



**SYSTEM OF RECEPTION
OF MIGRANTS AND REFUGEES
DURING THE MIGRANT CRISIS**



Grupa
484



Канцеларија за сарадњу
са цивилним друштвом

SYSTEM OF RECEPTION OF MIGRANTS AND REFUGEES DURING THE MIGRANT CRISIS

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Introduction

With regard to migration, the year of 2015 will be recorded as a year of the largest **forced** migration of people on the territory of Europe after World War II. The effects and consequences of these migratory movements will be a subject of analyses for a long time period and they will definitely affect the existing migration policies and legislative framework of the European Union, but also of the countries that have directly or indirectly been affected by it. In Serbia, the year of 2015 was supposed to be a year marked by reforms in the field of asylum and migration, but it will be recorded as a year in which great capacities and resources were invested in meeting basic needs of the people in migration.

The first edition of the Handbook was aimed, in the context of mixed migration flows on the territory of the Republic of Serbia for the past several years, at contributing to a better understanding of this phenomenon, recognising the migrants' needs and adequately responding to them. At the period of its development, the flows of migrants and refugees had different features, so that its application in the context of new circumstances could only be partial. For this reason, we have decided to develop a second extended edition that contains, besides the previously developed booklets, the fourth booklet dealing with the refugee and migrant crisis in particular. Moreover, one part of it is dedicated to the readmission since the issue of returning third-country nationals, as we are closer to the EU accession and with the enhancement of the asylum system, will be of bigger interest in the future.

The data used for the development of the fourth booklet were gathered through field visits and interviews with the parties that participated in the reception of and provision of care for the migrants and refugees. The booklet is a summary of findings from four separate monitoring reports which thoroughly present the refugee and migrant reception and care system organised at key locations on the territory of the Republic of Serbia - Subotica and its surroundings, Sid and its surroundings, Presevo and Dimitrovgrad and their surroundings.

The situation in which Serbia found itself, as it was the case with other countries on the so called Balkan Route, was unusual in many aspects and it should be deemed as such, as an extraordinary situation which should above all be used as a source of information and valuable experience for creating policies and establishing the practices for treating migrants and refugees.

The fact that it was an extraordinary situation is proved not only by the surge of persons whose entrance and/or stay in the territory of Serbia was registered, but also by the fact there was a so called controlled flow both through the territory of Serbia and along the whole route. The models of the controlled flow were changing and consequently shaped the established system in the Republic of Serbia. The abovementioned

circumstances have been taken as the basis for writing the fourth booklet. We have analysed the conditions of reception and treatment procedures in the context of the controlled flow, but we have also taken into consideration the practice established after the closure of the so called Balkan Route, which is referred to as an 'uncontrolled flow' for the needs of this Handbook and for the purpose of preciseness.

Models of the controlled flow

There were several stages of the increased migration flow through the territory of the Republic of Serbia which lasted for less than a year, which could be seen as a result of outside factors - unilateral decisions of the neighbouring countries, agreements between the countries on the Route and agreements made at the European Union level.

Most of the actors regard June 2015 as the beginning of the crisis when several hundreds of migrants were crossing the border with Macedonia on daily basis. At that moment, the main point of exit was the border with Hungary and the whole system of reception was adjusted to this route. The established reception system was aimed at ensuring the fulfilment of basic needs of migrants and refugees who entered and/or stayed in the territory of the Republic of Serbia and at ensuring transit for those who did not have an intention to apply for the international protection with the competent authorities of the Republic of Serbia.

Such situation lasted till September when several decisions made by Hungary resulted in the change of the route and in shifting focus to the border with Croatia. The third stage started as a consequence of requests of some EU Member States that were marked as desirable destination countries by a large number of people in the migration flow, to allow passage only for the persons coming from Afghanistan, Syria and Iraq, and who possess valid identification documents. In other words, different treatment of 'migrants' from the treatment of persons coming from war-torn areas was requested. The following stage was the result of an agreement made between the Ministers of Interior of the countries on the Route and it required the system of joint registration on the Greek-Macedonian border. This was the shortest stage because soon after it, the European Union signed an Agreement with Turkey on taking back / stopping the migrants and refugees, which resulted in the closure of the corridors for the transit of refugees and migrants on the so called Balkan Route. There has not been an official, free transit through Serbia since April, but as it was expected, migrants and refugees keep arriving and passing through the territory of the Republic of Serbia, staying here for longer or shorter time periods.

2. Institutional and non-institutional actors

2.1. Controlled flow

With an increased number of migrants and refugees who entered and/or stayed in the territory of the Republic of Serbia, the number of actors included in providing care for them increased as well. Initial response included provision of humanitarian aid and support at entrance and exit points in the Republic of Serbia. Soon after recording a sharp surge in the numbers of people arriving on daily basis, a Working Group on Mixed Migration Flows was established and a Response Plan in the Case of an Increased Influx of Migrants¹ was adopted. This system was primarily aimed at establishing a controlled entrance of migrants and refugees to the territory of the Republic of Serbia and coordinated assistance and support mechanisms, both with regard to accommodation and other capacities necessary for meeting urgent migrants' and refugees' needs.

An important role in providing humanitarian aid, particularly in the beginning of migrant and refugee crisis, was played by international and civil society organisations. Before the increased migration pressure, a smaller number of organisations had actively provided direct assistance. However, the situation has significantly changed since June 2015 and a large number of civil society organisations and international organisations started conducting humanitarian activities in the field that included provision of food, water, clothes, blankets, etc.

Some of key positive aspects of the reception system are cooperation models developed between competent public authorities and civil society, which could potentially be further used for strengthening migration management system both through the coordinated support for providing various types of assistance to migrants and through enhancing human capacities of institutional service providers. Formal procedures, typical for public institutions, have been complemented with certain flexibility, *ad hoc* responses and adjustments to dynamic changes of migration flows in the territory of Serbia, provided by civil society organisations. On the other hand, within the established cooperation models it was identified the need for further improvement of coordination of all actors involved in urgent care of migrants and refugees. The improved coordination system should ensure a more efficient and rational deployment of humanitarian aid and timely referral of particularly vulnerable categories of migrants to an appropriate protection system. Besides the organisations, an important role in providing direct assistance and support to migrants and refugees was played by numerous citizens and volunteers from the country and the region.

