



**Communication Under Rule 9.2 of the Committee of Ministers’  
Rules for the Supervision of the Execution of Judgments and of the Terms  
of Friendly Settlements  
on the Implementation of *D v. Bulgaria* (App. No. 29447/17)**

**SCOPE AND SUMMARY OF SUBMISSION**

Center for Legal Aid—Voice in Bulgaria (“Voice in Bulgaria”) and the European Center for Constitutional and Human Rights (“ECCHR”) present the following submission in line with Rule 9.2 of the Rules of the Committee of Ministers (“the Committee”) for the supervision of the execution of judgments and terms of friendly settlements, with relation to the implementation of *D v. Bulgaria* (App no. 29446/17, Judgment 20.07.2021). Voice in Bulgaria is a non-governmental, independent organization that provides legal aid to migrants and refugees within Bulgaria and conducts advocacy to promote their rights. ECCHR is a non-governmental legal and educational organization based in Germany that has supported a range of litigation concerning expulsions and procedural rights at Europe’s external and internal borders. Both organizations supported the case *D v. Bulgaria* and possess expertise regarding continuing expulsions from the country and at European borders.

Voice in Bulgaria and ECCHR provide the following submission to the Committee to highlight that the deficiencies identified in the Court’s judgment have remained unaddressed and ongoing since the case of *D*, and to provide recommendations that can assist the Committee in ensuring the Judgment’s full implementation so that similar violations do not continue (outlined in Section I). In finding that Bulgaria had violated article 3 and article 13 in conjunction with article 3 of the Convention by returning a Turkish journalist to Turkey **without a prior assessment** of the risk he faced there, the Court took issue with:

- (a) First, **inadequate interpretation** offered to the applicant, which prevented him from understanding the procedures he was subjected to and the removal documents that he was forced to sign (§132);

- (b) Second, the applicant's **lack of access to information about his rights, lawyers, or specialist organizations or institutions, including the Ombudsperson**, to assist him or to monitor his situation (§§132-133); and
- (c) Third, the **extreme hastiness of the applicant's removal**, preventing a full assessment of his risk upon return and rendering available domestic remedies unavailable in practice (§§133-134).

As delineated in this submission, these shortcomings in fact represent systemic failures that have continued since the case of *D*. Key recommendations to the Committee for general measures addressing these deficiencies are as follows:

- To mitigate the **lack of adequate interpretation offered to foreign nationals apprehended and facing deportation**:
  - Call on Bulgaria to ensure that potential applicants for international protection are provided with **effective interpretation** of procedure and any provided documentation by hiring trained and independent interpreters, pursuant to Article 8 § 1 of Directive 2013/32/EU. In no case should a forcible measure, such as deportation or expulsion, take place if adequate interpretation has not been provided.
- To address such individuals' **lack of access to information about rights, lawyers, or specialist organizations and institutions**:
  - Request Bulgaria to provide **information on further measures** it has taken to ensure all foreign nationals and stateless persons are adequately informed of their rights.
  - Request Bulgaria to provide **information on further measures** envisaged to guarantee information sharing, as required by law, with the Ombudsperson in all deportation cases to ensure that the Ombudsperson is informed of each case of planned deportation and is provided with sufficient notice to be able to effectively exercise their function of safeguarding deportees' rights, including *non-refoulement*.
  - Request Bulgaria to **put in place mechanisms for independent monitoring** of all locations and situations in which Bulgarian authorities apprehend foreign nationals who may be in need of asylum, including at police precincts and border checkpoints.

- Request Bulgaria to implement effective **training of border police officers** including onboarding, ongoing assessment, and re-training on identifying potential asylum-seekers and guaranteeing their rights.
- To end **hasty expulsions** that expose individuals to risk of article 3 violations and hinder availability of effective remedies:
  - Ask Bulgaria to **share its implementing protocol concerning its Readmission Agreement with Turkey** as part of the EU-Turkey Agreement, including its “accelerated procedure.”
  - Call on Bulgaria to **not execute any deportation orders or readmissions** until the potential deportee (1) has been informed of their right to appeal the order in a language they understand and (2) has specified their intention to not appeal, or (3) has fully exercised their right to appeal, which must have **automatic suspensive effect**.
  - Ensure Bulgaria conducts **an individual, pre-removal assessment of risk** of Article 3 violations before initiating deportation or readmission procedures, regardless of the person’s country of origin and the outcome of any past asylum procedure.

