OFFICE FOR HUMAN AND MINORITY RIGHTS

Sector for Human Rights Improvement and Protection

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**Implementation of the Human Rights Council Resolution on Protection of Human Rights of Migrants (А/HRC/32/14)**

Republic of Serbia is committed to the protection and improvement of human rights, in general, which is reflected both in the normative framework which regulates this field and in the fulfilment of commitments it has. Also, the Republic of Serbia initiated numerous steps, even before the beginning of the current migrant crisis, in order to facilitate and improve the position of migrants, primarily of the youngest members of this population.

Republic of Serbia is a contracting party in the majority of key agreements on human rights formed under the auspices of the United Nations (International Covenant on Civil and Political Rights - ICCPR; International Covenant on Economic, Social and Cultural Rights - CESCR; International Committee on the Elimination of Racial Discrimination - CERD; Convention on the Elimination of All Forms of Discrimination against Women - CEDAW; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - CAT; Convention on the Rights of the Child - CRC and both optional protocols on sale of children, child prostitution and child pornography and participation in armed conflicts; Convention on the Rights of Persons with Disabilities - CRPD and International Convention on the Protection of All Persons from Enforced Disappearance. Also, the Republic of Serbia ratified the ***UN Convention against transnational criminal and both additional protocols*** in 2009. In line with the Constitution of the Republic of Serbia, the universally accepted rules of the international law and confirmed international agreements are an integral part of the legal order of the Republic of Serbia and are directly implemented.

**Constitution of the Republic of Serbia** from 2006, defines that all are equal before the Constitution and law and that everyone shall have the right to equal legal protection, without discrimination. All direct or indirect discrimination based on any grounds, particularly on race, sex, national origin, social origin, birth, religion, political or other opinion, property status, culture, language, age, mental or physical disability shall be prohibited. Constitution of the Republic of Serbia defines that the State shall guarantee the equality of women and men and develop equal opportunities policy. Forced labour is prohibited, and sexual or financial exploitation of person in unfavourable position shall be deemed forced labour.

In 2009, the Republic of Serbia adopted the **Anti-Discrimination** **Law** defining the general prohibition of discrimination, forms and cases of discrimination and the procedures of protection from discrimination.

**Law on Asylum** defines that in the asylum procedure in the Republic of Serbia, any discrimination on any grounds shall be prohibited, and in particular on the grounds of race, colour, sex, nationality, social origin or a similar status, birth, religion, political or other beliefs, financial standing, culture, language, age, mental, sensory or physical disability.

Numerous strategic documents with the accompanying action plans have been adopted in the previous period. The adoption of the **Strategy for Prevention and Protection against Discrimination (2013)** should be particularly underlined**,** as well as therelevant Action Plan for the implementation of the Strategy for Prevention and Protection against Discrimination for the period 2014-2018. This Strategy is the first government strategic document devoted to anti-discrimination which comprehensively treats this issue and contains the activities for a reduction of the general level on discrimination in the society. This document is devoted to the improvement of the position of nine vulnerable social groups which are most often exposed to discriminations: members of national minorities, small religious communities and religious groups, women, LGBT persons, persons with disabilities, elderly, children, ***refugees, internally displaced persons and members of other vulnerable migration groups,*** and the persons whose health status can be a reason of discrimination.

We are pointing out that the Republic of Serbia established the ***Interministerial Group for the implementation of the UN Agenda on sustainable development until 2030*** in December 2015, and initiated the definition and alignment of the national priorities with the objectives established in the Agenda on Sustainable Development.

There is a continuous improvement and promotion of the cooperation with the countries in the region through the existing regional initiatives, international organisations and programmes of support, such as MARRI, ICMPD, ENARO and the regional IPA projects. Ministry of Labour, Employment, Veteran and Social Issues has cooperated in the previous period with the UNICEF; International Organisation for Migration; Danish Council for Refugees and the Swiss Confederation in numerous activities in order to improve the work with migrants and provide contribution to the respect of human rights of this population. Centre for protection of victims of human trafficking, together with the ministry competent for education and the UNITAS Fund, worked on the prevention of trafficking in children and youth.