¹ Plan in the Case of an Increased Influx of Migrants <http://www.minrzs.gov.rs/files/doc/migranti/Plan%20Vlade0001.pdf>

In respect of accommodation capacities, besides the already existing asylum centres in Bogovadja, Banja Koviljaca, Krnjaca, Sjenica and Tutin, and facilities for the accommodation of foreign unaccompanied minors (regardless of whether they have a certificate on having expressed intention to seek asylum or not), Working Units for accommodation of foreign unaccompanied minors within the Institutes for Education of Children and Youth in Nis and Belgrade, some new facilities for the reception and accommodation of migrants and refugees, the so called Reception and Transit Centres, have been opened, as well as some formal and informal Refugee Aid Points (RAP).

As the number of migrants and refugees who entered Serbia directly from Macedonia started increasing considerably after the second half of June 2015, the first Reception and Transit Centre was opened in Presevo on 8 July 2016.² Soon after, additional reception and transit centres were opened across the territory (hereinafter: centres) in: Kanjiza (which was operational till 15 September), Dimitrovgrad, Subotica and Sid (next to the railway station, the so called 'Grey House', Adasevci and Principovac). Main responsibility of the centres was to provide urgent care and accommodation for migrants and refugees and, in case they identify particularly vulnerable categories, to refer them to appropriate protection systems. The registration procedure was also implemented at the centres established in Presevo and Dimitrovgrad.

Besides the reception and transit centres, the reception system that was established also included the Rapid Aid Points for refugees and migrants in Mitrovac, as the first entrance point at the border with Macedonia, as well as the informal aid points in Subotica, in the area of an old abandoned brick field (the so called 'Old Brickyard'), and in parks around the main bus and railway stations in Belgrade.

In the area of the 'Old Brickyard' near Subotica, presence of larger number of migrants was noticed in the beginning of the year. However, until July, the interest of local authorities and non-governmental organisations was insufficient for meeting urgent needs of the persons who were staying there. Hygienic conditions were particularly poor. Although after the Hungarian Criminal Code amendments the migration flow shifted to Croatia on 15 September, building up of a new centre near the old Brickyard started in October. The centre became operational at the end of 2015 when first EU restrictive measures were implemented and when only those from war-torn areas with valid identification documents could pass. Those who were not allowed by the Croatian police to continue their journey were accommodated at Subotica centre for a certain period of time.

² Ibid.

Another important location in Vojvodina for the accommodation of migrants and refugees was the municipality of Kanjiza. During the first months of the increased influx, the area of Kanjiza was characterised by informal and uncoordinated provision of assistance and support to migrants and refugees. Upon the establishment of Vasariste Reception and Transit Centre in the first half of August 2015, all the aid provision activities were shifted to this Centre. According to the civil society organisations that operated in the area of Kanjiza at the time, the quality of assistance provided to migrants and refugees was significantly improved after the Centre had been opened.

An increased intensity of the migration flow has been recorded since 3 August 2015³ in the area of the border with Bulgaria. Soon after, through the cooperation between the Border Police Regional Centre towards Bulgaria and the Pirot Police Directorate, a new Reception and Transit Centre was opened in Dimitrovgrad. Unlike at the border crossing with Macedonia and exit and entrance routes between Djevdjelija and Miratovac, migration flows arriving from Bulgaria are characterised by informal and uncoordinated, less intensive routes. During the highest migration pressure in the Republic of Serbia (October), an average of 150 - 200 migrants and refugees were registered on daily basis in Dimitrovgrad, which is significantly less than in Presevo at the same period of time (even up to 8000 a day). Those usually were younger men who entered the territory of the Republic of Serbia through the so called 'Green Border'. In case they were caught illegally crossing the state border or apprehended near the border crossing, they were referred to the Dimitrovgrad Centre where, upon finalising the registration procedure and receiving appropriate assistance they were transferred to Belgrade by organised transportation.

During the migrant and refugee crisis, and particularly during summer months, one of key informal migrant and refugee gathering places was certainly Belgrade, in particular its parks in the vicinity of the main bus station and in front of the Faculty of Economics. Very soon, through the cooperation between the representatives of Savski Venac municipality, UNHCR and NGOs, an Asylum Info Centre was established. The main purpose of the Centre was to provide migrants and refugees who were staying in Belgrade parks with information related to their rights and obligations in Serbia, possibility of receiving some kind of international protection, but also service information related to the direction of their movement. Upon the conclusion of agreements between Ministers of Interior of Serbia and Croatia on organised transfer of refugees, the migration movement route through Serbia was redirected and they were referred from Presevo directly towards Sid, which resulted in the reduction of the number of migrants and refugees staying in Belgrade parks. As the number of migrants and refugees decreased in Belgrade streets, the number of actors involved in meeting urgent migrants' needs also reduced significantly.

³ Visit to the Border Police Regional Center towards Bulgaria 11 November 2015.

It is important to emphasise that all the assistance and support-related activities within the centres were implemented in coordination of the Commissariat for Refugees and Migration and the Ministry of Labour, Veteran and Social Issues, and other competent public authorities. Health care was provided by competent healthcare institutions, and as of October 2015, with the support of civil society organisations and in cooperation with the Health Ministry of Serbia, additional medical staff have been engaged. Humanitarian aid (food, water, clothes, shoes, blankets, etc.) was provided by the Red Cross, and to a great extent by a certain number of international and civil society organisations. Besides the medical staff and humanitarian aid organisations, the number of representatives of competent social care centres increased as the number of children and families was increasing.

All the above mentioned facilities are of open type and migrants and refugees stayed there for as long as they needed to organise their further journey. By analysing the migration flow dynamics and the stages of the migrant and refugee crisis since June till present, we have noticed a need for a higher degree of organisation of their accommodation. The EU Member States' restrictive measures regulating access to their territories resulted in the reduction of the number of migrants and refugees in the territory of Serbia, but also in longer stays of those who due to these measures could not leave Serbia. They were informed about the possibility to seek asylum in Serbia, and if they would say they did not wish to stay in Serbia, they were provided with accommodation in one of the centres.

Material reception conditions in these centres were improved to some extent as compared to the beginning of the migrant and refugee crisis. The greatest progress was certainly made in respect of cleaning the centres and maintaining public surfaces.