Voice in Bulgaria and ECCHR also provide additional information to the Committee to alert it to the consequences of Bulgaria’s inaction to date: the continuation of irregular expulsions like that of the applicant in *D v. Bulgaria*, yet with increasing violence and impunity (outlined in Section II). In this regard, for effective supervision of the Court’s Judgment in general, they recommend that the Committee:

- Request Bulgaria to **immediately submit its Action Plan**, which is now more than four months overdue.
- Upgrade the case from **standard to enhanced supervision** in light of Bulgaria’s failure to provide an Action Plan and the intensification of irregular expulsions from its territory.

## I. KEY ISSUES FLAGGED BY THE COURT’S JUDGMENT ARE SYSTEMIC AND UNRESOLVED

### A. Lack of interpretation and translation

**Recommendations:** *The Committee should request Bulgaria to hire trained and independent interpreters to ensure that potential applicants for international protection are provided with effective interpretation. All documents must have translated copies readily available in a wide range of languages spoken by foreign nationals and stateless persons in Bulgaria. No one should be given any documents to sign or fingerprint that have not been translated into a language they understand. Bulgarian authorities should not use police officers and detainees as interpreters.*

Accessible, professional, and independent interpretation is essential for ensuring applicants’ effective access to the asylum procedure. EU law requires that potential applicants for international protection are provided with interpretation at all stages of the process, including that necessary “to facilitate access to the asylum procedure”<sup>1</sup>—which must be understood as cases in which individuals would be unable to fully express themselves (or their intention to claim asylum) or to fully understand information provided, otherwise access to the asylum procedure would not be effective. Interpretation is then required to assist individuals in submitting their cases to authorities and for understanding the decisions those authorities reach.<sup>2</sup> During personal interviews, authorities must employ interpreters who can “ensure appropriate communication between the applicant and the person who conducts the interview,” which should take place in the language the applicant prefers, unless they can clearly communicate in another.<sup>3</sup> The European Agency for Asylum (“EUAA”) elaborates that EU countries must ensure that “arrangements for the necessary interpretation in relation to the procedure are initiated as soon as the need is identified.”<sup>4</sup> EUAA’s guidance requires that free,

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<sup>1</sup> 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. Available at: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex%3A32013L0032> [Hereinafter APD]. Art. 8 § 1. See also Art. 12 § 1.

<sup>2</sup> APD, Art. 12 § 1.

<sup>3</sup> APD, Art. 15 § 3.

<sup>4</sup> EUAA. EASO Guidance on asylum procedure: operational standards and indicators. EASO Practical Guides Series, Luxembourg: Publications Office of the European Union, September 2019. Available at: [https://euaa.europa.eu/sites/default/files/Guidance\\_on\\_asylum\\_procedure\\_operational\\_standards\\_and\\_indicators\\_EN.pdf](https://euaa.europa.eu/sites/default/files/Guidance_on_asylum_procedure_operational_standards_and_indicators_EN.pdf).

trained interpreters be provided where necessary.<sup>5</sup> EU law also stresses the importance of interpretation in detention by mandating that detained individuals receive all relevant information in a language they can understand.<sup>6</sup> To further ensure effective interpretation, international standards stress that interpreters be professionally qualified and independent. The Committee on the Prevention of Torture (CPT) recommends that “[t]he use of fellow detainees as interpreters should, in principle, be avoided.”<sup>7</sup> Furthermore, UNHCR stresses that states ensure interpreters “do not take on tasks that are unrelated to their role as interpreters as this could undermine the impartiality of the interpreter.”<sup>8</sup>

