



COMMISSARIAT FOR REFUGEES AND MIGRATION OF THE REPUBLIC OF SERBIA



MIGRATION MANAGEMENT IN THE REPUBLIC OF SERBIA



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MIGRATION MANAGEMENT ACT

On 8 November 2012, the National Assembly adopted the Migration Management Act which enables for the establishment of a coordinated system of migration management in the Republic of Serbia. This regulation has, for the first time ever, legally defined the basic migration terms.

Bearing in mind the challenges brought by different types of migration, as well as the necessity for harmonising the legal framework with EU's broadened legal norms on migration and asylum, the Act represents an answer to the thus far lack of regulations, unity and coordination within the migration management system in the Republic of Serbia.

The Act sets common priorities and aims of the migration policy, whilst establishing better coordination between the state administration authorities in this area.

The term 'migration management' has been defined by the Act so to include the processes of:

- *gathering and analysing data relevant for migration management;*
- *establishing an unique system of gathering, organising and exchanging data;*
- *determining and proposing migration policy aims and priorities;*
- *proposing and taking measures for the implementation of the migration policy and*
- *coordinating state administration authorities performing activities related to migration management*

One of the most important solutions prescribed by the Act is the determining of new competences of the Commissariat for Refugees in the area of migration management. The Commissariat for Refugees, established by the Refugees Act, will continue its work under the new name Commissariat for Refugees and Migration in accordance with the competences determined by this Act and other acts.



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In addition to its previous competences, the Commissariat will perform tasks relating to the following:

- *gathering, consolidating and analysing data and indicators for migration management*
- *proposing migration policy aims and priorities to the Government of the Republic of Serbia, as well as measures needed for ensuring positive effects of legal migration and suppressing illegal migration*
- *monitoring the implementation of migration policy measures and proposing of projects that concern migration management*
- *providing the authorities of state administration, autonomous province and local self-government units with the data relevant for the drafting of strategic documents on migration*
- *drafting annual report to the Government about the status on migration management*
- *reporting on immigration and emigration; drafting and regularly updating the Migration Profile of the Republic of Serbia*
- *establishing an unique system of gathering, organising and exchanging data*
- *establishing a collaboration with the members of the European Migration Network*
- *training and enabling the persons performing tasks important for migration management, ensuring access to information important for migration matters*
- *defining, proposing and taking measures for the integration of persons who, in accordance with the Asylum Act, have been granted the right to refuge (shelter) and the reintegration of returnees on the basis of the Readmission Agreement*
- *providing temporary collective housing for returnees on the basis of the Readmission Agreement, who are unable to provide their own accommodation directly upon their return and providing temporary accommodation for persons who, in accordance with the Asylum Act, have been granted the right to refuge (shelter) or assigned subsidiary protection*
- *improving the living conditions for internally displaced persons whilst in displacement*
- *proposing programmes for the development of the system of measures for the families of aliens illegally residing on the territory of the Republic of Serbia*
- *proposing support programmes for the return of aliens illegally residing on the territory of the Republic of Serbia to the countries of their origin.*



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The Commissariat performs professional and administrative-technical tasks for the needs of the Commission on Missing Persons, including the running of unique records on the persons gone missing during the 1991-1995 armed conflicts on the territory of the former SFRY and those of 1998-2000 period on the AP of Kosovo and Metohija. The Commission on Missing Persons, formed by the Government, studies and confirms the proposals for the resolution of the missing persons issue, fulfils obligations stemming from international agreements and treaties which refer to the solving of the missing persons problem, coordinates the work of the competent institutions and organisations in the procedure of looking for the missing persons and cooperates with the families and the associations of the missing persons in order to resolve the issue of the missing persons status and the humanitarian issues of the missing persons' families.

The Act prescribes for the establishment of a Migration Council by the competent authority in an autonomous province and units of local self-government, for the purpose of offering counselling on migration management. The Act also defines the composition of the Council, including the Council's obligation to submit a report to the Commissariat when the latter so requests, about the measures taken and other matters concerning migration management on the territory on which it was formed.



