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Migrant Typology: Definitions and Current Trends in Bulgaria and Romania

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MIGRANT TYPOLOGY: DEFINITIONS AND CURRENT TRENDS IN BULGARIA AND ROMANIA

Eduard Marinov, PhD*

Abstract

The paper presents the main features of different forms of immigration - refugees, asylum seekers, migrants, illegal migrants, economic migrants, stateless persons, trying to give a definition to the different categories of migrants based on the international and national legal practice. It then summarizes the acting in Bulgaria legal basis for the different types of immigrants. The paper continues with a comparison of the main trends of migration, citizenship acquisition and asylum and permits in Bulgaria and Romania. The conclusion poses some questions on the nature and future development of migration processes.

Keywords: EU migration policy, migration trends, refugee, asylum seeker, economic migrant

JEL Classification: F22, J61, O15

Introduction

Many people in need of international protection come to the EU in search of asylum. The member-countries of the EU grant such protection to people fleeing their own country and unable to return there due to justified fears of persecution or the threat of serious harm. The EU has a legal and moral obligation to protect those needy. EU countries are responsible for examining asylum applications and for deciding who should benefit from protection.

However, not everyone who comes to Europe really needs protection. Many people leave their homes in an attempt to improve their standard of living. These people are often referred to as "economic migrants" and, if they do not have a legitimate right to protection, then national governments are obliged to ensure that they are returned (voluntarily or through coercive measures) in their country of origin or in another country through which they have crossed.

The terms "refugee", "asylum seeker" and "migrant" often are used interchangeably to describe migrant people, but there are large differences and different requirements as regards their treatment. The paper will describe the difference between some different legal, economic and social concepts - refugee, asylum seeker, migrant, illegal migrant, economic migrant, stateless person.

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Definitions

All people that are moving from one country to another do it for one of two reasons – they are either fleeing from something, or they are fleeing to something. Migrants and refugees often travel in the same way, but economic migrants decide to leave their country to improve their future economic prospects and those of their families while refugees need to move to save their lives or preserve their freedom.

According to the UN, a refugee is a person who has left his country for fear of persecution because of race, nationality, belonging to a particular social group, or political opinion. Refugees do not enjoy protection from their state. It is possible that their own government threatens them with persecution. The recognition of a refugee status provides protection under international law, notably the 1951 UN Refugee Convention, and support from the United Nations High Commissioner for Refugees (UNHCR) with food, shelter and safety. Refugees have three options: repatriation to the country they have escaped; integration into the host country; or relocating to another country.

The economic immigrant and the illegal migrant are persons voluntarily leaving their country in search of better opportunities for work and realization. These persons can return to their homeland because they enjoy the protection of the government as well as the rights set by the laws of their country.

Sometimes, however, the distinction of an economic migrant from a refugee is not easy to make just as it is not always possible to clearly distinguish the economic from the political measures in the country from which the asylum seeker comes. Behind economic measures affecting a person's life there may be racial, religious or political ends or intentions directed against a particular group. Where economic measures disrupt the economic existence of a certain part of the population (e.g. deprivation of commercial rights, discriminatory or over-taxation of a particular ethnic or religious group), according to circumstances, their victims may become refugees leaving the country.

How much the same would apply to victims of general economic events (i.e. those that apply to the whole population without discrimination) depends on the circumstances of the case. Disagreement with general economic activities is not, by itself, sufficient grounds for applying for a refugee status. On the other hand, what appears to be a purely economic motive for leaving can in fact involve a political element, for example, when the political views of the individual expose him to serious consequences, and not his objections against the economic measures themselves.

The asylum seeker is someone who seeks a refugee status. These people flee their country seeking international protection. Those who are considered neither refugees, nor needing any form of international protection can be returned to their home countries. "Candidate for refugee status" (asylum seeker) is a general term for a person who has not yet received a decision on his / her application for refugee status. This may be a person who has not yet applied or who is waiting for an answer. Not every candidate for refugee is granted refugee status. A person does not become a refugee because he is granted a refugee status, but vice-versa - he is

granted a refugee status, because he is a refugee.