**Republic of Serbia makes efforts to act in line with the Recommended principles and guidelines on human rights,** established by the Office of the UN High Commissioner for Human Rights:

* An asylum seeker can use the services of the free legal assistance and representation by the UNHCR and civil society organisations whose objectives and activities are directed towards providing legal assistance to refugees. An asylum seeker, who does not understand the official language of the procedure, shall be provided with the free services of translation and interpretation to the language of the origin country, i.e. to the language the person understands.
* All migrants accepted in the receptive-transit centres are provided with the **access to health care.** Asylum seekers and persons whose asylum application has been approved in the Republic of Serbia shall have equal right to healthcare, in line with the regulations defining the healthcare of foreign nationals. All centres currently performing reception of and care for migrants, have rooms for provision of healthcare (24h medical teams). In cooperation with the local healthcare centres, conditions and resources have been ensured for the provision of health care, in order to adequately respond to the increasing number of people in its territory. A regular monitoring of the epidemiological situation is performed which is of vital importance for the prevention of a possible transmission of infectious diseases both among the migrants and to the local population.
* A regular **access to information on possibilities for a voluntary return to origin countries** has been provided. The voluntary return is conducted in cooperation with the representatives of the IOM in Serbia.
* Law on Asylum defines the principle of special care for asylum seekers with special needs, including the minors. Unaccompanied minors, before the applying for asylum, is given a guardian. Reception of minor asylum seekers in the Republic of Serbia is done in the Centre for accommodation o minor foreign nationals who are not accompanied by a parent or a guardian. The ministry competent for social affairs created in July 2015, the ***Instruction on the activities of the centre for social work and institutions of social protection for accommodation of users for provision of protection and accommodation of unaccompanied minor migrants.*** The accommodation can last until the moment of expressing the wish of a minor immigrant to apply for asylum, in line with the Law on Asylum, when the accommodation is provided in an asylum centre. Minor foreign nationals are accommodated in reception centres accompanied by police officers and workers of the Centre for social work on duty, where they are identified, based on the statements made by the minors themselves. The treatment is short-term, focused on the stabilisation of a child/young person, assessment of their needs and further forms of protection. Psychosocial assistance in the reception centres is also provided by psychologists form the civil society organisations. Also, this ministry made the Action Plan for Response in provision of assistance, support and protection of unaccompanied minor migrants by a responsible adult.
* In the conditions of extremely accelerated flow of migrants (refugees) through the territory of the Republic of Serbia, a short stay in organised reception centres, In terms of the extremely rapid passage of migrants (refugees) through the territory of the Republic of Serbia, organized a short stay in organised reception centres, after the relevant assessment of the degree of risk, which children unaccompanied by parents or legal representative has been exposed, performed with the registration process with the official authorities, then immediately after completion of registration procedures continue their journey.
* In cooperation and with the support by the civil society organisations and international organisations, the migrants have the access to the **services of psychosocial support.** A special attention is paid to vulnerable migrant categories.
* All asylum centres and all reception-transit centres are provided with a **separated accommodation for women** and single men. All the centres provide the access to gynaecologists in the corresponding health care centre and the access to the international organisations competent for reproductive health of migrants, which ensures a constant access to information and services. The accommodation is performed with respecting the anti-discrimination principle, family unity, gender equality and care of persons with special needs.
* In line with the **Law on Employment of Foreign Nationals,** an asylum seeker can be issued a personal work permit nine months upon applying for asylum, if the decision on that application was not made without the applicant’s fault, for the period of six months with the possibility to be renewed, while the person holds the status of an asylum seeker.  A refugee can be issued a work permit for the period of expiry date of the refugee’s ID card for the person to whom the asylum has been granted. A person granted with subsidiary protection can be issued a personal work permit for the period of duration of the status of a person with the subsidiary protection. In the process of issuance, renewal, revocation and expiry of the work permit, the decision is made by the National Employment Service and it keeps the record on work permits and foreign nationals who realise the right to labour in line with the Law on Employment of Foreign Nationals. We would also like to point out that the **Labour Law**: defines that the provisions of this law shall apply to the employed foreign nationals and stateless persons working with an employer in the territory of the Republic of Serbia, unless otherwise specified by the law (Article 2, paragraph 4); prohibits direct and indirect discrimination of persons seeking employment and the employed (Articles 18-23); defines that foreign nationals or stateless persons may establish employment relations under the conditions specified by the present law and special law (Article 29); defines that an employee shall be guaranteed equal earnings for the same work or the work of equal value performed with an employer (Article 104); when it comes to the rights of trade unions it defines that an employee shall be entitled, directly and/or through his representatives, to associate, participate in bargaining for entering into collective agreements, peaceful settling of collective and individual labour disputes, consulting, information and expression of his standpoints regarding essential issues in the sphere of labour (Article 13).
