Under Article 13, para. 1, in conjunction with Art. 70 (1) of the Law on Asylum and Refugees (LAR), if the applicant does not fulfil the conditions for being granted international protection their application may be rejected as manifestly unfounded in an accelerated procedure. In March 2024, SAR submitted a proposal for amendments in the Law on Asylum and Refugees, incorporating provisions recommended by UNHCR. With regards to the accelerated procedures, UNHCR is concerned with provisions that could lead to the rejection of applications for international protection in accelerated procedures, including on credibility grounds, which require an assessment of credibility rather than processing the case in an accelerated procedure, and for non-compliance, which are not in line with Bulgaria's obligations under international and EU law. UNHCR is particularly concerned about the broad scope of applications that can be rejected as "manifestly unfounded", which could include cases with specific protection needs, when the applicant may not be forthcoming with the facts of their cases when this is not facilitated in an interview in cases of applicants with intellectual disabilities and those with mental health conditions, including those undergoing trauma. In UNHCR's well-established experience, unreliable methodologies of obtaining information may result in apparent contradictions and inconsistencies. An applicant's statements can appear inconsistent due to age, gender, emotional factors such as shame, impact of trauma, intellectual or psycho-social disability, or mental health condition, which requires the interviewing authority to cooperate with the

applicants to obtain information that may be corroborative of the claim.[6] Fair and efficient application of accelerated procedures under EU law also requires a robust mechanism to identify specific profiles and protection needs of applicants, such as disability and trauma. Apart from unaccompanied children, there is no exemption of persons in need of special procedural needs from accelerated proceedings under the national law of Bulgaria.

In addition to asylum seekers from Morocco, Egypt and other countries from North Africa, cases of applicants from Afghanistan, Iraq and the Russian Federation are often processed under accelerated procedures with a presumption that they are often manifestly unfounded applications. From 1 January 2024 until 30 November 2024, SAR issued 7800 decisions on the merits, comprising denial of international protection in 1,434 cases processed in the regular procedure and 1,452 in accelerated procedures. UNHCR's findings from the audit of cases processed in the accelerated procedure show important gaps of safeguards. These include interviews following a standard questionnaire, regardless of the claim and the facts of the case, with none of the interviews starting with a free account. Regarding the decisions issued under accelerated procedure, UNHCR observed cases where applicants made claims raising issues such as ongoing armed conflict in their country of origin, threats of violence by family members due to applicants being perceived as having violated social norms; such applications were nevertheless refused as manifestly unfounded on the basis that they did not raise any reasons for a well-founded fear of persecution.

In these audits, challenges were also observed in relation to the application of actors of persecution in particular in claims concerning non-state actors, the forward-looking nature of the assessment of the risk on return and the application of the correct standard of proof. While the country-of-origin information report was normally up-to-date, it was sometimes not relevant to the specific circumstances of the case and the profile of the applicant including place of residence, religion or individual experiences.

Inconsistent Recognition Rates

Recognition rates of certain nationalities such as Afghan and Iraqi asylum seekers are well below the EU average, and do not necessarily align with the nature of the claims and the situation in the country of origin as analysed by UNHCR and EU Asylum Agency. The recognition rates for Afghan nationals in the first eleven months of 2024 was 10 per cent compared to 57 per cent for the EU in October 2024, while for Iraqis it was 5 per compared to EU average of 34 percent in October 2024.[7] UNHCR participatory assessments indicate that expectation of negative decisions, along with the reception conditions and lack of integration prospects, contribute to the propensity of Afghan and Iraqi refugees and asylum seekers, including those in protracted displacement, for moving onwards within the EU.

In addition to the reliability of information obtained through the interview, expansive use of the safe country of origin and safe third country concept also affects recognition rates. Following the adoption of lists of safe third countries and safe countries of origin in April 2024, the use of these concepts and the denial of claims of international protection to applicants originating from these countries or those arriving from presumed safe third countries have increased. In UNHCR's view, existing legislation does not incorporate all safeguards enshrined under EU law concerning the application of the safe third country concept, including in relation to informing the applicant on the consideration of the safe third country concept in their case,

[6] See also International Association of Refugee and Migration Judges, Assessment of Credibility in Refugee and Subsidiary Protection claims under the EU Qualification Directive - Judicial criteria and standards, March 2013, para. 90.

[7] EU Asylum Agency, Latest Asylum Trends, 17 December 2024.

the possibility to challenge the safety of the third country in their particular circumstances and the existence of a connection between them and that country and the lack of clarity on what constitutes a "connection", beyond the requirement that the person has "stayed" in that country. Such an expansive application of the safe third country concept may also shift the responsibility to assess refugee claims to the main countries hosting refugees, such as Türkiye, including when an applicant transited such countries. A recent reference to the CJEU[8] by a Bulgarian court has raised a number of issues regarding the concept and its application.