It is important to mention that besides the currently operational centres, some auxiliary facilities for providing urgent care and accommodation were identified and they would become operational in case current capacities were filled (the auxiliary facilities are located in: Sombor, Negotin, Zajecar, Bujanovac, Pirot and Bosilegrad).⁴

2.2. Uncontrolled flow

For past several months, after the cessation of the organised transit along the Western-Balkan Route, the number of persons accommodated in various facilities for an urgent care and accommodation of migrants and refugees has been constantly decreasing. With the lack of a controlled flow, migrants and refugees opt for irregular crossings of the state border and further unregistered movement through the territory of Serbia

⁴ Bulletin of the Commissariat for Refugees and Migration relating to an increased influx of migrants, http://www.kirs.gov.rs/docs/aktuelno/20160406_newsletter%2006%20ser.pdf

which leaves them out of assistance and support system, and informal gathering points (like parks, Belgrade Bus Station surrounding and the area of the Old Brickyard) become inevitable stop points again on their way towards the EU Member States. According to the information obtained from representatives of centres and organisations that are active in the field, migrants leave the facilities on their own initiative without previous notice to the centre's management and without appropriate referral by the centres,⁵ which leaves the migrants without the possibility of obtaining appropriate legal support and information on legal consequences of unlawful crossing of the state border, information about the measures for regulating migration movements in the EU Member States, and on organisations active in the countries of their next destination, as well as in the countries of their final destination.

In the second half of March 2016, since there has been certain perviousness, the presence of migrants and refugees in these areas has become visible again. According to the UNHCR statistics, the number of migrants in the vicinity of border crossings in the north of the country has been significantly increasing (in April, even up to 425 persons on daily basis were registered⁶). New migration movements in the area of Vojvodina are characterised by the use of official border crossings for entering the territory of Hungary, relatively long retention at the border, particularly in transit zones⁷, and by the fact that these are mostly unregistered migrants. Due to an increased number of migrants and refugees, the Hungarian side has established a practice of allowing passage of a pre-determined number of migrants⁸ who are allowed to apply for asylum in Hungary. The advantage to pass is given to unaccompanied minors and to families.

Were refugees and migrants referred to the existing asylum centres?

During the refugee and migrant crisis, the capacities of the Asylum Centre in Krnjaca were most used. Regardless of being informed on daily basis about the possibility of leaving, and regardless even of the provision of organised transportation to the Krnjaca Centre, unfortunately, a small number of migrants and refugees who were staying in the open in the vicinity of the Main Bus Station in Belgrade opted for using such a possibility. In asylum centres were staying also those persons who decided to make an application for asylum after expressing an intention to seek asylum. The certificates of having expressed the intention to seek asylum, which were issued to migrants and refugees who were registered in Presevo and Dimitrograd, included information about the asylum centre they were referred to, although majority of migrants in the territory of Serbia were just in transit. This was the consequence of

⁵ Visit to reception and transit centres in the area of Sid, 20 April 2016

⁶ UNHCR Serbia Daily Update 22-24 April 2016.

⁷ Refugee Protection Working Group Meeting, 28 April 2016

⁸ In April there were between 20 and 40 persons a day. More details at: <http://www.migszol.com/blog/humanitarian-disaster-on-the-transit-zones-unclear-plans-on-legislation-and-climate-of-fear-update-on-the-asylum-policy-in-hungary>

technical incompliance of the system for issuing the certificates, because it was not possible to issue the certificate without filling in the information on the centre where the person concerned was referred to.

In which centres are the migrants and refugees who do not wish to apply for asylum in Serbia accommodated?

Even upon closing the Route, the most frequent reception point is still the centre in Presevo. This centre provides migrants and refugees with the same services that were provided during the highest influx, but the number of persons staying there is now significantly lower, and the period of their stay is somewhat longer. The stay of these persons is not limited. This centre has also developed a positive practice of issuing ID cards with which a person can prove to be staying at the centre and that he/she has been registered by competent authorities.

This kind of practice could certainly be applied in asylum centres, having in mind that the certificate of having expressed the intention to seek asylum is valid for only 72 hours and that, until obtaining an ID card for asylum seekers, a person staying in an asylum centre does not possess any documents with which he/she could, in case of staying outside the centre, prove to be a *bona fide* asylum seeker who has been registered in the asylum centre within the statutory time limit and waiting for the decision on his/her asylum application. Some actors have pointed out that the lack of any kind of documents for proving his/her identity and place of residence, puts the person at a potential risk of being sanctioned for illegally staying in Serbia, even of incompliance with the non-refoulement principle.⁹

Moreover, ever since there is an opportunity of entering the territory of Hungary, and consequently an increased number of persons attempting to do so from the territory of Serbia, certain number of persons have been accommodated in a newly established facility in Subotica. These are mostly families.

During the process of further care and accommodation system improvement, it is recommendable to establish a more detailed legal framework regulating the accommodation of those irregular migrants who do not wish to stay in Serbia and come from worn-torn countries, and who may not be returned (neither directly nor indirectly)¹⁰ to their countries of origin, or countries of previous residence. A potential model of regulating their accommodation could be to re-designate one of the established reception and transit centres into a centre for accommodation of this category of migrants, exclusively.

⁹ More at: <http://azil.rs/documents/category/izvestaji>

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3. Registration procedure and access to asylum procedure

Having in mind the sensitiveness of migration movements and the security risks issues they carry along, with the increase of the number of persons entering the territory of Serbia, mandatory registration procedure has been established.

3.1. Controlled flow

From the beginning of an increased influx until now, there have been many differences in the policies related to persons' registration. Due to the lack of an appropriate mechanism, competent authorities of the Republic of Serbia initially opted for keeping records of these persons or issuing the certificates of having expressed the intention to seek asylum, as their registration, which was provided for by the Law on Asylum.¹¹ By implementing this measure, the state showed an intention to enable all the migrants and refugees who enter its territory legal stay for a certain period of time, and that to have as accurate as possible data on the persons moving across / staying in its territory. The need for a fast and efficient registration procedure during the largest wave of migrants and refugees was not fully met because there were not sufficient available capacities for its fast implementation. However, the capacities were later enhanced, so we may claim with great certainty that the Republic of Serbia managed to register the majority of people who transited its territory. The very registration process and issuing of the certificates of having expressed the intention to seek asylum did not contribute to a better understanding of available rights and obligations. The registration was conducted in the Reception and Transit Centre in Presevo and at the border police station in Dimitrovgrad.