Although Bulgaria has claimed that all individuals have access to interpretation when necessary,<sup>9</sup> this is not the case in practice. In 2020, the Bulgarian Ombudsperson noted that a lack of interpreters at the Lyubimets detention facility, where *D* had also been detained prior to his expulsion, maintained unresolved language barriers.<sup>10</sup> The quality of interpretation that is provided during the asylum procedure at both first and second instance has also been recorded as substandard.<sup>11</sup> According to the Ministry of Interior’s (“MoI”) response to an Access to Information (“ATI”) request made by Voice in Bulgaria, dated 24 February 2022, interpretation can be delegated to MoI employees with C1 or C2 knowledge of the relevant language,<sup>12</sup> raising concerns over interpreters’ lack of independence. In the same reply, the MoI also states that it does not possess information regarding the number of interpreters who

<sup>5</sup> EUAA. EASO Guidance on reception conditions: operational standards and indicators. September 2016. Available at: <https://euaa.europa.eu/news-events/easo-guidance-reception-conditions-operational-standards-and-indicators>.

<sup>6</sup> 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 (recast). Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0033> [Hereinafter RCD]. Art 5 § 2, Art. 9 § 4, Art. 10 § 5.

<sup>7</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). Immigration Detention Factsheet. March 2017, at p. 3. Available at: <https://www.coe.int/en/web/cpt/immigration-detention>. See also Parliamentary Assembly of the Council of Europe. Common policy on migration and asylum, Recommendation 1624. 30 September 2003. Available at: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17149&lang=en>.

<sup>8</sup> UNHCR. Improving Asylum Procedures: Comparative Analysis and Recommendations for Law and Practice, Detailed Research on Key Asylum Procedures Directive Provisions. March 2010. Available at: <https://www.unhcr.org/protection/operations/4ba9d99d9/improving-asylum-procedures-comparative-analysis-recommendations-law-practice.html>.

<sup>9</sup> CPT. Response of the Bulgarian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Bulgaria (CPT/Inf (2018) 46). 23 October 2018. Available at: <https://www.refworld.org/docid/5bceddcb4.html>, p 14.

<sup>10</sup> Ombudsman of the Republic of Bulgaria. Annual Report of the Ombudsman acting as national preventative mechanism – 2020 (English Summary). 2020. Available at: [https://www.ombudsman.bg/pictures/Annual%20Report%20NPM%202020%20-%20SUMMARY\\_EN\\_.pdf](https://www.ombudsman.bg/pictures/Annual%20Report%20NPM%202020%20-%20SUMMARY_EN_.pdf).

<sup>11</sup> AIDA. Country Report: Bulgaria, 2021 Update. 23 February 2022, p. 28-29. Available at: [https://asylumineurope.org/wp-content/uploads/2022/02/AIDA-BG\\_2021update.pdf](https://asylumineurope.org/wp-content/uploads/2022/02/AIDA-BG_2021update.pdf).

<sup>12</sup> Reply of the Bulgarian Government to Access to Information Request submitted by Voice in Bulgaria, 24 February 2022.

are hired or the number of hours of interpretation provided, revealing inadequate attention to the availability of interpretation.

Prior to the initiation of the asylum procedure, Bulgaria often fails to provide any interpreters—let alone any who are qualified and independent—to potential applicants for international protection. Individuals pushed back from Bulgaria in 2021 and 2022 were forced to sign untranslated papers they did not understand and were not provided with interpretation at any point,<sup>13</sup> as in the case of *D*. Bulgarian police have even physically ill-treated detained individuals who requested translation.<sup>14</sup> (Other not yet fully implemented Court judgments against Bulgaria highlight the consistent denial of individuals facing deportation to relevant documentation,<sup>15</sup> yet another obstacle to any potential translation of their contents.) In addition, Bulgaria does not guarantee interpretation at detention facilities including those utilized by border police upon arrest of non-nationals, even though this is required under EU and Bulgarian law in order to facilitate access to the asylum procedure.<sup>16</sup> Rather, the only available interpretation at some of these sites is provided by the Bulgarian Helsinki Committee (with funding from UNHCR) on a project basis.<sup>17</sup> As *D*'s own resulting lack of access to the asylum procedure indicates, proper interpretation is crucial to informing individuals of their rights and granting them effective opportunity to apply for asylum.

