

ASYLUM SYSTEM IN SLOVAKIA

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Abstract

The Slovak Republic was confronted with the phenomenon of migration and refugee issues shortly after the revolution in 1989. Although, the first refugees began to flow into the country from the second half of 1990. First influx of refugees led to the need to develop asylum legislation and to set the basics rules of the immigration and asylum policy. Special focus should be given to refugee children, especially those between age 13 to 18, who are one of the most vulnerable in this group, because they are many times regarded as adults or foreigners and not first as children.

Keywords

Asylum, Refugees, Refugee Children, Protection

STATISTICAL BACKGROUND

More recently Slovakia has become a destination for new immigrants (Mačkinová, 2012). However, the Slovak Republic is for most refugees and refugee children only a transit country. Between 1993 and 2013 it received 57 349¹ asylum applications, as whole 618 applicants were granted asylum, 509 international protection and 7507 cases were rejected. Action was suspended on the rest of the applications. The No. of asylum seekers reached their climax between 2001 and 2004 with a historical maximum in 2004 - 11 395 asylum seekers. Only 6 European countries had more applications submitted than Slovakia, this year. The 2005 – 2012 period was characterized by a dramatically opposing trend and the No. of asylum seekers fell from 3549 to 491 in 2011. As far as the nationalities of the asylum applicants are concerned, the 5 largest

groups in 2012 were from Somalia, Afghanistan, Georgia, Congo and Moldova. Although asylum seekers represent a considerable proportion of immigrants coming to the Slovak Republic, only about one third of the claimants continued in their asylum procedure.²

Between 2000 and 2006 Slovakia experienced a strong influx of unaccompanied minors (UMs) applying for asylum with highest peak in 2002. In 2002 were received 1371 UMs' asylum applications. However, there were several cases when adult asylum seekers claimed to be younger than 18 years and later in the procedure it was established that they were adults. Most children were coming from former republics of the USSR, India, Pakistan, Afghanistan and Bangladesh, aged 16 to 18 years. Given this situation, the Migration Office of the Ministry of

¹ Statistic source: Migration Office of the Ministry of Interior of the Slovak Republic (various)

² Hurna L.: Asylum legal framework and policy of the Slovak Republic, ISSN 2029– 2058, s. 1402

Interior SR devoted 2 specialized facilities for vulnerable groups of asylum seekers,

where most of the refugee children claiming asylum were placed.

Table 1. Asylum application in Slovakia 2002 - 2012

Year	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Asylum applicants	9743	10358	11395	3549	2849	2642	909	822	541	491	732
Grants of asylum	20	11	15	25	8	14	22	14	15	12	32
Grants of subsidiary protection	-	-	-	-	-	82	66	98	57	91	104
Total grants	20	11	15	25	8	96	88	112	72	103	136

Table 2. Asylum seeking children in Slovakia 2002 - 2012

Year	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Dependants 0-18	-	-	-	-	221	102	43	33	38	40	50
UM's asylum applicants	1371	707	196	101	138	157	72	28	7	18	5
Total 0- 18 asylum applicants	-	-	-	-	359	259	114	61	45	58	55

In the UK asylum application rose from 4256³ in 1987 to a peak 84 132 in 2002, and decline to 21785 in 2012. Between 2002 and 2012 were received 350235⁴ asylum applications (excluding dependents), as whole 42203 applicants were granted asylum, 4 370 exceptional leave, Humanitarian Protection or Discretionary Leave and 262452 had been refused asylum or exceptional leave. The No. of asylum seekers reached their climax

between 1999 and 2002 with a historical maximum in 2002. From 2004 No. of asylum seekers fell significantly in the UK. More recent data shows that in 2012 UK had 21785 asylum applicant's (82% were males, 18% females), 5139 applicants' were granted asylum and in initial decision were 10853 refused. The highest No. of asylum applicants in 2012 were from nationals of Pakistan, Iran, Sri Lanka, India, Bangladesh. Syria saw the highest percentage increase in applications. Most of the applicants are young and male.

³ Blinder, Scott. "Migration to the UK: Asylum." Migration Observatory briefing, COMPAS, University of Oxford, UK, February 2013.

