Roma Minorities in Post-Communist Bulgaria and the U.S. Visa Regime

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Abstract

The inclusion in the Visa Waiver Programme (VWP) would mean more favourable development of the relationships between Bulgaria and the USA. It would also serve as recognition of the economic, political and social stability of the country. However, membership in the program is not automatic. In the past, Bulgaria has made significant progress, but there are still pending areas that hinder the finalization of the process. Specifically, Bulgaria is facing very difficult issues with its minority Roma population and its integration within its boundaries. In this paper, we will evaluate the Roma's socio-economic difficulties that they have to deal with, specifically as workers in this region. In order to complete the task, we would evaluate the historical background of the Bulgarian Roma. Specifically, we would analyse the political movement post-communism as it relates to the VWP. We believe that Bulgaria needs to support its minority Roma population and such social reforms would help the country to establish itself and to help enter into the VWP list. Bulgaria could implement programs in relationships with the "other 3 EU Member omitted States" and together work towards the inclusion in the US Visa Waiver Programme and resolution of its population issues. We believe that a coordinated strategy would help all the member states and would solve the issue in the shortest possible time and help the country enter the VWP quicker.

Keywords: Roma, Bulgaria, Visa waiver, Human rights

1. Introduction

One of the important issues on the agenda of Bulgarian foreign policy is the visa waiver for Bulgarians wishing to travel to the USA. This is a key objective for the country as the inclusion in the Visa Waiver Programme (VWP) would mean more favourable development of the relationships between Bulgaria and the USA (Nistorov, 2009). It would also serve as recognition of the economic, political and social stability of the country (Nistorov, 2009). However, membership in the program is not automatic. Currently, nations seeking membership in the VWP must meet a number of precise security and travel related steps in order to be considered for admittance. These include meeting specific non-immigrant refusal rates, issuing all residents machine readable biometric passports, and attaining a determination that membership presents no threats to U.S. law enforcement or security interests (Nistorov, 2009).

Bulgaria became a member of NATO and the European Union in 2004 and 2007 respectively. As a member of these organizations, Bulgaria has developed allied relationships with the North America and the visa regime is the last obstacle that prevents the establishment of sustainable relationships based on trust and respect within the meaning of the long-standing partnership between the two countries (Nistorov, 2009). The solution of the issue and bringing the negotiations to the end is a coherent process of meeting the criteria set by the USA (Nistorov, 2009). As regards to meeting such criteria, Bulgaria has made significant progress, but there are still pending areas that hinder the finalization of the process. There is one specific area that is not listed as a criteria but it is considered

to be a problematic area for the inclusion of Bulgaria into the VWP list. Specifically, the country is facing very difficult issues with its minority Roma population and its integration within its boundaries.

The Roma population, in Bulgaria, is considered to be one of the most suppressed ethnic groups. In his research, Vassilev (2004) notes that these local Roma, sometimes referred to as "gypsies", have remained at the bottom layer of Bulgarian society. They have constantly been "denied their rights to unobstructed political representation and equal participation" in the workforce of their country (Vassilev, 2004). In addition, they have been subject to harassment by the majority population. In recent years, there have been many cases of reported workers' discrimination and abuse cases for this ethnic group of the society (Vassilev, 2004). Unfortunately, Roma people have very high unemployment rates as a result of their lack of education, poor health and bad housing (Vassilev, 2004). Even if employment is secured, their working rights are easily violated and they are prohibited from the mainstream life of the country (Vassilev, 2004).