Humanitarian status is granted to an foreign citizen who is forced to leave or remain outside his country of origin because he is in a real danger of serious harm, such as death penalty or execution, in that country; torture or inhuman or degrading treatment or punishment - serious and personal threats against his life or personality as a civilian person due to violence in the event of an internal or international armed conflict.

Stateless persons (apatrides) are those who cannot or do not wish to return to the country in which they were habitually resident. These are persons who are not considered citizens of any country. The criterion of identifying a person as stateless, if he has a citizenship, is that he or she cannot, or will not, wish to avail himself of the protection of his country or nationality. The existence of a nationality is evidenced by the presence of a valid passport. Not all stateless persons are refugees and not all refugees are stateless persons. The procedure for granting the status of a stateless person is determined by the Law on Foreigners in the Republic of Bulgaria and by the Rules for its application.

Migrants and refugees often travel in the same way, but migrants decide to leave their country for reasons that are not related to persecution. They may want to study abroad, get together with their family or improve their future economic prospects and those of their families. The migrant continues to enjoy the protection of his own government, even when he is abroad. Refugees need to move to save their lives or preserve their freedom.

An illegal immigrant is often someone who arrives in a country with a legal visa but remains after the expiry of that visa. Asylum seekers can become illegal immigrants if their refugee status is not approved and they remain in the host country.

Legal basis in Bulgaria

The importance of national law as a source of refugee law is due to the role of the state in resolving the issue of granting refugee status. In Bulgaria the refugee status is regulated by several different legal acts - the Constitution of the Republic of Bulgaria, the Asylum and Refugees Act (2002), the UN Convention Relating to the Status of Refugees (1951) and the Protocol relating to the Status of Refugees to the UN Convention (1967).

According to Art. 27 The Constitution of the Republic of Bulgaria: "The Republic of Bulgaria grants asylum to foreigners persecuted for their beliefs or activity in defense of internationally recognized rights and freedoms".

According to the Law on Asylum and Refugees, a refugee is a foreigner who is reasonably afraid of persecution because of his race, religion, nationality, belonging to a particular social group, political opinion and / or conviction, who is outside the country of his or her nationality; if he or she is stateless, is outside the country of his permanent residence and, for these reasons, cannot or does not want to enjoy the protection of or return to that country.

The Asylum and Refugees Act regulates not just the right to asylum, but the right of refugees to receive special protection, which takes four forms:

- Asylum is granted by an act of the President to foreign citizens persecuted for their beliefs or activities in defense of internationally recognized rights and freedoms. The President may request an opinion from the Chairperson of the State Agency for Refugees (it is not mandatory).
- Refugee status is granted to foreign citizens who have reason to fear persecution for their race, religion, nationality, social affiliation, and political convictions. It is provided by the Chairperson of the State Agency for Refugees.
- Humanitarian status is granted to foreign citizens who have left their country due to a threat to their lives, security or freedom arising from armed conflict, as well as death, excessive or humiliating punishment. It is provided by the Chairperson of the State Agency for Refugees.
- Temporary protection is granted to foreign citizens who have left their country due to armed conflict, civil war, alien aggression or other forms of violence. Provided by the Council of Ministers.

The 1951 Geneva Convention on the Status of Refugees and the 1967 New York Protocol were ratified and introduced into Bulgarian law in 1992. Under the Universal Declaration of Human Rights, everyone has the right to seek and obtain asylum in other countries when pursued. Moreover, according to the 1967 Declaration on Asylum, asylum is a peaceful and humanitarian act that cannot be considered hostile to another country. However, countries have no obligation to grant asylum, and each individual country decides whether to grant asylum based on the principle of sovereignty. The 1951 Convention Relating to the Status of Refugees not only provides a detailed definition of the term "refugee" but also fully regulates asylum seekers' rights and obligations within the territory of the country.

The different treatment of the term "refugee" in international treaties and national legislation has led to different doctrinal approaches to the most appropriate definition of refugees consistent with the modern motivation of forced migration. Supporters of the Convention approach believe that the refugee concept of the 1951 Convention is the only universal definition recognized at international and national level. Others argue that the definition of the Convention has a number of shortcomings and does not meet the current development trends of refugee rights.