Initial activities encompassed by the asylum procedure were formally applied to each person and in principle, access to the procedure was enabled to them. However, on the other hand, the statistics on the number of initiated asylum procedures¹² indicates that most of the migrants opted for leaving for an EU Member State. Besides the disproportionate statistics, refugee and migrant crisis has not significantly affected the very asylum procedure. The procedure, including the second-instance one, and the re-examination of the asylum application by the court, were conducted just like before the influx of a large number of migrants and refugees. The fact that the migrants did not stay for longer periods of time in the territory of Serbia contributed to this situation.

¹¹ Official Gazette of RS, No. 109/2007

¹² Out of the total number of persons who expressed the intention to seek asylum, only 699 of them were registered, and only 586 persons applied for asylum. "2015 Annual Report of the Ombudsman", page 53

With the Government Decision¹³ (hereinafter: 'Decision') which was adopted at the end of the year, the registration policy for migrants and refugees entering the RS was changed. The Ministry of Interior (its Border Police Directorate and regional police directorates) became obliged to issue to every foreigner who comes to the Republic of Serbia from a country where his/her life is endangered a Certificate of having entered the territory of the Republic of Serbia for foreigners coming from countries where their lives are endangered. Legal consequences of this Certificate included the right to the freedom of movement of migrants lasting for 72 hours, the right to using banking services, and the right to accommodation in facilities designated for these intentions. Although the way its contents are established and conditions under which it is issued are quite imprecise, which leaves space for various interpretations, its main purpose is clear.

This measure was practical because it provided legal grounds for regular entry and time-limited stay of those migrants who do not wish to apply for asylum in Serbia but actually have an intention to reach one of the EU countries. Generally speaking, the Decision may be considered as a step forward as compared to the practice of issuing certificates of having expressed the intention to seek asylum that had been applied until then, but with regard to the Convention relating to the Status of Refugees,¹⁴ the procedure of issuing transit certificates needs to ensure access to the asylum procedure, which means to provide everyone who needs international protection with a possibility to apply for it in the Republic of Serbia.

The practice of issuing the transit certificates lasted from the beginning of this year until 19 February when police chiefs signed a Joint Statement in Zagreb on 18 February 2016. From that moment onwards, the crossing and registration procedure across Macedonia, Serbia, Croatia, Slovenia and Austria has been based on one uniform registration document that was issued at the Greek - Macedonian border, which was then stamped by each of the Joint Statement signatory countries at their border entrance points.

Having in mind the fact that the registration procedure during the refugee and migrant crisis went through several stages, and that these stages were different in policies which were implemented through them, the issue of access to the asylum procedure needs to be examined for each of the stages individually.

From mid June till the second half of November 2015, each person who entered the territory of the Republic of Serbia was registered as a person who had expressed the intention to seek asylum in the RS.

¹³ Official Gazette of RS, No. 81/2015

¹⁴ Official Journal of the SFRY - International treaties and other agreements, No. 7/1960

In the second half of November 2015, on the basis of a joint agreement of the countries along the Western Balkan Route, a new practice of distinguishing ‘economic migrants’ from the persons coming from war-torn areas was established. Only the persons coming from Syria, Iraq and Afghanistan who have a personal or another document confirming their identity were allowed to pass. At some border crossings along the route, besides the abovementioned conditions that they needed to meet, additional checks were made with the assistance of interpreters. This kind of treatment is extremely worrying from the aspect of the Convention relating to the Status of Refugees. **In the process of creating and implementing migration flow management policies, right to asylum, as an individual right, needs to be taken into account and in this regard, each person, regardless of his/her nationality, needs to have an access to asylum procedure and a possibility to enjoy the protection in line with the Convention.**

During the period of the Decision’s implementation, transit certificates were issued to the migrants who did not wish to stay in the territory of the Republic of Serbia, regardless of their nationality. Their purpose was to enable a legal stay for those who did not wish to apply for asylum in Serbia. Some police directorates interpreted the Decision extensively, which is positive, so that when they came across a person whose transit certificate had expired but he/she did not leave the country yet, they assumed that the person gave up the intention to leave the RS and they issued a certificate of having expressed the intention to seek asylum. However, in practice there were some cases where due to communication issues, a transit certificate was issued to a migrant although he/she had asked for asylum, or a transit certificate was issued to a person who is not from the countries for whose citizens a free entrance is guaranteed.

Who can be considered a prima facie refugee?

A *prima facie* refugee is a person who is considered a refugee by a state or UNHCR on the basis of the objective circumstances in the country of origin, without previous determination of a refugee status on individual basis. In usual circumstances, grounds for recognising the refugee status are examined within an individual procedure by a competent state authority. However, in certain situations, individual procedures for determining the refugee status are not possible to implement or are very difficult to implement, in which cases a group determination of refugee status on *prima facie* basis is applied and in such cases, each group member is considered a *prima facie* refugee unless there is evidence which prove the opposite. A group determination of a refugee status on a *prima facie* basis means in essence the recognition by a State of refugee status on the basis of the readily apparent, objective circumstances in the country of origin giving rise to exodus. Its purpose is to ensure admission to safety, protection from refoulement and basic humanitarian treatment to those patently in need of it¹⁵.

¹⁵ UNHCR, June 2015, Guidelines on international protection No.11



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During the refugee and migrant crisis, with regard to the terminology of determining the status of persons who were part of the migration flow, UNHCR considered most of them to be *prima facie* refugees, which means the persons coming from war-torn countries or 'refugee producing countries' and in need of international protection.

Could the temporary protection institute be applied?

For the purpose of reminding, according to the Law on Asylum (Art. 36), a decision on the provision of temporary protection shall be taken by the Government and it will be granted in the case of a massive influx of persons from a country where their life, safety or freedom is threatened by generalised violence, external aggression, internal armed conflicts, massive violation of human rights or other circumstances that have seriously affected public order, when it is not possible to carry out an individual procedure for granting the right to asylum due to the massive influx. Having in mind the provisions of the Law, there certainly were enough elements for initialising the temporary protection mechanism, and this was particularly emphasised by civil society organisations. However, considering that most of the persons on whom this Decision could be applied did not show real will to stay in Serbia, the question is what real affects and consequences of this decision would be even if the Serbian Government had decided to initiate the mechanism of providing temporary protection.