## **B. Lack of information about rights and access to lawyers and specialist organizations and institutions**

**Recommendations:** *The Committee should request that Bulgaria provide information on further measures designed to ensure all foreign nationals and stateless persons are informed of their rights. It should also provide information on measures envisioned to guarantee the*

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<sup>13</sup> Human Rights Watch. Bulgaria: Migrants Brutally Pushed Back at Turkish Border. 26 May 2022. Available at: <https://www.hrw.org/news/2022/05/26/bulgaria-migrants-brutally-pushed-back-turkish-border>.

<sup>14</sup> Human Rights Watch. Dismantling Detention – International Alternatives to Detaining Immigrants. November 2021, p. 20. Available at: [https://www.hrw.org/sites/default/files/media\\_2021/11/global\\_altdetention1021\\_web.pdf](https://www.hrw.org/sites/default/files/media_2021/11/global_altdetention1021_web.pdf).

<sup>15</sup> The Committee's supervision of other judgments against Bulgaria reveals that deportees' lack of access to relevant documents that might be used to understand their circumstances represents an ongoing and unaddressed issue. See e.g. European Court of Human Rights. *C.G. and Others v. Bulgaria*. 24 April 2008. Available at: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22002-3536%22%5D%7D>; European Court of Human Rights. *Auad v. Bulgaria* (Application no. 46390/10). 11 October 2011. Available at: <https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%2246390/10%22%22%22documentcollectionid%22:%5B%22JUDGMENTS%22%22DECISIONS%22%22%22itemid%22:%5B%22001-106668%22%5D%7D>; European Court of Human Rights. *Bou Hassoun v. Bulgaria*. 6 October 2020. Available at: <https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%2259066/16%22%22%22documentcollectionid%22:%5B%22JUDGMENTS%22%22DECISIONS%22%22%22itemid%22:%5B%22001-204851%22%5D%7D>.

<sup>16</sup> AIDA. Country Report: Bulgaria, 2021 Update. 23 February 2022, p. 48. Available at: [https://asylumineurope.org/wp-content/uploads/2021/02/AIDA-BG\\_2020update.pdf](https://asylumineurope.org/wp-content/uploads/2021/02/AIDA-BG_2020update.pdf).

<sup>17</sup> *Id.*

required by law information-sharing on deportation cases with the Ombudsperson, to ensure that the Ombudsperson is not only informed of each planned deportation but also provided with sufficient notice to effectively safeguard deportees' rights and evaluate potential cases of refoulement. The Committee should request Bulgaria to allow access to border crossing points, border police precincts, and detention centers for international and national bodies and associations wishing to carry out independent monitoring of the provision of information, interpretation, and access to legal assistance at those places. Bulgaria should also implement initial and ongoing training of border police officers, encompassing how to identify persons potentially in need of international protection, whether or not they explicitly apply for protection before them. Finally, lists containing contact information of supporting organizations or public defenders should be available in variety of languages to migrants at borders, police arrests, and detention centers should be provided.

EU law also mandates that asylum-seekers, including those that have not yet initiated their procedure, are adequately informed of their rights and provided support in doing so, such as by accessing individuals or organizations that provide advice and counseling, including at border crossing points and transit zones at external borders.<sup>18</sup> Yet lack of access to information, including about procedural rights, is an ongoing issue for those facing expulsions from Bulgaria. In several cases that the Committee has determined have not yet been fully implemented, the Court found that applicants lacked access to material documents containing key information about their expulsions, indicating the systemic nature of the problem.<sup>19</sup> The Court has also highlighted a similar pattern of legal uncertainty regarding foreign nationals' expulsions from Bulgaria, similarly preventing their ability to adequately challenge their expulsions.<sup>20</sup>

<sup>18</sup> See, for example, APD, Art. 8; see also APD, Art. 12 § 1.

<sup>19</sup> In the case of *C.G. and Others v. Bulgaria*, the decision to deport C.G. was based on information in a classified report to which the applicant did not have access. Therefore, he was unable to present his case adequately in the subsequent appeal process. In the case of *Auad v. Bulgaria*, the applicant also had an expulsion order and a detention order against him, of which he did not receive copies. The applicant in *Bou Hassoun v. Bulgaria* was likewise not privy to documents on which his expulsion was based.