Current trends in Bulgaria and Romania

International migration and refugees issues affect virtually all countries. There are three main reasons for mass migration and refugee flows - wars, socio-economic crises and persecution of the personality, violations of political freedom and other human rights. These reasons are global in nature, so all regional structures and actors fighting the migrant crisis have to coordinate their actions – within international organizations such as the UN, the Council of Europe and the EU. Along with the question why do people move from one country to another, there is also the issue

on where do they move to. Its answer is strongly related to the first one – if people flee from something threatening, they move to safety, while if they migrate to be better off compared to their current status-quo, they seek a “better place”.

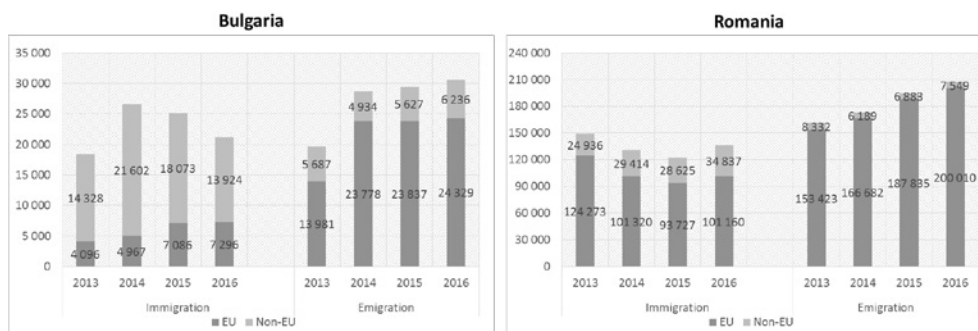
In this regard, this section will provide some quantitative data on the current trends of migration, citizenship and asylum seeking in Bulgaria and Romania.

Nowadays, more than 7.5 billion people live in the world, with less than 10% of them in Europe. As a whole, Europe's population is aging and the EU has to take care of managing this problem to retain competitiveness. There are many reasons why it is impossible to reach the required birth rate in the near future. Undoubtedly, the flow of migrants could help Europe cope with the internal demographic imbalance. In addition, migrants are used as labor resources and help increase labor productivity in host countries. One should also not undermine the risks to the social and educational systems of the countries that have accepted many refugees, the difficulties of their integration, the rise of xenophobic and nationalist sentiments in society. Therefore, policy-making on immigration and migrant integration will remain a priority area of EU and EU member-countries policy for decades.

Migration data show some significant differences between the current situation in Bulgaria and Romania (Figure 1). While both countries have a negative balance – emigration slightly exceeds immigration in both countries, the source of incoming people has a totally structure – in Bulgaria nearly 2/3 of migrants come from outside the EU, while in Romania their share is just about 1/4. There are some differences in the outgoing flows – in Romania almost all emigrants move to the EU, while in Bulgaria there are some (about 20%) who are migrating to other (non-EU) countries. The share of incoming and outgoing people is also different (twice bigger in Romania) – for emigration it is almost the same in the last years – over 1% in Romania and 0.45% in Bulgaria (annually), while for immigration it is 0.7 in Romania and 0.3% | Bulgaria for 2017.

Figure 1

Immigration and migration

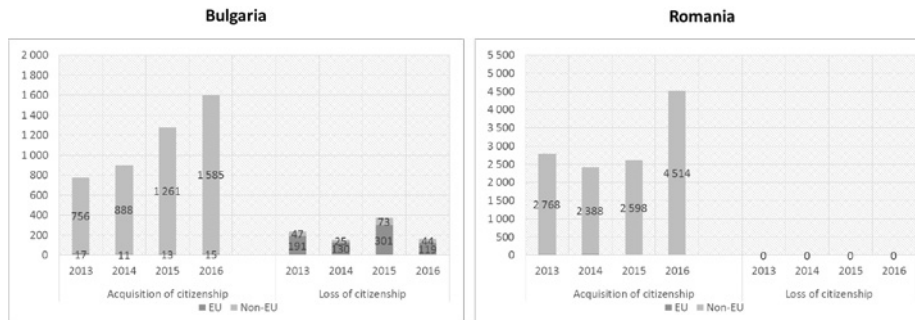


Source: Eurostat

Another significant difference is observed regarding the share and origin of foreign citizens – over 1% annually in Bulgaria (13112 EU and 58809 non-EU in 2017) and just under 0.5% in Romania (48030 EU and 59805 non EU in 2017). It should be noted that non-EU citizens living in both countries are almost equal but their number in Bulgaria is increasing more rapidly – from 40614 in 2014 (compared with 52529 in Romania). The number of citizenship acquisitions (Figure 2) is increasing in both countries in the last few years, mostly for non-EU citizens, but one should note that in Bulgaria there are also cases of loss of citizenship (200-300 people annually) and most of these are to other EU member-states citizens.