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Migration Council

Article 12

For the purpose of performing counselling tasks with regard to migration management on the territory of an autonomous province and a local self-government unit, the competent authority in the territory of the autonomous province and the local self-government unit shall establish a provincial, i.e. local migration council (hereinafter 'Migration Council').

A Migration Council shall perform tasks relating to the monitoring of migrations happening on the territory of the autonomous province and the local self-government unit, and the reporting on it to the Commissariat on Migration; proposing of programmes, measures and plans of activities which ought to be implemented towards efficient migration management on their territories; other work in the field of migration management, in accordance with the Law.

A Migration Council, the composition of which is regulated by its own articles of association, is by rule comprised of representatives of the executive body of the local self-government unit (president of the municipality/mayor or member of the municipal/city council), the social welfare centre, the police administration, the employment service, a commissioner and a representative of the municipal, i.e. city administration.

In addition to the representatives specified in paragraph 3 of the Article hereof, the competent body in the autonomous province and the local self-government unit which is formed by the Migration Council, may decide to include in its work the representatives of the institutions competent in the area of health and education, associations for matters of importance for the field of migration and other persons performing tasks of importance for migration management on the territory in which it has competences.

At the request of the Commissariat, a Migration Council shall report to the Commissariat on the measures taken and other issues concerning migration management on the territory for which is was founded.



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upravljanje migracijama i integraciju stranaca

DEFINITIONS

According to the Migration Management Act, **immigration** represents an external migration into the Republic of Serbia which lasts or is expected to last longer than 12 months.

According to the Migration Management Act, **emigration** represents an external migration from the Republic of Serbia which lasts or is expected to last longer than 12 months.

Internally displaced persons are individuals or groups of individuals who were forced to flee or abandon their homes for some reason without having crossed an internationally recognised border in the process.

Asylum shall mean the right to reside and protection guaranteed to an alien who has been granted refuge (shelter) or other form of protection as prescribed by the Asylum Act on the basis of a decision by the competent authority which was deciding on the alien's request for asylum in the Republic of Serbia. An **asylum seeker** shall mean an alien who files a request for asylum on the territory of the Republic of Serbia, yet whose request awaits decision. According to the Asylum Act, a **refugee** shall mean a person who due to a well-founded fear of being persecuted for reasons of race, gender, language, religion, nationality, is outside the country of his/her origin and is unable or, owing to such fear, is unwilling to avail himself/herself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence is unable or, owing to such fear, is unwilling to return to it.¹ **Subsidiary protection** is granted to a person who, if returned to his/her country of origin, would be exposed to torture, inhumane or degrading treatment, or whose life, safety and freedom would be threatened by generalised violence caused by external aggression or internal armed conflicts or massive violation of human rights.

¹ *It is important to make a distinction between the term refugee as defined under the Asylum Act and the term refugee as defined under the Refugees Act which has a more narrow definition and refers to the persons who are originally from the territory of the former SFRY.*



Returnees on the basis of the Readmission Agreement are persons who have been returned to the territory of the Republic of Serbia for not having had fulfilled the conditions for the entry to and residence in the territory of the country with which the Republic of Serbia signed the Readmission Agreement. Readmission involves a process of safe return of persons who do not meet, or no longer meet, the requirements of the entry to, stay and residence in the territory of the specific country.

A migrant worker is a person who is looking for a job or is performing work in a place more or less remote from the place of his/her residence. Such worker may leave for work to another place occasionally (season worker), temporarily (for a longer or shorter period) or he/she may stay and work for a period impossible to be determined ahead of time (indefinitely). A migrant worker may perform his/her job within the borders of his/her own country as well as go to work abroad (migrant workers in the narrow sense of the term).