<sup>20</sup> European Court of Human Rights. *M. and Others v. Bulgaria*. 26 July 2011. Available at: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22002-454%22%7D> (in which the Court found that having two different deportation orders created legal uncertainty for the applicant). European Court of Human Rights. *O.D. v. Bulgaria*. 10 October 2019. Available at: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-196381%22%7D> (in which the deportation order against the applicant did not specify a destination country, which contributed to legal uncertainty in the view of the Court). European Court of Human Rights. *Bou Hassoun v. Bulgaria*. 6 October 2020. Available at: <https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%2259066/16%22%22%22documentcollectionid%22:%5B%22JUDGMENTS%22%22DECISIONS%22%22%22itemid%22:%5B%22001-204851%22%7D> (in which the applicant's

The Ministry of Interior, or Migration authorities specifically, do not have any official agreement or ongoing program for the **regular provision of legal aid or dissemination of information** regarding return procedures or appeals of return or expulsion orders, as well as for initial detention orders and continuation of detention, to detainees. Such legal aid is provided primarily by NGOs on project bases, and due to time and resource constraints, available mainly to individuals who can be identified as vulnerable from the outset. Access to legal aid at the initial stage of entry into the country or detention is virtually impossible for migrants including asylum-seekers, as evidenced by minimal numbers of launched appeals against initial detention or return orders.<sup>21</sup>

### C. Hastiness of deportations (including via readmission agreements)

**Recommendations:** *The Committee should require Bulgaria to not execute deportation orders, including and particularly those taking place via readmission agreements, until the deportee (1) has been informed of their right to appeal the order in a language they understand and (2) has specified their intention to not appeal, or (3) has fully exercised their right to appeal, which must have **automatic suspensive effect**. In all cases, a pre-removal risk assessment must be conducted, considering the risks to the individual posed by the potential deportation, regardless of their country of origin or the outcome of any previous asylum procedure and in accordance with a procedure prescribed in law. The Committee should additionally require Bulgaria to ensure transparency regarding its procedures for implementing the EU-Turkey Readmission Agreement;<sup>22</sup> to share its full Implementing Protocol between Bulgaria and Turkey via Article 20 of said Readmission Agreement; and to provide any other relevant procedures or regulations concerning the implementation of the Readmission Agreement, including its accelerated procedure.*

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lawyer was also unable to access the documents on which the expulsion decision was based, and therefore was unable to represent him effectively).

<sup>21</sup> See, for example, Center for Legal Aid–Voice in Bulgaria and European Programme for Integration and Migration (EPIM). *Applying Engagement-Based Alternatives to Detention of Migrants in Bulgaria: Opportunities and Challenges*. September 2019, p. 3, available at: <https://detainedinbg.com/wp-content/uploads/2019/09/Doklad-June19-En.pdf> (revealing that between 2013 and mid-2016, less than one percent of detention orders reached court review).

<sup>22</sup> Agreement between the European Union and the Republic of Turkey on the readmission of persons residing without authorisation, OJ L 134, 7 May 2014, pp. 3–27, available at: [EUR-Lex - 22014A0507\(01\) - EN - EUR-Lex \(europa.eu\)](https://eur-lex.europa.eu/eli/lex/2014/05/07/obj_134/01/eng).



Hasty deportations have been identified by the Court as an ongoing and unresolved issue in other judgments regarding expulsions from Bulgaria.<sup>23</sup> In multiple instances, the Court has found that Bulgaria failed to assess risks under Article 3 of the Convention in its deportation of foreign nationals,<sup>24</sup> as in the case of *D*. In its most recent Action Plan for the *C.G. and Others v. Bulgaria* group of cases, Bulgaria has proposed amendments that would allow appeals to have an immediate suspensive effect, but only in cases where the expulsion order was based on national security grounds.<sup>25</sup> Considering the harm that results from hasty deportations, as demonstrated by the cases of *D* as well as *C.G. and Others* (in which C.G.’s deportation separated him from his wife and daughter and violated their right to respect for their family life),<sup>26</sup> such a limitation is insufficient.