Figure 2

Acquisition of citizenship

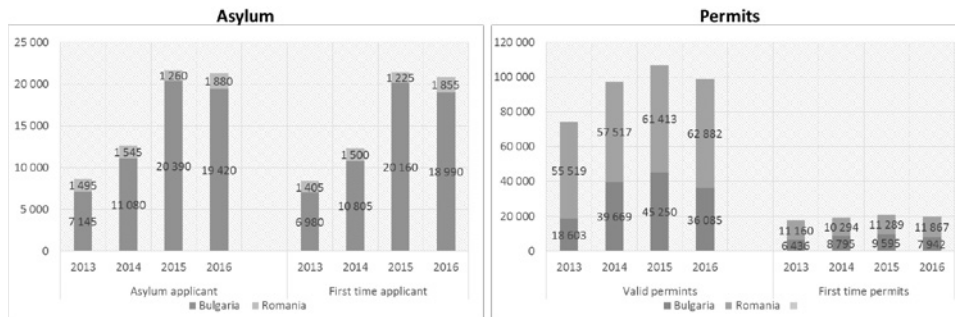


Source: Eurostat

The most significant differences are observed regarding asylum applications and valid permits for permanent residence (Figure 3).

Figure 3

Asylum and permits



Source: Eurostat

There are almost no asylum applicants in Romania in the years after the 2015 migrant crisis (1000-1500 annually), while in Bulgaria their numbers are quite high (nearly 20000 in 2015, 2016 and 2017) which shows that the notion of the existence of a “Black Sea migrant route” is not justified. First time applications retain their high numbers in Bulgaria which could be seen as a sign for the country being a relatively attractive entry-point to the EU for migrants and refugees. In both Romania and Bulgaria there are no great changes in the number valid permits permit applications and in both countries their share compared to the total population is relatively the same (0.4-0.5%). However there are some differences in the first time permanent residence permit reasons – while both countries about 3500 people apply for permit for “family reasons”, in Romania there are a lot who apply also for education reasons – 4600 in 2017 (1000 in Bulgaria) and for remunerated activities reasons – 1800 (just 300 in Bulgaria), which is a sign that Romania, unlike Bulgaria, is starting to become attractive for study and work.

Concluding questions

The paper summarized some features of different forms of immigration – refugees, asylum seekers, migrants, illegal migrants, economic migrants, stateless persons, and the acting in Bulgaria legal basis for the different types of immigrants. It also presented a quantitative comparison of the main trends of migration, citizenship acquisition and asylum and permits in Bulgaria and Romania which show some significant differences in migration between the two countries – in the source of incoming flows of migrants and asylum seekers, the direction of outgoing flows, as well as in the share of migrants and foreigners to the total population of the countries.

Based on that some questions could be posed, and their answers could be used both for defining and shaping the future policy and measures in the field of migration in Bulgaria and Romania (as well as in the EU in general), as well as for giving some directions on how to use the potential positive effects and how to manage the supposed negative impact of the future development of migration processes. Those questions, along with some directions on the way their answers could be sought, include:

1. Could immigration be beneficial?
 - the basic economic intuition
 - the basic demographic intuition
 - the basic labor-market intuition
2. What is the future of EU migration policy?
 - the global migration prospects and trends
 - the EU with a common migration policy
 - the protection of the national interests of the EU
3. Where do Bulgaria and Romania stand regarding these questions?

- marginal to the EU core, close to the external borders
- the utilization of the potential – both of migrants, as well as of EU support and policy measures
- the benefits of being part of the Schengen Area

The future of both migration processes and the EU migrant policy remains unclear, but if we think over what happened in the past we could reach some better solutions for the future.

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