⁴ Statistic source: Home Office (various)

Between the years 2002 and 2004, Britain received 41613 asylum applications from children. However, statistics from this period provided by The Home Office (from here on in referred to as HO) are only estimating on dependants under 18, showing % of all dependant asylum seekers who are children. The No. of unaccompanied minors is clearly shown. We can only estimate, that the highest No. of children claiming asylum in the UK was

between 2002 and 2003 with over 33 000 cases. The period between 2005 – 2009 is relatively stable with around 7500 applications per year. After this year the No. of children seeking asylum declined with 5400 applications in 2011. The largest groups of asylum seeking and refugee children were from Afghanistan, Somalia, Sri Lanka, Iran, China, Bangladesh and India

Table 3. Main asylum applicants in UK 2002 - 2012

Year	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Asylum applicants	84132	49407	33960	25712	23608	23431	25932	24487	17916	19865	21785
Grants of Asylum	8272	3863	1563	1941	2168	3545	3727	4188	3488	4309	5139
Grants of HP/DL (ELR)⁵	20136	7211	3995	2798	2304	2198	2166	2554	1707	1339	962
Total Grants	28408	11074	5558	4739	4472	5743	5893	6742	5195	5648	6065

Table 4. Asylum seeking children in UK 2002 - 2012

Year	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Dependants 0-18	15160 ⁶	8618	5465	4206	3819	3896	3847	4362	2647	4010	-
UM's asylum applicants	6200 ⁷	3180	2990	2965	3450	3645	4285	3174	1717	1398	1168
Total 0 - 18 asylum applicants	21360	11798	8455	7171	7269	7541	8132	7536	4364	5408	1168 ⁸

⁵ Humanitarian Protection and Discretionary Leave were the two key statuses introduced in 2003 by United Kingdom following the abolition of the protection status “exceptional leave”.

⁶ Estimated No. of dependants under 18 years 2002 - 2007. Source: Home Office: the National Archives

⁷ <http://webarchive.nationalarchives.gov.uk/20110218135832/http://rds.homeoffice.gov.uk/rds/pdfs2/hosb803.pdf>

⁸ Data on dependants would be available by Home Office at august 2013

THE ASYLUM LEGISLATION IN SLOVAKIA

The Constitution of the Slovak Republic in article 53 stipulates that: “The Slovak Republic shall grant asylum to aliens persecuted for the exercise of political rights and freedoms. Such asylum may be denied to those who have acted to violate the fundamental human rights and freedoms”⁹. The federal Act was replaced by new Act on Refugees No. 283/1995 Coll. which came into force in 1996. It was first Slovak national legislation relating to the refugees. The Act described the procedures of state authorities on the process of determination of refugee status and defined the rights and duties of aliens who applied for refugee status or who were granted refugee status in the territory of the Slovak Republic.¹⁰ Improvements were adopted regarding the legal status of a recognized refugee and foreigner to obtain temporary protection. There was criticism directed at this refugee Act by the European Commission to be less restrictive. The asylum legislation need to be more detailed regarding access to the procedure.¹¹ The Act was amended by Act No. 309/2000 Coll. The Act introduced the subsidiary protection status and more complex procedures for granting temporary shelter. Since its entry came into force it has been amended six times with last two

amendments in 2007 and 2008. The last amendments more accurately clarify the rules for conducting interviews with asylum seekers with an emphasis on the special rights of unaccompanied minors. The interview with an unaccompanied minor can only be conducted in the presence of his/her guardian who can prepare them for the interview and inform the minor about the importance and possible consequences of the interview.

Within the last 20 years Slovakia has introduced many new broad policy papers, legal frameworks and strategies (and the national legislation was adopted in compliance with the international and EU instruments on asylum matters), despite the fact that Slovakia usually enacts only the minimum standards required by the relevant EU directives.¹² The latest document adopted in 2011 is the Migration policy of the Slovak Republic with a perspective by the year 2020.

THE ASYLUM PROCEDURE

The asylum process starts once an application for refugee status is submitted upon arrival at any Alien and Border Police Centre near the border, international area of the airports or elsewhere at the specialized police departments on the country’s territory. The Migration Office of the Ministry of the Interior SR (MO MI) is responsible for examining of asylum applications and for making the decision. The Migration Office is also responsible for determining if another EU state could be responsible for lodged asylum

⁹ Humanitarian Protection and Discretionary Leave were the two key statuses introduced in 2003 by United Kingdom following the abolition of the protection status “exceptional leave”.