Victims of human trafficking are all persons who have become a subject of **human trafficking**, whether home or foreign nationals. Human trafficking shall mean different acts (recruitment, transportation, hiding and admission persons) by using threats or force or other coercive means, kidnapping, deception or maintaining deception, abuse of authority or vulnerable condition, giving or accepting money or other benefit for the purpose of obtaining consent from the person who has control over another person. The intention behind these acts is exploitation which, at minimum, implies the exploitation of prostitution of other persons or other forms of sexual exploitation, forced labour, slavery or practices similar to slavery, or the removal of organs.

According to the Aliens Act, an **alien** means any person without Serbian citizenship. Aliens on the territory of the Republic of Serbia may reside legally and illegally. **Illegal migrants** are aliens without legal grounds for residing in the territory of the Republic of Serbia, whether they entered the Serbian territory illegally (entry beyond the border crossing, entry with forged or in any other way invalid travel documents) or legally, but failed to leave it after their residence expired.



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Categories of Migrants

Refugees according to the Refugees Act

The Refugees Act defines the provision of care to refugees so to include organised admission, temporary accommodation, aid in food, right to social protection and health care, employment and schooling, as well as housing. The refugees are bound by the same working obligation under the same terms as are the citizens of the Republic of Serbia. The refugees exercise these rights according to their place of residence in the Republic of Serbia. It is prescribed that refugees may be provided with accommodation in collective housing facilities (collective centres). In case such accommodation is unfitting for a refugee on grounds of his/her psycho-physical state (old age or disability, being a child and the rest), the Commissariat on Refugees will, upon the corresponding decision by the respective social welfare centre, provide accommodation in an institution of social protection. Moreover, preconditions have been made for meeting the housing needs in the integration process and support to returnees has been provided for.

Internally Displaced Persons

The National Strategy for Resolving the Housing Situation of Refugees and IDPs highlights Serbia's primary choice to provide the internally displaced persons with full support for a sustainable return to the AP of Kosovo and Metohija. Bearing in mind that sustainable return to the AP of Kosovo and Metohija is still not possible, the Strategy provides adequate solutions for the improvement of IDPs' living conditions so to enable them to exercise their rights and access services in accordance with the positive legal regulations, as do other citizens, including the UN Guiding Principles of Internal Displacement. Special attention ought to be made to the exercise of the rights of the IDPs belonging to the Roma, Ashkali and Egyptian communities (RAE population) who fall into the category of those particularly vulnerable.



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Types of help the Commissariat offers to refugees and IDPs:

- **Implementing refugee integration programmes and programmes for the improvement of IDPs' living conditions**
- **Economic empowerment programmes: prequalification and additional training in professions in deficit on the labour market, donating tools for vocational work, donating agricultural machines and equipment and donating livestock**
- **Provision of care and protection of rights**
- **Providing assistance during organised return of refugees to the countries of their origin and assistance to returnees by way of providing returnees packages**
- **Planned closing of the collective centres, finding housing solutions for the people living in collective centres and private accommodation through the following programmes:**
 - complete construction of housing units, partial construction and self-construction
 - purchase of rural farm houses with plots of land
 - allocation of prefabricated houses
 - assisting by providing packages of building material in order to finish the already initiated construction of housing objects
 - building facilities/objects for social housing under protected conditions
 - adapting and converting the facilities of the collective centres to housing institutions for the elderly
 - adapting and expanding the capacity of social welfare institutions
 - one-time in-money and in-kind aid for persons leaving the collective centres



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Migrant Workers in the Narrow Sense of the Term

The State is obliged to accord the same treatment to alien migrant workers as that enjoyed by its own citizens in terms of the set of economic and social rights. If an alien is staying in the Republic of Serbia on grounds of work, employment or performing commercial or other professions, he/she will be granted temporary residence. Work permits to aliens who require them are issued by the National Employment Bureau (hereinafter 'NEB'). In accordance with the **Employment and Unemployment Insurance Act**, it is stipulated that a foreign national or a person without nationality may apply to the National Employment Bureau as an unemployed person if he/she was previously granted permanent or temporary residence and a valid work permit. Such person who finds him/herself on the NEB records will be equal to any home citizen and will thus have, inter alia, the right to:

- *information about job vacancies*
- *counselling*
- *mediation in obtaining employment*
- *inclusion in the programmes of additional education and training*
- *financial support during employment, i.e. he/she will be able to exercise the right to receiving subsidies and using the self-employment funds*

In the event that a foreign national registers with the NBS after the expiration of his/her previously paid-in insurance covering unemployment on the territory of the Republic of Serbia, he/she will be entitled to a pecuniary compensation in the way and under the same terms as are the citizens of the Republic of Serbia.