Hasty deportations without an assessment of the risk that the deportee may face in the country where they are returned, as was the case of *D*, violate the principle of *non-refoulement* and the absolute prohibition of torture under international conventions to which Bulgaria is party.<sup>27</sup> Yet Bulgaria’s reliance on its readmission agreement with Turkey, adopted under Article 20 of the EU-Turkey Agreement and utilized since 2016 to quickly return migrants including asylum-seekers apprehended in the country via an “accelerated procedure” stipulated in Article 7, para. 4,<sup>28</sup> enables continued hasty expulsions from its territory. According to its response to an Access to Information (“ATI”) request submitted by Voice in Bulgaria to the Bulgarian Migration Directorate, dated 24 February 2022, the Bulgarian government returned 85 Turkish nationals and 191 Turkish nationals to Turkey under this Readmission Agreement

<sup>23</sup> European Court of Human Rights. *C.G. and Others v. Bulgaria*. 24 April 2008. Available at: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22002-3536%22%7D> (in which the applicants were removed from the territory of Bulgaria without the opportunity to appeal to the courts to suspend the execution order).

<sup>24</sup> European Court of Human Rights. *Auad v. Bulgaria* (Application no. 46390/10). 11 October 2011. Available at <https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%2246390/10%22%7D%2C%22documentcollectionid%22:%5B%22JUDGMENTS%22%2C%22DECISIONS%22%7D%2C%22itemid%22:%5B%22001-106668%22%7D%7D> (in which the Court found that Bulgaria failed to adequately consider the risks the applicant would face if returned to Lebanon, nor the possibility of onward transmission to Lebanon if returned to a third country). European Court of Human Rights. *O.D. v. Bulgaria*. 10 October 2019. Available at: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-196381%22%7D%7D> (in which the Court found that Bulgaria failed to properly assess risk of ill-treatment or death).

<sup>25</sup> Department of the Execution of Judgments of the ECHR. 1398th meeting (March 2021) (DH) - Action plan (10/12/2020) - Communication from Bulgaria concerning the case of C.G. AND OTHERS v. Bulgaria (Application No. 1365/07. 2 March 2021. Available at: [https://hudoc.exec.coe.int/ENG#%7B%22EXECIdentifier%22:%5B%22DH-DD\(2021\)23E%22%7D%7D](https://hudoc.exec.coe.int/ENG#%7B%22EXECIdentifier%22:%5B%22DH-DD(2021)23E%22%7D%7D)

<sup>26</sup> European Court of Human Rights. *C.G. and Others v. Bulgaria*. 24 April 2008. Available at: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22002-3536%22%7D%7D>.

<sup>27</sup> For example, the 1951 Convention Relating to the Status of Refugees, the UN International Covenant on Civil and Political Rights, and the UN Convention Against Torture.

<sup>28</sup> Agreement between the European Union and the Republic of Turkey on the readmission of persons residing without authorisation, OJ L 134, 7 May 2014, pp. 3–27, Art. 7 § 4, available at: [EUR-Lex - 22014A0507\(01\) - EN - EUR-Lex \(europa.eu\)](https://eur-lex.europa.eu/eli/ta/2014/0007/01/en).

in 2020 and 2021, respectively,<sup>29</sup> also raising concerns that effective risk assessments were prevented or ignored.

Therefore, the Committee should recommend that Bulgaria clearly institute a risk assessment and appeal process with automatic suspensive effect on all deportation and readmission orders. This risk assessment must be conducted prior to effecting a deportation and must be independent from any asylum proceedings and their outcome, since a foreign national may have been found not to satisfy the criteria for international protection at a given point in time and yet still face risks to their life or torture or of cruel and degrading treatment or punishment in the country to which they are deported. This risk assessment must also be conducted in situations where the foreign national is returned under a readmission agreement, including under the Readmission Agreement's "accelerated procedure." Bulgaria should ensure that the risk assessment is conducted according to a procedure determined in law and adopt respective legislative and regulatory provisions.