According to the United Nations Declaration of Human Rights (1948), "every person should have the right to seek work and to be repaid for the services provided". However, there are certain positions within large organization and governmental bodies that do not consider Roma for potential employment opportunities. "In Eastern European countries such as Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Former Yugoslav Republic of Macedonia, Montenegro, Romania and Serbia, unemployment rate among Roma people, and especially Roma women, ranges between 50 and 90%" (International Labor Office, 2008 p.26). In his research, Angelova and Zhelyaskova, 2007 notes that these "Roma minority groups suffer from many of the risks that are conducive to unemployment: low educational levels, low or no qualifications, long-term unemployment, lack of regular work habits and of the motivation to seek work". These factors make the Roma community "less competitive in labor markets and this phenomenon leads to inequality and growing segregation" (Angelova and Zhelyaskova, 2007). Angelova and Zhelyaskova, 2007 further notes that the "Roma population is one of the main losers from the changes in the labor market during transitional periods". In the last decade, the Eastern European Roma have been attracting an international attention as majority of them have started to desert their native counties to seek better opportunities (BBC News, 2010). In addition, some have even sought political asylum in the West, especially Western Europe. These movements have started some important discussions about the Roma human and workers' rights.

In this paper, we would try to analyse the road that Bulgaria has travelled to meet the criteria set by the United States Congress and the issues that the country faces with its Roma population. It should be taken into account that the visa waiver issue does not relate only to Bulgaria. In reality, there are another 3 "major" EU members (Poland, Romania and Cyprus) that are still not included in the visa free list. This omission may "complicate the long-lasting relationship between the EU and the USA" because these 3 countries including Bulgaria, according to the EU rules, are required to allow US citizens to travel within 90 days without visas and the USA has not complied with the Principle of Reciprocity. The same relates to its Roma Population. These minority populations are also present in other parts of Eastern Europe. That is, the discussion for the Bulgarian Roma and the US Visa criteria is relevant also to other Eastern European countries.

In order to have a proper discussion, we will evaluate the Roma's socio-economic difficulties that they have to deal with, specifically as workers in this region. In order to complete the task, we would evaluate the historical background of the Bulgarian Roma. Specifically, we would analyze the political movement post-communism to determine whether the appropriate actions have been taken by the government to ensure human and workers' rights have been properly established and followed. We would also analyze the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights as they pertain to the workers' rights for this suppressed ethnic group. To accomplish these objectives, we would evaluate some of the difficulties faced by the Roma minorities in today's society.

As a thesis, we believe that Bulgaria needs to support its minority Roma population and such social reforms would help the country to enter into the VWP list. Bulgaria could do this in relationships with the "other 3 EU Member omitted States" and together work towards the inclusion in the US Visa Waiver Programme and resolution of its population issues. We believe that a coordinated strategy would help all the member states and would solve the issue in the shortest possible time.

2. Visa Waiver Criteria for Foreign Citizens Set by the United States Congress

The Visa-Free Travel Programme (VFTP) is an act of alliance between the countries that have adopted it, and the USA. It was introduced as a pilot program in 1986 with the aim of facilitating tourism and short-term business visits to the United States, and allowing the United States Department of State to focus consular resources on addressing higher risks. It favours the relationships between the countries and creates a bridge for long-lasting

cooperation. Initially, the VFTP was created as a pilot program with an early expiration date set at September 30, 1997. This expiration date was later modified to reflect on the benefits of the program. Specifically, in their report to the Congress, Congressional Research Service (CRS, 2004) comments on the expiration and finalization of the visa waiver program into statutory law:

The pilot program was scheduled to expire on September 30, 1997, but temporary extensions were included in both Continuing Resolutions passed in the 105 Congress. In 1998, Congress enacted legislation that not only extended the program through April 30, 2000, but made other changes to the standard by which countries are selected (designated) to participate in the VWP. On October 30, 2000, the Visa Waiver Permanent Program Act was signed into law.

That is, initially developed as a pilot, the benefits of the visa waiver program have outweighed the costs. The program has transformed itself from temporary solution to a more permanent to the immigration difficulties. In addition, the introduction of this program serves as a gesture on the part of the USA to show confidence in its partners.