Other rights of alien migrant workers include, inter alia, the right to family reunification, i.e. the alien migrant worker has the right to have the members of his close family be granted temporary residence in the Republic of Serbia, his/her own health care and that of his/her family members, education for his family members, as well as have nostrification be issued and the equivalence of foreign school certificates be evaluated by the Ministry of Education.

Returnees on the basis of the Readmission Agreement

Returnees on the basis of the Readmission Agreement have equal rights as the citizens of the Republic of Serbia. They can have access to education, health and the right to employment. With the adoption of the Strategy for the Reintegration of Returnees on the basis of the Readmission Agreement and the creation of the Council for Reintegration of Returnees, an institutional framework for the reintegration of this category of persons was established. The Council as an inter-departmental body, proposes measures for the admission, provision of care and integration of returnees to be organised. Urgent admission and accommodation is provided to the returnees on the basis of the Readmission Agreement. Upon their arrival, the returnees are registered with the Readmission Office located at the Nikola Tesla airport.

The Readmission Office can assist the returnees by providing the following:

- *Information about the rules and obligations on and possibilities for urgent care, social protection and health care, education and employment*
- *Advise on how to obtain personal documents*
- *Transportation to shelters, contacting the social welfare centre so to provide the returnees with travel tickets*
- *Accommodation in Centres for Urgent Admission of the Commissariat for Refugees*
- *Directing them to the Migration Councils/Trusteeships and other service institutions of local self-governments for further help*

In case they are not provided with accommodation, the returnees will be housed in the Centres for Urgent Admission on the basis of a directive issued by the Commissariat for Refugees and Migration. The three Centres are located in Bela Palanka, Zaječar and Šabac which offer basic living conditions for a period of 14 days, after what time the returnees will be transported to the admitting community. In case of returnees who are in a special psychophysical state (old age, disable or ill), their stay in the Centre may be extended until alternative accommodation is found.



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Asylum Seekers

The procedure for granting asylum is prescribed by the Asylum Act. In first instance, the procedure is led and decisions made by the Asylum Office, i.e. the Asylum Division within the Foreigners Department of the Border Police Administration. Appeals to the first instance decisions of the Asylum Division are decided on in the second instance by the Asylum Commission. The Commission is independent and decides by majority vote of all its members.

Until final decisions on their asylum requests are made, the asylum seekers are provided with accommodation and basic living conditions in the Asylum Centres of Banja Koviljača and Bogovađa. The Centres are run by the Commissariat for Refugees and Migration with the accommodation of these persons being done in conformity with the principles of non-discrimination, family unity, gender equality and care for persons with special needs.

Special assistance provided in the Asylum Centres:

- Accommodation and basic living conditions provided
- Free legal aid and counselling during the asylum seeking procedure
- Contact with the UNHCR
- Provision of translators/interpreters during the asylum seeking procedure
- Provision of guardians for minors
- Psychosocial support
- Language learning and workshops for children

Accommodating persons who have been granted the right to shelter or awarded subsidiary protection

The M.M. Act stipulates that this category of persons will be provided with permanent housing. Housing (the use of a living space) is granted by a decision of the Commissariat for a maximum of one year from the day the decision to accord the right to shelter or subsidiary protection is made final. The criteria for determining one's priority to housing and conditions for the use of the living space is determined by the Government acting upon the Commissariat proposal. In cases of minors who are without parental care or for other reasons (age, disability or illness) unable to use the living space, the Commissariat, following the regulations of the respective social welfare centre, will provide them with alternative accommodation.