¹⁰ Article 1(1) of the Refugee Act No. 283/1995 Coll.

¹¹ European Commission. Regular report from the Commission on Slovakia’s progress towards accession, 1998, p. 35.

http://ec.europa.eu/enlargement/archives/pdf/key_documents/1998/slovakia_en.pdf>

¹² Guličová, M. G.; Bargerová, Z. Organisation of Asylum and Migration Policies in the Slovak Republic. Bratislava: International Organization for Migration Bratislava, 2008, p. 23

application (the Dublin procedure). A notable part of the asylum procedure is the interview. The asylum seeker is requested to present grounds for asking asylum. The police have to provide the asylum seeker with an interpreter from the language in which the applicant is able to communicate.¹³ After applying for asylum, the applicant is placed in a reception centre which is run by the Migration Office. In the reception centre applicants are registered and issued with a photo ID designating them as asylum seekers. Asylum seekers receive free accommodation, food, and health care as well as other necessary material assistance and pocket money. Social, legal and psychological counselling, as well as social activities, are provided by on an everyday basis by NGO's, mostly funded by European Refugee Fund (ERF). The Asylum Act stipulates that an asylum seeker, or anyone who is granted a temporary shelter or a supplementary protection, has an automatic right to a temporary or a tolerated permit of stay in Slovakia.¹⁴ The duration of the asylum process varies for different asylum seekers¹⁵. The outcome of the asylum procedure is the decision of the Migration office on the granting or the non-granting of asylum or subsidiary protection. The Migration Office is obligated to provide its decision within the 90 days after the asylum application is made. The decision could be appealed to the Regional Court in Bratislava or Košice and in the second

instance to the Supreme Court of the Slovak Republic. It is not unusual for applicants to wait several months for the final decision.

Decisions on asylum applications may have the following outcomes:

Grant asylum

A recognized refugee has most of the rights of the Slovak Citizens, including right to access labour market, social welfare and education and the decision is followed by the process to help integrate into Slovak society.

Subsidiary protection

If the asylum is not granted, the Migration Office may decide to grant to the foreigner a subsidiary protection for one year. This status can be extended for an additional year if the reasons for the subsidiary protection still exist. The foreigner has the right to a temporary residence permit, pocket money, accommodation and can be employed. He/she can attend also free Slovak lessons.

Tolerated stay

If there is an existing obstacle to the administrative expulsion of the foreigner, the foreigner may apply for the tolerated stay permit with the Alien police department, after a review of the case and the indicated reasons for the tolerated stay by this department. A tolerated stay is granted for up to 180 days, but it is possible to renew it repeatedly. The foreigner cannot be employed or start business, but has the right to a material need allowance. They cannot have public health insurance, with the exceptions of the

¹³ §6 (2) of the Act on Asylum

¹⁴ http://www.emn.sk/phocadownload/emn_studies/emn_sk_study_on_organiz_of_migr_asylum_policy_sr_en.pdf

¹⁵ Under the amendment to the Asylum Law, asylum seekers may enter the labour market if the decision on their case has not been lawfully issued within one year.

victims of human trafficking and receive accommodation assistance.

Refusal

Once an asylum application has been refused, the applicant can appeal within 30 days at the Regional Court or to the higher court instances (following the appeal process), then leave Slovakia through voluntary returns (IOM), be removed or to leave without permission, which is what happens in more than 90 % of cases.

CONCLUSIONS

Many times it is stressed out by the Government and as well by the Local Authorities that Slovakia is only a transit country where migration issues play not a significant role. This negative approach can later affect the process of the integration of migrants into the society, local community and the further education of refugee children, too. It is also very important to know, understand and work with the ideas and views of refugee children in each country.

We need to understand that the best interest of the child is their own interest and motivation. (Stančiak J., Novotný, J., Příbyl H., Kopáčiková M., 2009).

Continuous research on the topic is very needed. Important is the involvement of the universities and postgraduate researchers in the topic to better understand the needs of refugees and refugee children. Cooperating on European Level and learning good practice from our neighbours.

International protection of refugees in particular pursuing and defending the rights of persons who have been forced to suspend contacts with their country of

origin. These persons are mostly aware that their country of origin can not expect protection from the police, a fair trial, redress committed them or punish those, who violate their rights, not even help of consular offices, while located abroad. (Mačkinová, 2010)

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