In order to protect its boarders, US have implemented stricter criteria, as the country relies on the personal responsibility of the newcomers not to allow terrorists in their territory. In this context Bulgaria enjoys great confidence and the Previous President of the United States George Bush has defined the country as the guardian of the regional security and US partner in the global war on terrorism (Bulgarian Daily Newspaper, 2007). Bulgaria has sent its military contingent to Afghanistan and Iraq and has proved its devotion to the United States and the NATO allies.

It is important to acknowledge that the terrorist threats have not prevented the implementation of the VWP (Nistorov, 2009). This is due to the positive aspects and benefits for tourism and trade that USA receives. That is, the US Congress has to properly weight the benefits (the extra visitors and trade partners) and the costs (the security risks that each new member possess to the US). In the following paragraph, we present the criteria set by the US Congress that countries need to meet in order to be considered for entrance into the programme (VWP, 2006) (CRS, 2004) (Nistorov, 2009):

- To offer reciprocal privileges to the U.S. citizens;
- The number of non-immigrants should not exceed 3% for the previous year or, on average, not more than 2% during the previous two fiscal years, as each of them should not exceed 2.5%, (the new criteria are based on 10% of the rejected visa applications);
- To issue passports, which are machine-readable (all newcomers that have entered the Visa Waiver Programme should have a similar passport);
- To develop a programme to issue passports, which cannot be faked and which have a fingerprint index;
- Not to allow ignorance of the laws or the security interests of the United States after being involved in this programme;
- To develop a programme to issue visas, which cannot be faked and are machine readable and to include fingerprint indexes, which can be checked when entering the country.
- To enter into arrangements with the United States and to report or provide information via Interpol about any lost or stolen passports;
- To accept the repatriation of any citizen or former citizen, who has been issued a final order of removal not later than three weeks after the order has become effective;
- To negotiate with the United States to share information about any citizen of any country, who travels across the U.S.A and poses a threat to the American security and prosperity.

In his research, Nistorov (2009) provides an overview for adding countries to the VWP, established by State Department. He notes that this is a multistep and ambiguous process. First, the State Department must notify the Department of Homeland Security about its intent to include a specific country to the programme. This could be achieved only if it has been proved that the country has met the required criteria. The next step is to discuss the applications through consultation between the State Department and the Department of Homeland Security. Furthermore, the Department of Homeland Security has to establish a working group, which will report on the effect on the security and immigration policy of the United States that will appear after the visa waiver for the certain country. At the end a report, the working group should submit a proposal to the Secretary of Homeland Security shall consult the Secretary of the State Department before announcing his decision whether to include the applicant in the programme.

The visa issue is deepen by the fact that there are countries that have not raised on their agenda the visa issue, since they are not yet full members of the Schengen Area. The European Commission believes that adding countries to the VWP may be considered an adequate process, which may ensure the visa exemption for all EU citizens in the medium term (Dnevnik Newspaper, 2008) (Nistorov, 2009). Moreover, the Commission notes that to achieve better results of the process there should be better consistency in defining the objectives and the measures for the signatories of the Roadmap (Dnevnik Newspaper, 2008) (Nistorov, 2009). The Commission expresses an opinion that the United States showed no desire to introduce temporary relief measures, such as the removal of the tourist visa fees, and that the EU should continue to press the U.S.A to simplify at least some aspects of the process on visa application (Dnevnik Newspaper, 2008) (Nistorov, 2009).

Once accepted into the program, each participant is strictly monitored for compliance with the criteria and may be removed at any time. Furthermore, not only the criteria but the political and economic stability in the country is monitored and in case of any crisis the country is removed from the programme. Such examples are the economic collapse of Argentina in 2001, which increased the number of Argentinians, who attempted to illegally remain in the USA (Nistorov, 2009). Another example is the removal of Uruguay in 2003 after affecting the interests of USA in the immigration law (Nistorov, 2009).