3.1. Uncontrolled flow

In compliance with the applicable legal framework, regular procedure for the treatment of persons who do not wish to seek asylum in Serbia and who do not have any other legal grounds for stay includes the initiation of offence proceedings before competent Misdemeanour Court and referral to an Schelter for Foreigners.

It is commendable that some of the organisational units within the competent authorities opted not to initiate the offence proceedings during the migrant and refugee crisis, but to refer them to the reception system. According to the Ombudsman's data, the number of requests for initiating offence proceedings for illegal entrance against the persons fleeing from worn-torn countries has significantly decreased since November when the recommendation was given not to sanction refugees for offences.

Can 'economic migrants' be denied access to the asylum procedure?

Access to the procedure must be guaranteed for all, regardless of the circumstances authorities know of the person concerned. Therefore, nobody may be a priori denied access to the asylum procedure. The asylum procedure serves for examining whether there are justified reasons to grant asylum to a person or whether the person is an economic migrant, or a person for whom it may be determined that there are some

of the elements which may deny him/her the right to be granted a refugee status or another form of protection. Denying access to the asylum procedure needs also to be considered in the context of the non-refoulement principle.¹⁶

4. Unaccompanied minors

4.1. *Controlled flow*

During the migrant and refugee crisis there was a significant number of children. According to the UNHCR statistics, in 2015 children made 36% of the total number of persons who expressed the intention to seek asylum in the Republic of Serbia,¹⁷ out of which there were 10,645 unaccompanied minors¹⁸.

With the purpose of providing an appropriate assistance to the children on the move, the established refugee and migrant reception system included a set of measures relating to unaccompanied minors. In the consequent response, state authorities showed great sensibility and understanding for their specific situation.

One of the first measures implemented was the adoption of the Instruction by the¹⁹ Ministry of Labour, Employment, Veteran and Social Issues stipulating an unambiguous obligation of providing unaccompanied minor migrants with accommodation. A legal gap that had existed before the crisis was bridged so that in case all accommodation capacities in the working units for the reception of foreign unaccompanied minors were filled, certain social care institutions assumed an obligation to provide them with accommodation services. Furthermore, competent Social Welfare Centres assumed an obligation to transport unaccompanied minors found in the territory of their jurisdiction to the appropriate institution that would provide them with accommodation. This provision is certainly a significant step forward with regard to the system of referral of unaccompanied minors because it excludes a discretionary assessment relating to obligation to provide transport, but it also puts additional burden on social welfare centres. With the increased influx of migrants and refugees, work overload of social work centres was particularly emphasised. Lack of human resources, lack of material conditions for smooth work, need for hiring interpreters that would enable communication and thus facilitate the work of social workers, enhancing capacities of newly employed social workers for taking care of migrants, etc. are just some of the issues that need to be improved.

¹⁶ More details at: Booklet No 1, Definitions

¹⁷ UNHCR, Interagency Operational Update 21 Dec 2015-3 Jan 2016

¹⁸ 2015 Annual Report of the Ombudsman, p. 51

¹⁹ The Instructions on the procedures of social work centres and social care institutions for the accommodation of beneficiaries, relating to the provision of protection and accommodation to unaccompanied minor migrants, No. 110-00-00469/2015-14 of 10 July 2015.

Social welfare centres with the jurisdiction in places that were main entrance and exit points in the country were particularly overburdened. In order to ensure the presence of representatives of a competent Social Welfare Centre, UNICEF in cooperation with the Association of Social Protection Professionals in Serbia provided additional number of social workers in Presevo and Sid.

During the refugee and migrant crisis, the practice implemented by some social work centres included provision of family accommodation for unaccompanied minor migrants instead of referring them to one of the social protection institutions. Having regard to the fact that the goal of placing a child in a foster family is to provide him/her with an appropriate family environment in which the child will grow and develop,²⁰ this practice is certainly a more appropriate solution than placing a child in a social protection institution. However, there is still some room for improvement and in this regard, among other things, fostering services need to be regulated in more detail in the context of unaccompanied minor migrants: under which circumstances a social welfare centre should opt for accommodating a child in a foster family, and in view of a specific situation of minor migrants, additional, detailed criteria for the assessment of a person's suitability for providing family accommodation services should be established.

A special Corner for Children and mothers with children was established in reception and transit centres in Presevo and Adasevci, and in the area of Belgrade as well. It is a practical space which enables organisation of various workshops, psychological and social support activities and assessment of children's vulnerability. In further migration flow management policy development, it should be provided that the established accommodation capacities include special space for children.

In past few months, some steps have been taken towards the improvement of the social protection system in order for it to meet children's needs during an increased influx. In this regard, there are ongoing consultations on the development of the Standard Operational Procedures for the protection of refugee and migrant children, in coordination of the Ministry of Labour, Employment, Veteran and Social Issues that should, in cases of emergency situations, ensure an appropriate necessary support to all children. Moreover, talks have been initiated on the establishment of certain indicators for identifying the level of vulnerability of minor migrants and in this regard, for referral of them to an appropriate protection system.

The refugee and migrant crisis has also indicated the need for the social protection system reforms with regard to the care for minor migrants and other vulnerable categories among the migrants who need social care and assistance. It is important to emphasise that system changes need to take into account the available institutional

²⁰ Handbook for Foster Parents, UNICEF, 2011

capacities of the Republic of Serbia and be further focused on providing lasting solutions in line with child's best interests.

4.2. Controlled flow

Since an agreement was reached by the police of the countries on the Balkan Route on the criteria for allowing passage, the number of persons who are denied entrance into Croatia and continuation of their journey has increased. Particular challenge was the accommodation of and care for the minors coming from Morocco, Algeria, Pakistan and other countries for which the current EU Member States' migration flow policies do not allow free passage. Minors coming from these countries did not express the intention to seek asylum in most cases, so they stayed in Serbia irregularly usually after leaving some of the facilities intended for the accommodation of unaccompanied minors on their own initiative, which exposed them to additional risks of various kinds of abuses and exploitation.