## II. PUSHBACKS FROM BULGARIA HAVE INTENSIFIED WITH IMPUNITY

**Recommendations:** *The Committee should require Bulgaria to immediately submit its Action Plan, which is now more than four months overdue. In light of Bulgaria's failure to comply with its obligation to provide an Action Plan within the required time frame and the intensification of irregular expulsions from its territory, the Committee should also upgrade the case from standard to enhanced supervision.*

The case of *D v. Bulgaria* represents only one example of a persistent pattern of irregular, arbitrary, and hasty expulsions, or "pushbacks," through which Bulgarian authorities fail to fulfill their ECHR obligations in their treatment of foreign nationals and stateless persons. Despite the Court's judgment, systematic pushbacks revealing the same deficiencies as those identified by the Court continue, further highlighting that Bulgaria has yet to rectify systemic issues enabling their continuation.

The Bulgarian government has repeatedly asserted that it provides all persons the possibility to apply for international protection, and that it follows international law in its treatment of foreigners,<sup>30</sup> yet it continues to utilize pushbacks as a means of preventing access

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<sup>29</sup> Reply of the Bulgarian Government to Access to Information Request submitted by Voice in Bulgaria, 24 February 2022.

<sup>30</sup> UN CEDAW. Eighth periodic report submitted by Bulgaria under article 18 of the Convention pursuant to the simplified reporting procedure, due in 2018 (CEDAW/C/BGR/8), 23 October 2019, p. 33. Available at <https://digitallibrary.un.org/record/3838119?ln=en>; UN CERD. Concluding observations on the combined

to the asylum procedure. Due to a lack of safe, legal pathways to apply for international protection, pushbacks following irregular entry are common.<sup>31</sup> In 2021, organizations involved in border monitoring recorded 2,613 incidents of alleged pushbacks affecting 44,988 people.<sup>32</sup> Official reports from the MoI recorded apprehensions of 10,799 third country nationals in 2021, all of whom registered applications for international protection.<sup>33</sup> However, the MoI also recorded over 55,000 cases of non-admission at the land border, indicating that many people potentially in need of international protection were unable to access the asylum procedure.<sup>34</sup> A mere 221 people were able to officially apply for international protection at the border.<sup>35</sup> Since the beginning of 2022, more than 150 distinct incidents of pushbacks of asylum-seekers to Turkey have been recorded by Voice in Bulgaria and Mission Wings, its partner organization in the Harmanly region, representing a much larger number of total asylum-seekers involved.<sup>36</sup> One of the most recent recorded incidents, from late June 2022, concerned a holder of valid humanitarian status in Bulgaria, who was stripped of his documents and pushed back to Turkey as he was trying to help his minor brother access the asylum procedure in Bulgaria.<sup>37</sup>

Pushbacks from Bulgaria have also relied on increasing violence. Voice in Bulgaria and Mission Wings have recorded the testimonies of several Syrian asylum-seekers, including children and women, who describe Bulgarian officers stealing their belongings, stripping them of their clothes, beating them, and releasing dogs that bit members of their traveling groups during these pushbacks.<sup>38</sup> Human Rights Watch documented the cases of 17 Afghan men who reported being brutally beaten by Bulgarian officials who also stole their belongings, attacked them with dogs, and denied access to asylum during 19 pushbacks between the summer of 2021 and April of 2022.<sup>39</sup> Turkish media has also reported on and published interviews with third country nationals who described being pushed back to Turkey after Bulgarian police beat and

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twentieth to twenty-second periodic reports of Bulgaria – Addendum: Information received from Bulgaria on follow-up to the concluding observations (CERD/C/BGR/CO/20-22/Add.1), 8 June 2018, p. 2. Available at: <https://digitallibrary.un.org/record/1629642?ln=en>.

<sup>31</sup> AIDA. Country Report: Bulgaria, 2021 Update. 23 February 2022, p. 22. Available at: [https://asylumineurope.org/wp-content/uploads/2021/02/AIDA-BG\\_2020update.pdf](https://asylumineurope.org/wp-content/uploads/2021/02/AIDA-BG_2020update.pdf).