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Завршно извештај о реализацији пројекта "Систем за пружање привременог смештаја избеглицима и особама у трагању за заштитом"

Upon arriving to their future permanent/temporary residence, it is necessary for the returnees to contact the Refugee Trusteeship/Migration Council in order for it to:

- Make a record of them*
- Inform them of their rights, obligations and options*
- Help them with writing requests, pleas, letters and other documents*

The travel certificate is often the only identification document a person will own until he/she is able to obtain other documents. The rights which returnees are entitled to on the basis of their Travel certificate are as follows:

- personal identification*
- emergency medical help (as instructed by the Ministry of Health)*
- contacting the Social Welfare Centre*
- Initiating the process of enrolling their children to elementary or secondary schools*

In cooperation with the local Migration Councils, the Commissariat is making it possible for returnees on the basis of the Readmission Agreement to be reintegrated. The reintegration measures aimed at returnees concern the provision of documents, employment, schooling, social protection and housing.

The social welfare centre provides counselling and mediation, national (public) kitchens (providing one daily meal), one-time financial support – in the social welfare centre on the territory of the municipality in which the returnees have residence, free one-way ticket to their place of residence, temporary accommodation in shelters – the social welfare centre passes decisions on the accommodation of individual returnees



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Victims of Human Trafficking

The act of human trafficking has been criminalised in Article 388 of the Criminal Code. The Agency for Coordinating the Protection of Victims of Human Trafficking consolidates the process of providing and organising all forms of help for victims of human trafficking. When helping victims who are minors, foreign or home nationals, the Agency will involve the Social Welfare Centre. The Agency also cooperates with specialised NGOs, the police, the judiciary, experts in social protection and organisations which can offer help and protection to the victims of human trafficking. The social protection institutions provide the victims of human trafficking, whether they are home or foreign nationals, with safe housing, psychological and financial help, counselling and information, particularly about the legal rights and services available to them, access to education for children, the necessary medical and other help to victims who are legally residing on the territory its work covers, but lack adequate resources and are in need of such help, the right to access the labour market, professional training and education, cooperation with associations and other competent organisations which provide help to victims of human trafficking.

The help provided to victims of human trafficking by the Agency for Coordinating the Protection of Victims of Human Trafficking includes:

- *First evaluation of the victims' needs*
- *Accommodation in the Shelter or another safe house according to the victim's needs*
- *Informing the victims of their rights, legal status and possibilities for their recovery*
- *Finding the right form of help, including reintegration programmes*
- *Monitoring the process of victims' reintegration in the country*
- *Acquiring the necessary documentation with regard to the victim's legal status (applying for temporary residence)*



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STATISTICS ON MIGRANTS IN THE REPUBLIC OF SERBIA:
Migration Profile

- In 2011, the number of people living in Serbia with the status of refugees from the countries of the former SFRY was 74,944 and the number of internally displaced persons from the AP of Kosovo and Metohija was 209,833. In 2012, the numbers reduced to 66,408 of refugees and 210,180 of internally displaced persons.
- Over the last three years, the number of work permits issued to foreign nationals ranged from 2,490 (in 2009) to 2,576 (in 2010) and 2,573 (in 2011).
- Over the last several years, the number of asylum seekers has been on a constant rise. In 2009, an increase of 5 times the number in 2008 has been noted (77 persons in 2008 and 275 in 2009). In 2010, 520 persons demonstrated intention to seek asylum, which was twice the number in 2009. The number of 3,134 persons in 2011 was 6 times the number in the year before.
- In 2011, 5,150 returnees on the basis of the Readmission Agreement were returned to Serbia from the countries of Western European. In 2012, the total of 1,514 returnees were returned through the Readmission Office located at Nikola Tesla airport.
- Over the last 10 years, the total population of the Republic of Serbia has reduced by over 240,000 people.



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Print-run: 1000



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