Were unaccompanied minors referred to Working Units in Belgrade and Nis

Capacities of the Working Units were only partially used namely due to their geographic position and due to the fact that in most cases unaccompanied minors were enabled to continue their transit as it was the case with other persons in the migration flow. Furthermore, in several cases especially the cases of separated minors, the children were also accommodated in the Accommodation Centre, Institute for Children with Mental Disabilities 'Kolevka' ('Cradle'). Children who were identified by social work centres and other competent institutions and civil society organisations as unaccompanied minors in the vicinity of main bus and railway stations in Belgrade were referred to the Working Unit within the Institute for Education of Children and Youth in Belgrade.

Were there cases of families being separated and how were these cases tackled?

During the refugee and migrant crisis, due to a surge of people, it frequently happened that family members got separated and competent public authorities in cooperation with the UNHCR and Red Cross invested efforts in tackling these situations, both within the territory of the Republic of Serbia and through the coordination and cooperation with competent services of the transit and final destination countries.

There are no exact data on the number of such cases which is partially due to the lack of a uniform procedure that should be implemented in such cases. Depending on the case, various mechanisms and procedures were applied by competent state and international institutions and civil society organisations that were involved both as participants and/or as main actors.

5. Readmission

Under the *Law on the Ratification of the Agreement between the Republic of Serbia and the European Community on the Readmission of Persons Residing without Authorisation* and other bilateral agreements, Serbia is obliged to readmit all third - country nationals or stateless persons who do not, or who no longer, fulfil the legal conditions in force for entry to, presence in, or residence on, the territory of the Requesting Member State provided that it is proved, or may be validly assumed on the basis of *prima facie* evidence furnished, that such persons: hold, or at the time of entry held, a valid visa or residence permit issued by Serbia; or illegally and directly entered the territory of the Member States after having stayed on the territory of the RS. All the above mentioned may be applied vice versa, in situations when Serbia is a requesting state.

There are two readmission procedures: regular and accelerated procedure. The accelerated procedure is carried out when a foreign citizen or a stateless person is caught in the vicinity of border crossing by the competent authorities of a contracting state, after illegal entry from the territory of another contracting state.

Regular readmission procedure implies submitting a readmission application to the competent authority of the contracting state. The application shall include the following information: the particulars of the person to be readmitted, and the assumptions based on which *prima facie* evidence on the conditions for the readmission and unlawful entry, presence or residence of third-country nationals or stateless persons will be provided, as well as a photograph of the person to be readmitted. *Prima facie* evidence on conditions for readmission of the third-country nationals and stateless persons includes, among other, stamps with the dates of border crossings; documents, certificates and bills including the names of such persons (for example hotel bills, passes for public or private institutions, credit card bills and similar) clearly indicating that a particular person stayed in the territory of the requested state; tickets with passengers' names, official statement issued particularly by border controlling officials who could witness that the person concerned was crossing the border; witnesses who could confirm that a person crossed the border, etc.

Unlawfulness of entry, presence or residence is determined on the basis of the person's travel documents which do not include the required visa or other kind of permit for staying in the territory of the requesting state. In case the person concerned does not possess the required travel documents, visa or residence permit, the statement of the requesting state shall be taken as *prima facie* evidence on entry, presence or residence.

In addition to the readmission, readmission agreements also regulate the issue of transit of third-country nationals and stateless persons through the territory of the requested state on their way from the requesting state to the final destination state. It is important to emphasise that the contracting state shall allow the transit of third-country nationals or stateless persons in its territory in case when the other contracting

party, the requesting state, has ensured the readmission of the transiting person to a third country.

Transit procedure is carried out in such a way that the requesting state submits a transit application to the requested state. The submitted application has to include the following information: type of transit (by air or by land), possible other States of transit and intended final destination, the particulars of the person concerned, envisaged point of entry, time of transfer and possible use of escorts, a declaration of the Requesting State that the readmission of the transiting person in another state has been provided and that no reasons for a refusal of the application for transit are known of. The requested state may refuse transit through its territory if, among other things, a third - country national or a stateless person runs the real risk of being subjected to torture or to inhuman or degrading treatment or punishment or the death penalty or of persecution because of his race, religion, nationality, membership of a particular social group or political conviction in the state of destination or another state of transit.

What is the procedure in treating a returnee under readmission agreement, a third-country national or a stateless person?

Upon the arrival at a border crossing of the Republic of Serbia, the members of the responsible regional centre take a returnee to the competent district police directoriat/ police station, where identification procedure takes place.²¹ Further, police officials determine whether the person needs to be referred to an appropriate protection system. If this is not the case, conditions for legal residence in the country are examined. Depending on the results, measures are undertaken with the aim to initiate offence proceedings or an adequate administrative procedure in order to regulate the person`s legal residence status. All the procedures applied in treating the returnees, from the moment of their taking over at border crossings, have to be based on the standards of human rights protection.

In 2015, under the Readmission Agreement, the Republic of Serbia readmitted about 5,500 foreign citizens, majority of which came from Hungary (approximately 5,240).²² Majority of the returnees from Hungary included persons from Syria, Afghanistan and Iraq - approximately 90% of the total number.

Cooperation with the competent Hungarian authorities as regards implementation of the readmission agreement continued also during the period of intense migration pressure. Further treatment of those returned within this period implied initiating offence proceedings for illegal entry and/or illegal stay in the Republic of Serbia. As representatives of the Regional Centre of Border Police Directorate towards Hungary

²¹ For additional details about the identification procedure please refer to booklet 2 "Primary reception"

²² 2015 Annual Report of the Ombudsman, p. 54



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emphasize, since the first half of the year there have been no cases of expressing intention to seek asylum in the Republic of Serbia among the returnees from Hungary from this period and based on the implementation of the readmission agreement. Further, they mentioned that the practice in case of returning an unaccompanied minor implied informing the responsible social care centre and referring the person to the Institute for Children with Disabilities 'Kolevka'.²³

As regards the border with Croatia, after signing the agreement between the Ministers of Interior of Serbia and Croatia in Zagreb and the establishment of organized transport of migrants from Sid to Slavonski Brod, there has been no readmission of third-country nationals and stateless persons from Croatia to Serbia.²⁴

Regarding the readmission of third-country nationals on account of implementation of readmission agreement by the competent authorities of the Republic of Serbia to some of the neighbouring countries, 119 third-country nationals were returned to Bulgaria in 2015.²⁵ These also include the cases of returning boys and unaccompanied minors in an accelerated procedure. They were treated in accordance with the adequate procedure, implying that the responsible social work centre which appointed one of its employees as a guardian was informed. The boys accompanied by their guardians were then taken to the Institute for Education of Children and Youth in Nis, where they stayed until further direct removal was organised.²⁶ The Readmission Agreement with Macedonia was not implemented even in 2015.²⁷

What does the term informal readmission mean?