Some of the countries involved in the VFTP may be placed on probation (Nistorov, 2009). The aim is to monitor, over the next few years, how the country meets the criteria and the level of rejected visa applications. Thus the U.S. government aims to provoke the newcomers to constantly maintain minimum thresholds for inclusion in the programme. In its report to the Congress, Congressional Research Service (CRS, 2004) states:

Unlike other nonimmigrants, no background checks are done on travelers under the VWP prior to their departure for the United States. This expedited process allows only one opportunity — immigration inspectors at port of entry — to identify inadmissable aliens. Prior to the alien's arrival, an electronic passenger manifest is sent from the airline or commercial vessel to immigration inspectors at the port of entry which is checked against security databases.

That is, in the case of the visa waiver, some of the responsibilities shift from the US Embassies abroad to the point of entry in the US. Some could argue that the relaxed documentary requirements of the VWP could increase immigration fraud and decrease border security. That is, visitors would be subject to less scrutiny during the immigration inspection process if they applied for admission into the United States under the VWP.

3. Problem Areas and Progress in Meeting the Visa Waiver Criteria Set by the United States

The inclusion of Bulgaria in the programme is supported by the so called Roadmap, established by State Department (Dnevnik Newspaper, 2008) (Nistorov, 2009). The Roadmap provides the guidelines on the reform and the criteria that should be met for the inclusion of the country in the Visa Waiver Programme. It was signed on January 26th, 2006 by the Minister of Foreign Affairs in Bulgaria, Ivaylo Kalfin and the Ambassador of the United States in Bulgaria John Beyrle (LAJB, 2008) (Nistorov, 2009). The Roadmap is the starting point of the relationships between Bulgaria and the United States and an important foreign policy priority of Bulgaria. While the Government of Bulgaria has made significant progress in many of the aforementioned areas, the Roadmap specifies again the specific requirements and sets specific tasks and standards for assessment of the progress (Dnevnik Newspaper, 2008) (Nistorov, 2009).

To enter the VFTP Bulgaria should solve a number of issues in several problem areas. In respect of these areas the progress is significant, but still not enough to successfully bring the negotiations to the end. As regards to meeting such criteria, Bulgaria has made significant progress, but there are still pending areas that hinder the finalization of the process. There is one specific area that is not listed as a criteria but it is considered to be a problematic area for the inclusion of Bulgaria into the VWP list. Specifically, the country is facing very difficult issues with its minority Roma population and its integration within its boundaries.

In the next few paragraphs, we evaluate the Roma's socio-economic difficulties that they deal with, specifically as workers in this region. In order to complete the task, we would evaluate the historical background of the Bulgarian Roma. Specifically, we would analyze the political movement post-communism to determine whether the appropriate actions have been taken by the government to ensure human and workers' rights have been properly established and followed. We would also analyze the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights as they pertain to the workers' rights for this suppressed ethnic group. To accomplish these objectives, we would evaluate some of the difficulties faced by the Roma minorities in today's society.

4. Historical Background

Historically, the first movement of large-scale settlement of Gypsies or Roma people in Bulgarian lands can be traced back approximately around 12th–14th centuries or even earlier (Marushiakova and Popov, 2001). Some historical sources present records of a Gypsy's presence even in Byzantium and Ottoman Empire's (15th–19th centuries) historical periods. They have also been linked with substantial presence in Serbia, Wallachia and Moldova (Rochow, 1983; Rochow and Matschke, 1991; Gilsenbach, 1994). After the breakup of the Byzantinum and Ottoman Empire and the restoration of Bulgaria as a separate nation state, "there were a number of ethnic and religious minorities that remained on Bulgarian territory" (Angelova and Zhelyaskova, 2007). These minorities were identified as "indigenous and an integral part of the national community" (Angelova and Zhelyaskova, 2007), (Nielsen and Zhelyazkova 1995; Krasteva 1998; Gradeva and Ivanova 1998; Lozanova and Mikov 1999; Zhelyazkova and Nielsen 2001). They were described as a new type of semi-nomadic people with different lifestyle. Unfortunately, as they started to settle in Bulgaria, their human and workers' rights started to be violated.