<sup>32</sup> Bulgarian Helsinki Committee. Annual Border Monitoring Report for 2021. 21 June 2022, p. 3. Available at: <https://www.bghelsinki.org/bg/reports/2022-annual-border-monitoring-report-for-2021-bg> [in Bulgarian].

<sup>33</sup> *Id* at p. 2.

<sup>34</sup> *Id* at p. 4.

<sup>35</sup> *Id* at pp. 3-4.

<sup>36</sup> Center for Legal Aid–Voice in Bulgaria, Escalation of pushbacks from Bulgaria's borders. 7 July 2022. Available at: <https://detainedinbg.com/blog/2022/07/07/escalation-of-push-backs-from-bulgarias-borders/>.

<sup>37</sup> Public statement of Bulgarian and international NGOs, 4 August 2022, available at: <https://detainedinbg.com/blog/2022/08/04/public-statement-on-the-forcible-repulsion-of-a-person-granted-humanitarian-status-in-bulgaria/>.

<sup>38</sup> Center for Legal Aid—Voice in Bulgaria, “Pushbacks of Asylum Seekers From the Territory of Bulgaria – June 2022.” 29 June 2022. Available at: <https://www.youtube.com/watch?v=khVBQhubHZ4&t=54s>.

<sup>39</sup> *Id*.

robbed them of their belongings.<sup>40</sup> Those pushed back have been subsequently transferred to Turkish immigration detention centers, raising additional concerns about arbitrary detention and potential onward *refoulement*. Such reports of violence and inhumane treatment indicate that, rather than addressing the violations found by the Court in *D*, Bulgaria has not only continued to fail to evaluate the risks returned individuals may face in Turkey but also stepped up such irregular expulsions with impunity.

### III. CONCLUSION

The following submission has demonstrated that Bulgaria has not addressed the ongoing and systemic deficiencies identified by the Court in the case of *D v. Bulgaria*. On the contrary, expulsions from Bulgaria—characterized by insufficient or non-existent interpretation; a lack of access to information about rights as well as lawyers or specialist organizations and institutions; and extreme haste that prevents those pending expulsions from putting forward asylum claims or challenging their expulsions—continue with increasing violence and impunity. Bulgaria’s failure to address its lack of compliance with its ECHR obligations, paired with the scale and severity of ongoing pushbacks from the country, necessitate the Committee’s swift intervention and active supervision.

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<sup>40</sup> Anadolu Agency. Kırklareli’nde yakalanan 17 sığınmacı, Bulgaristan’ın kendilerini Türkiye’ye geri ittiğini ileri sürdü. 2 March 2021. Available at: <https://www.aa.com.tr/tr/turkiye/kirklarelinde-yakalanan-17-siginmaci-bulgaristanin-kendilerini-turkiyeye-geri-ittigini-ileri-surdu/2161418> [in Turkish]. See also Haberin Adresi. Avrupa hayali darp ile son buldu. 26 February 2021. Available at: <https://www.haberinadresi.com/avrupa-hayali-darp-ile-son-buldu-h316330.html> [in Turkish]; İhlas Haber Ajansı. Bulgaristan’dan göçmenlere insanlık dışı muamele: Donmak üzereyken bulundular. 17 December 2021. Available at: <https://www.ihf.com.tr/video-bulgaristandan-gocmenlere-insanlik-disi-muamele-donmak-uzereyken-bulundular-192681/> [in Turkish]; Haber Global. Bulgaristan göçmenleri darbedip Türkiye tarafına itti. 13 February 2022. Available at: <https://haberglobal.com.tr/gundem/bulgaristan-gocmenleri-darbedip-turkiye- tarafina-itti-159705> [in Turkish]; BirGün. Mülteciler anlattı: Bulgaristan polisi köpekler ile saldırıp geri itti. 22 April 2022. Available at: <https://www.birgun.net/haber/multeciler-anlatti-bulgaristan-polisi-kopekler-ile-saldirip-geri-itti-385244> [in Turkish].