Informal readmission is a term implying the transfer of a foreigner illegally residing in a state signatory to a readmission agreement, to the other state signatory to a readmission agreement, carried out by the competent authorities but without previous implementation of the formal procedure.

Formal readmission procedure, depending on whether it is regular or accelerated, includes the following steps: submission of properly filled application for readmission or transit to the requested state within the envisaged time limits (as a rule, within up to a year from the date the competent authority of the state requiring readmission determined that a person does not meet or no longer meets the effective conditions for entry, stay or residence), examining the application by the requested country and

²³ Information obtained during a visit to the Regional Centre of Border Police Directorate towards Hungary on 13 May 2015.

²⁴ Information obtained during a visit to the Regional Centre of Border Police Directorate towards Croatia on 9 November 2015.

²⁵ 2015 Annual Report of the Ombudsman, p. 54

²⁶ Information obtained during a visit to the Regional Centre of Border Police Directorate towards Bulgaria on 11 November 2015.

²⁷ Information obtained during a visit to the Regional Centre of Border Police Directorate towards Macedonia on 19 November 2015.

submission of written response within the envisaged time limits (as a rule, two working days in an accelerated procedure, or ten calendar days in other cases). If the response is not provided within the specified time limits, the transfer is considered approved. In case a readmission application is refused, the reasons for such a decision need to be stated. After providing positive answer, contracting states agree on the conditions of transfer.²⁸

Provided the application for readmission or transit by the requested state has been approved but the conditions for the immediate transfer have not been defined, simple return of the foreigner by the requesting state would imply the case of informal readmission. Return of a group of migrants as informal readmission could imply the potential collective expulsion.

What is the collective expulsion?

According to the European Court of Human Rights, collective expulsion refers to any measure taken by authorities compelling foreigners, as a group, to leave a country, except where such a measure is taken on the basis of a reasonable and objective examination of the particular case of each individual foreigner of the group.

In order for the expulsion of foreigners to be in accordance with international and regional standards, individual procedures of examining all relevant circumstances for a concrete case of each group member have to be carried out, and decisions for each individual need to be made based on the conducted procedures. In line with the practice of the European Court for Human Rights, the contents of the decisions on expulsion are also taken into account during the examination of whether a situation may be defined as a collective expulsion. It is required that the decisions on expulsion of group members are not made identically, but that a decision for each member of the group refers to individual circumstances distinctive for his/her individual case.²⁹

Expulsion of a group of foreigners without previously completing an individual procedure is problematic from the aspect of adherence to international and regional protection standards, especially for vulnerable categories. In this regard, collective expulsion would prevent carrying out a relevant identification procedure for foreigners in need of a special type of protection (whether this is the case of asylum seekers, (un) accompanied minors, human trafficking victims or some other particularly vulnerable category of migrants), and therefore violate the obligation of the state to provide adequate protection to these individuals.

²⁸ According to the Law on the Ratification of the Readmission Agreement with Macedonia, competent authorities of the requesting state issue a travel document to a foreigner, in accordance with their national legislation. If stipulated by the national legislation of the requested state, the competent diplomatic mission or consular office issue a visa.

²⁹ *Conka v. Belgium*, complaint no. 51564/99, court decision of 5 February 2002.

What does voluntary return imply and how is it implemented?

Voluntary return implies the right of a foreigner illegally staying in a country to be returned to his/her country of origin or the country of his/her last residence.³⁰

The procedure of voluntary return of foreigners illegally staying in the Republic of Serbia is not regulated by the applicable legal framework in the Republic of Serbia. It is practically implemented through the program of voluntary return of International Office of Migration (IOM) in cooperation with the competent authorities of the Republic of Serbia. In case an individual without travel documents issued by his/her country of origin is in the program of voluntary return, the role of state authorities is to provide an adequate travel document/travel certificate for the purpose of his/her leaving the country. On the other hand, IOM communicates with competent authorities of the Republic of Serbia and diplomatic missions and consular offices of the country of origin, collects all the necessary documents, covers financial costs of transport to the country of origin and provides assistance during the journey.

Since the beginning of 2016, IOM has been carrying out the procedures of voluntary return of migrants who, due to restrictive measures of the European Union, have given up the intention to seek international protection in some of these countries and decided to return to their countries of origin.

6. Contacts of relevant institutions

Information included in Chapter 6 should be regarded as a supplement to Booklet 3, which provides a comprehensive overview of directly and indirectly competent institutions, whereas this part only includes information on organisations/institutions which became a part of the system of accommodation of and care for migrants and refugees during the increased influx.

PREŠEVO

Reception and Transit Centre

New centre with the capacity of 650 beds was opened in July 2015, in accordance with the Response Plan in the Case of an Increased Influx of Migrants. Representatives of the Ministry of Interior register migrants and medical check-ups take place there. The centre has toilets, showers, toilets for persons with disabilities and premises for accommodation of mothers with their children. Since February 2016, two additional family pavilions have been opened in the Presevo Reception Centre for temporary accommodation of 350 migrants, as well as children's corner for mothers with children and a new first aid station with two rooms.

³⁰ More details about the right to voluntary return may be found at booklet 1 "Terminological Framework"

Red Cross

Address: Zenel Ajdini 2, 17523 Preševo

Phone: 017 7411 172

E-mail: presevo@redcross.org

Commissioner for Refugees and Migration

Address: Maršala Tita 36

Phone: 017/660-137

E-mail: presevo@kirs.org.rs

ŠID

Transit and Reception Centre “Principovac” since September 2015, intended for reception and urgent assistance to migrants moving towards the Croatian border.