Regarding claims of applicants from Syria, in addition to those refused on the grounds of Türkiye constituting a safe third country, SAR started in the last quarter of 2024 issuing rejections of applications on the merits, deeming that the situation in Syria does not respond to a situation where the indiscriminate violence reaches such a high level that that the civilians, solely on account of their presence on the territory of that country or particular region, would face a real risk of being subject to that threat. Such decisions are primarily based on the assertion that the applicants have not stated any specific individual reasons for them to fear that will be exposed to risk of serious harm on account of factors particular to their personal circumstances or persecution on the grounds enshrined in the 1951 Geneva Convention, including in claims of draft evaders where the risk upon return is not always assesses in line with international standards in particular in relation to the standard of proof.

The conflation under national law of admissibility and accelerated procedures, with applications from safe third countries as a ground for declaring them as manifestly unfounded with admissibility procedures only applicable to subsequent applications is a relevant concern. UNHCR welcomes the amendments proposed to the LAR in March 2024 aimed at differentiating the grounds and introducing separate procedures for processing of cases where the examination of applications may be accelerated from those that are to be found inadmissible, as the existing provisions conflate the two concepts, The proposed amendments do not incorporate standards and safeguards envisaged under international and EU law regarding such procedures. UNHCR is of the opinion that admissibility procedures tend to create procedural inefficiencies, increase backlogs, add unnecessary layers and costs, or shift the burden to non- EU countries.[9]

Most importantly, the proposed amendments envisage terminating the procedure for granting international protection on the grounds of inadmissibility where the applicant has been granted refugee status or other type of protection in a country which is not a Member State of the European Union, provided that the individual is readmitted to a country that is considered the first country of asylum. This provision does not incorporate the requirement under EU law that the person recognized as a refugee should also be able to avail themselves to that protection. In the absence of this guarantee, there is a risk that the person may have their procedure terminated as inadmissible and be returned to a country where they do not in practice enjoy any longer protection and standard of treatment under international human rights law. In line with the jurisprudence of the ECtHR, in considering protection in a non-EU country, protection must not only be available under the law but must also be effective in practice.

[8] Case C-718/24 [Aleb], Summary of the request for a preliminary ruling pursuant to Article 98(1) of the Rules of Procedure of the Court of Justice, 22 October 2024.
[9] UN High Commissioner for Refugees, UNHCR's 2024 Recommendations for the Belgian and Hungarian Presidencies of the Council of the European Union, 10 January 2024.

Calls to Action

UNHCR recommends the Government of the Republic of Bulgaria to:

- Ensure that international, EU and national standards and the CJEU and ECHR case law are implemented in decision-making, in particular with respect to the cases of children at risk, women, persons with disabilities and torture or trauma survivors.
- Leverage the national implementation of the EU Pact on Migration and Asylum to set up robust and effective mechanism to identify and refer persons with specific reception and procedural needs to appropriate assistance and services and provide for the necessary procedural guarantees; and to exempt such applicant from accelerated procedures and introduce prioritized assessment of their cases.
- Adopt the necessary legislative amendments to ensure that only those claims which are clearly fraudulent or abusive, or clearly not related to the criteria for the granting international protection may be rejected as manifestly unfounded.
- Ensure that the claims of applicants raising future risk of persecution and serious harm are fully examined, safeguarding them against being considered to present manifestly unfounded claims under the accelerated procedure based on indications of their non-compliance with procedures, their nationality or stay in a non-EU country.
- Make provisions in the national implementation of the EU Pact on Migration and Asylum to allow the State Agency for Refugees to access resources, including with a view of scaling up support for case workers to employ interview techniques and information-gathering and assessment tools that are fit for purpose, including gender-responsive, trauma-informed and child-friendly procedures, and avoid using standard, pre-set questions asked to all applicants with similar profiles regardless of their claims, individual circumstances or experiences, in cooperation with UNHCR and the EU Asylum Agency.
- Facilitate access of the National Bureau for Legal Aid to resources to strengthen its administrative capacity and funding to provide legal assistance at all stages of the procedure for granting international protection.
- Ensure that the safe third country or safe country of origin concepts are applied on a case-by-case basis, ensuring an individual assessment that takes into account the specific circumstances of the case, while incorporating all safeguards enshrined under international and EU legislation and case law.

These recommendations are made by way of exercising UNHCR's responsibility to support the Government of Bulgaria aim to enhance the fairness, efficiency, and integrity of the asylum system, ensuring that the rights and needs of vulnerable individuals are adequately protected. They are also consistent with UNHCR's recommendations to other EU countries facing similar or comparable challenges. A fair asylum system promotes social cohesion by ensuring that all individuals, regardless of their background, are treated with dignity and respect. This can reduce mixed and onward movements that expose people in need of international protection to perilous journeys controlled by smuggling and trafficking networks within the EU.

END.