During the Communist regime, "Roma community suffered gross suppression of their identity by violation of the right to speak their mother tongue in public, the right to associate, and the right to publish and disseminate information in their mother tongue" (Danova-Roussinov and Savelina, 2006). In "1956, the Communist Party began closing most of the Roma institutions" – schools, hospital, libraries, etc. (Danova-Roussinov and Savelina, 2006). "In 1958, the Bulgarian Council of Ministers forced nomadic Roma to settle down" by introducing certain social policies to ensure compliance (Danova-Roussinov and Savelina, 2006). In addition, in the 1950s and early 1960s, the government forced the assimilation of the minority by restricting their religious beliefs, cultural customs and practices (Vassilev, 2004).

5. Political Movement towards the Establishment of Roma's Human and Workers' Rights Roma Human Rights

The Universal Declaration of Human Rights (UDHR), created in 1948 and adopted by the United Nations General Assembly, has become the most commonly translated document and is considered the basis of rights documents for all human beings. Article 2 of UDHR addresses the right to non-discrimination. It states,

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

For the Bulgarian Roma, there are instances of discrimination based on workers' organizing efforts, as the country tends to hire Bulgarian ethnic workers. Even if employment is secured, their working rights are easily violated and they are prohibited from the mainstream life of the country. In addition, Article 5 of UDHR protects against cruel, unusual, inhuman or degrading treatment or punishment. Again, the rights of Bulgarian Roma are not followed. Not only are verbal offences and physical abuses against Roma documented, but there has been much research collected in regards to the ethnic profiling of this group (ERIO, 2005). Roma are also amongst the largest victims of ethnic profiling throughout Europe.

Per article 6 from the International Covenant on Economic, Social and Cultural Rights, the right to work is defined as "opportunity of everyone to gain their living by freely chosen or accepted work" (ICESCR, 1966). In addition, per this article 6 (ICESCR, 1966):

Parties are required to take appropriate steps to safeguard this right, including technical and vocational training and economic policies aimed at steady economic development and ultimately full employment. The right implies parties must guarantee equal access to employment and protect workers from being unfairly deprived of employment. They must prevent discrimination in the workplace and ensure access for the disadvantaged. The fact that work must be freely chosen or accepted means parties must prohibit forced or child labor.

Clearly, the Roma population does not have these rights as usually, they have not freedom to choose or accept work. Very often, the jobs are given without any policies or steps that could lead to steady economic development and ultimately full employment. In addition, Roma are denied an equal access to employment and protection of unfair practices and decent living.

Per article 7 of the International Covenant on Economic, Social and Cultural Rights states that "workers are entitled to fair wages with equal pay for equal work, sufficient to provide a decent living for workers and their

dependents and safe working conditions "(ICESCR, 1966). Unfortunately, this is not the case with the Bulgarian Roma who is usually treated as "second hand people" and therefore their labor wage is usually less than their Bulgarian counterparts.

Also an important component of International Covenant on Economic, Social and Cultural Rights is Article 8. This section recognizes "the right of workers to form or join trade unions and protects the right to strike. It allows these rights to be restricted for members of the armed forces, police, or government administrators" (ICESCR, 1966). In Bulgaria, the Roma community is usually denied the rights to form unions and therefore their rights to bargain have diminished dramatically.

6. Expectations of Bulgaria on the Visa Issue

There are positive steps have been taken to protect the Roma. However, there are still many who are suffering from public intolerance. Majority of the Roma still remain at the bottom of Bulgarian society and "their sub-proletarian socioeconomic status has in fact worsened significantly compared to the pre-transition past" (Vassilev, 2004). They are constantly harassed by the authorities and the majority population. The Bulgarian Roma has reached a "critical point in their struggle for worker's rights recognition and group survival" (Vassilev, 2004). "Facing unemployment, abject poverty, discrimination, and exclusion from the mainstream life of the country, many Roma have chosen either a life of crime or emigration" (European Roma Rights Center 1997) (Vassilev, 2004)

Bulgaria is very close to the inclusion in the Visa-Free Travel Programme. However, the visas still exist as there are still problem areas that need to be addressed. This would involve an international discussion to ensure appropriate ruling is taken. In a future, it is necessary to adopt more adequate and effective antidiscrimination legislation to protect minority rights and allow the Roma and other underrepresented minorities a greater degree of political representation and participation. The negative stereotype and negative prejudices towards Roma from the ruling elite and the dominant population needs to be changed in order to improve their workers' rights.