Transit and Reception Centre “Adaševci” since November 2015 the centre has been offering aid and food to migrants boarding the train from Sid to Slavonski brod in Croatia.

Šid – Station, planned capacity of 200 beds for longer periods of stay and 100 beds for transit.

Red Cross Šid

Address: Cara Lazara 10

Phone: 022/ 712-310

E-mail: office@cksid.org.rs ; sid@redcross.org.rs

Commissioner for Refugees and Migration

Address: Cara Dušana1

Phone: 063/ 564-760

E-mail: sid@kirs.org.rs

BUJANOVAC

Transit and Reception Centre “Svetlost” was opened on October 16, 2015, and up to 1,500 migrants can be registered here. In addition, the centre offers health care and other kinds of aid.

Police station in Bujanovac

Address: Karađorđa Petrovića BB

Phone: 017/ 651-003

Misdemeanour Court Vranje (Bujanovac Department)

Address: Karađorđa Petrovića bb

Phone: 017/421-275

E-mail: prekrasajnisudvranje@gmail.com



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Social Work Centre

Address: Trg Karađorđa Petrovića bb

Phone: 017 651 222

E-mail: bujanovac.csr@minrzs.gov.rs

Primary healthcare centre

Address: Karađorđeva bb

Phone: 017 651 017

E-mail: domzdravljabujanovac@gmail.com

Red Cross

Address: Karađorđa Petrovića bb

E-mail: bujanovac@redcross.org.rs

Commissioner for Refugees and Migration

Address: Karađorđa Petrovića 115

Phone: 017/651-044

E-mail: bujanovac@kirs.gov.rs

SUBOTICA

Transit and Reception Centre in Subotica accommodates refugees and migrants for short periods of time and provides food and medical check-ups. The capacities of the centre include 150 beds, a dormitory and a team of doctors.

Red Cross

Phone: 063/17103525

E-mail: zsolt@suredcross.org.rs

Commissioner for Refugees and Migration

Address: Trg L. Nešića 1

Phone: 024/558-483

E-mail: subotica@kirs.gov.rs

DIMITROVGRAD

Reception Centre in Dimitrovgrad is built up of tents and a container for preparation of food.

Police station in Dimitrovgrad

Address: Balkanska 81

Phone: 010/ 361-105

Misdemeanour Court Pirot, Dimitrovgrad Department

Address: Balkanska 81

Phone: 010/363-564

E-mail: prekrasajnisud.piot@open.telekom.rs

Social Work Centre

Address: Srpskih vladara 126a

Phone: 010/362-688 (668)

E-mail: dimitrovgrad.csr@minrzs.gov.rs

Primary healthcare centre

Address: Hristo Smirninski 2

Phone: 010/361-966

E-mail: dz_dimitrovgrad@open.telekom.rs

Red Cross

Address: Kiril Metodi 7

Phone: 010/361-575

E-mail: dimitrovgrad@redcross.org.rs

Commissioner for Refugees and Migration

Address: Balkanska2

Phone: 010/361-108

E-mail: dimitrovgrad@kirs.gov.rs

BOSILEGRAD

Police station in Dimitrovgrad

Address: Georgi Dimitrova BB

Phone: 017/877-151

Misdemeanour Court Vranje (competent for Bosilegrad municipality)

Address: Zadarska 2

Phone: 017/421-275

E-mail: prekrasajnisudvranje@gmail.com

Social Work Centre

Phone: 017/877-106,

E-mail: bosilegrad.csr@minrzs.gov.rs

Primary healthcare centre

Address: Porodin 11

Phone: 017/878-811

E-mail: dzbosil@yahoo.com



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Кандидација за сарадњу
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Red Cross

Address: 28. marta bb

Phone: 017/ 77-313

E-mail: bosilegrad@redcross.org.rs

Commissioner for Refugees and Migration

Address: G. Dmitrova 82

Phone: 017/877-337

E-mail: bosilegrad@kirs.gov.rs

PIROT

Red Cross

Address: Trg Pirotskih oslobodilaca 30

Phone: 010/322-275

E-mail: pirot@redcross.org.rs

Commissioner for Refugees and Migration

Address: Visocki Put 67

Phone: 010/305-500

E-mail: kabinet@pirot.rs

INTERNATIONAL AND CIVIL SOCIETY ORGANISATIONS

UNFPA

Address: Internacionalnih Brigada 69, 11000 Beograd

Web site: www.unfpa.org

UNDP

Address: Internacionalnih brigada 69, 11000 Beograd, Srbija

Phone: 011/20 40 400, 20 40 400

Email: registry.rs@undp.org

UNOPS

Address: Šumatovačka 59, 11000 Belgrade

Phone: 011 2435 703

CARE

Address: Ščerbinova 6/20 - VII sprat, 11030 Beograd

Phone: 011 3572 341, 0113572 387

E-mail: office@care.rs

HELP

Address: Učiteljska 52, 11000 Beograd

Phone: 011 30 46 340

E-mail: helpbg@help-serbia.org.rs

INTERSOS

Address: Požeška 150,1/13, 11000 Beograd

Phone: 011 656-4211

E-mail: beograd.serbia@intersos.org

International Rescue Committee (IRC)

Address: Bulevar Despota Stefana 11, Beograd

E-mail: ict@rescue.org

ADRA

Address: Radoslava Grujića 4, 11000 Beograd

Phone: 011 344 26 25, 344 26 25

E-mail: office@adra.org.rs

FONDACIJA ANA I VLADE DIVAC

Address: Ilije Garašanina 53a/7, 11000 Beograd

Phone: 011 3341755

Email: hod@divac.com

SOS Dečija Sela

Ulica: Triše Kaclerovića 27, 11000 Beograd

Phone: 011 3989 776

E-mail: fondacija@sos-decijasela.rs

ASYLUM INFO CENTRE

Address: Nemanjina 3, Beograd

E-mail: infocentarzaazil@gmail.com

NOVOSADSKI HUMANITARNI CENTAR (NSHC)

Address: Arse Teodorovića 3, 2100 Novi Sad

Phone: 021 423 021

E-mail: nshc@eunet.rs

CARITAS

Address: Višegradska 23, 11 000 Beograd

Phone: 011/36 16 940

E-mail: secretariat@caritas.rs