* All asylum centres and reception-transit centres meet the necessary standards and requirements for utilisation, use and **accommodation,** while taking care of the location of the facility, in particular to its technical and social infrastructure (connection to the road network and the network of social and public services – education, health and social institutions). There is a continuous improvement of the conditions in the centres, and development of additional capacities. Having in mind the fact that migrants stay longer in the Republic of Serbia, the facilities for temporary accommodation have the standards as to those in the asylum centres, which include special activities intended for children and the youth, proper conditions for communication, hygiene maintenance in the facility, and the recreational and occupational activities in order to alleviate tension in the conditions of the collective accommodation. Two organisational units have been established for temporary stay-accommodation for minor foreign nationals unaccompanied by a responsible adult. Those organisational units were established within two institutions of social protection for accommodation of children (Institute for Education of Children and the Young of Belgrade and Institute for Education of Children and the Young of Niš) **Centre for accommodation of unaccompanied minor foreign nationals** was established, by the decision of the Government of the Republic of Serbia on the network of institutions for social protection, as a work unit within the Institute for Education of the Youth, and started operating in 2009, i.e. 2011. The activity of the Centre for unaccompanied minor foreign nationals is to provide accommodation to minor foreign nationals of both sexes, aged 10-18.
* All migrants of school age who are in transit have the access to the services of informal **education,** provided by the competent institution in cooperation with the civil society organisations. The asylum seekers and children to whom asylum is granted and who are of school age shall be included in the system of formal education (free primary and secondary education).
* **Records** of the Commissariat for Refugees and Migrations in the asylum centres and reception-transit centres are classified by age, sex, origin country, place of expressing the asylum intention, and a special record is kept on unaccompanied minors. The police, social workers and other state authorities, and involved in the preliminary identification of victims of human trafficking. An efficient identification of victims of human trafficking, including asylum seekers and unaccompanied children, and their referral, are provided by establishing the specialised police units within the Administration of the Border Police (including the Regional centres of the border police towards the neighbouring countries), Administration of the Criminal Police, Police administrations for the City of Belgrade, and all other regional police administrations. Registration of potential cases and their investigation regarding asylum seekers and unaccompanied children in Serbia have been facilitated since the Asylum Office is located within the Administration of the Border Police with a daily information exchange.
* In the situation of increased inflow of migrants, in order to have emergent and coordinated action, the Government of the Republic of Serbia established ***the Working Group for tackling the issues of mixed migration flows*** on June 6, 2015. The Working Group was formed with the task to monitor, analyse and discuss the issues of mixed migration flows in the Republic of Serbia with a special reference to the issues in this field, to give analyses of the situation and propose measures for tackling the identified issues and to align the standpoints of the competent institutions and other organisations and the institutions working on these issues of mixed migration flows. In Serbia, there are 143 municipalities with adopted local action plans (LAP) representing a good mechanism for managing migrations, in line with the specific needs of the migration population in every local community. This manner ensures a more economic use of the existing resources (financial, technical, human and institutional) through networking of relevant local institutions and other local partners. The Commissariats for Refugees and Migrations regularly defines the Incentive programmes for the implementation of measures and activities in the field of migration management for local self-government units and allocates budget funds for that purpose. In addition to that, the Commissariat for Refugees and Migrations regularly supports the projects of civil society organisations, which aim is to improve the position of asylum seekers and migrants, to raise awareness of the public on the issues and obstacles faced by this category of migrants, to promote and strengthen tolerance at the national and local level, to build trust and sensitivity of the local community, to eliminate prejudice towards asylum seekers, and to develop communication and dialogue at the national and local level.