The future of the visa issue depends on the new President of the United States. He may change its policy on Bulgaria. However, during the election race, the current President of the United States Barack Obama strongly supported the Visa Waiver Programme, which is a good sign for the Bulgarian statesmen. The expectations of Bulgaria are realistic, since positive attitudes in the United States on the visa waiver may be observed. This would have a positive effect on the Bulgarian foreign policy. The position of Bulgaria as an United States ally will be strengthen and cross-border cooperation will be improved, as the influx of tourists to the both countries is expected to increase (Nistorov, 2009). This shows that the confidence of the American authorities in the Bulgarian institutions increases, which will favour the U.S. investments in Bulgaria. In such situation adverse effects may occur as well. As part of this programme, Nistorov (2009) notes that Bulgaria may become a destination for terrorist organisations, which may use the country to reach the USA. If the Bulgarian authorities fail to deal with this problem, the United States Congress may consider that Bulgaria is not able to maintain adequate border security and to remove it from the programme. The questions about the future development of the visa issue are too many, but despite that it is expected the positive effects to exceed the negative ones, while retaining this status will be only a matter of foresight by the Bulgarian politicians. Thus another foreign policy success will be quarantined for Bulgaria, along with the accession to the EU and NATO, and Bulgaria will strengthen its positions as a country with increased confidence and high stability. In conclusion it should be noted that Bulgaria's progress on the visa issue is not satisfactory. Despite the reduced rate of the rejected visas for Bulgarian citizens to around 13%, the corruption issue is still on the agenda (The Sofia Echo, 2011). It is not among the main criteria, but in the opinion of the United States the corruption level should be lowered.

7. Conclusion: Resolution of the Visa Waiver Program

The governing authorities in the U.S.A are interested in which way Bulgaria will approach to resolve the visa issue - whether alone or in agreement with the other 3 countries of the Roadmap. In this paper, we argue that if Bulgaria acts in alliance with them, the opportunity to achieve better results will increase, but the pressure on the United States will increase as well, as this may complicate the relationships between the EU and the USA. The 4 countries, not included in the visa-free regime list, would refer to the Principle of Reciprocity and the Principle of Equal Treatment. They would argue for unfair treatment between them and the remaining EU states. This seems to be a very complex situation and it is possible for US to introduce even more strict criteria (already met by the member states) that could make it almost impossible for the 4 countries to enter into the program. It is unlikely the United States, in case of such pressure exerted, to waive the visas for all EU citizens, as it is unlikely as well that the EU will assist this process by imposing visas to U.S. citizens. The visa issue lies on top of a thin ice and the U.S. policy

is not adequate to the situation. Actions to remove at least some of the restrictions have not been taken, which will incur the wrath of the countries fighting for the right to visa-free travel.

Bulgaria may take an initiative and may agree its terms and conditions with the U.S. government. This is a strategic move, since relying on the alliance of the 4 countries is misleading and does not meet the time frames set by the Bulgarian government. In the opinion of Minister Kalfin the visa issue is expected to be solved in a medium term (Dnevnik Newspaper, 2008). Participating in an alliance may delay the process for years. Acting alone, on the other hand, may be considered by the EU as a breach of the EU common values. However, it may also be considered that Bulgaria does not coordinate its policy with the EU. In such complex environment, the government of the Republic of Bulgaria should work in the right direction, should conduct multilateral negotiations and should achieve the objective set.

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