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Swiss Agency for Development
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Analysis - asylum seekers in Serbia and Serbian asylum seekers in Europe



Photography: Merilin Nadj-Torma, Kiteflying, Suburbs of Subotica



APC/CZA

ASYLUM PROTECTION CENTER
CENTAR ZA ZAŠTITU I POMOĆ TRAŽIOCIMA AZILA





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Asylum seekers in Serbia and Serbian Citizens Seeking Asylum in Europe

A comparative analysis of profiles, needs and support
systems

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This project was conducted by the Asylum Protection Center (APC), but the opinions expressed in this document do not necessarily reflect the views of the Swiss Agency for Development and Cooperation (SDC).

About the Project and the Asylum Protection Center

Asylum Protection Center (APC) was founded on December 5, 2007 and since the beginning of operations of the asylum system in Serbia it has been providing legal and psychosocial assistance to asylum seekers and persons granted asylum in Serbia. APC has been recognized in the Strategy on Migration Management of the Government of the Republic of Serbia for the period 2009-2014 (The Official Gazette of the Republic of Serbia No. 25/2009) as the organization that provides legal and other assistance to asylum seekers in Serbia. All persons granted asylum or any other protection in the Republic of Serbia were represented by APC. By 2012, the APC was the only organization that provided legal assistance to asylum seekers. To date, APC represented the largest number of asylum seekers in Serbia. APC is a member of the European Council on Refugees and Exiles (ECRE), a pan-European alliance of non-governmental organizations for providing assistance to refugees and asylum seekers.

The objective of the project *Comparative analysis of the profile, needs and inclusion of asylum seekers in Serbia and Serbian citizens seeking asylum in developed European countries* is to analyze and present the phenomenon, needs, and expectations of Serbian asylum seekers in Europe and aliens seeking asylum in Serbia, as well as to contribute, based on analyses and obtained results on the existing phenomena and support systems to these groups in Serbia, to the better functioning of the Serbian asylum system and the admittance of Serbian asylum seekers, returnees.

The project *Comparative analysis of the profile, needs and inclusion of asylum seekers in Serbia and Serbian citizens seeking asylum in developed European countries* has been financed by the Swiss Agency for Development and Cooperation (SDC).

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I. Introduction

The goal of the research project *Comparative analysis of the profile, needs and inclusion of asylum seekers in Serbia and Serbian citizens seeking asylum in developed European countries* is to bring closer the two categories of migrants, who today are quite unknown and whose characteristics and needs are not fully understood or known, to professionals and the general public. The aim of the project is to contribute, through conducted research and presented results, to a better functioning of the Serbian asylum system and the mechanisms for migration management in Serbia, development of better and effective instruments for social inclusion of returnees whose claims have been rejected in asylum procedures in the EU countries, as well as to contribute to the creation of an integration strategy for persons granted asylum in the Republic of Serbia or Serbian citizens returned from the European Union and other developed European countries who sought asylum in these countries after the visa liberalization (2009).

For several years, Serbia has been a transit country in the chain of intercontinental migration from Africa and Asia to Europe, which caused a significant increase in the number of asylum seekers in the country with the asylum system established only in 2008. Its citizens in the places where they live have met for the first time the persons of other races, cultures and civilizations, or read in the media about the immigrants who reside in local communities in the interior of Serbia. The competent state bodies, authority representatives and courts, inadequately trained and unfamiliar with asylum matters, significantly influence the process of proper functioning of the asylum system, and the lack of proper and efficient functioning of the whole system additionally and indirectly affects the attitudes of local people towards asylum seekers, who faced with aliens, inadequately supported by the asylum system, and subjected to political and other influences of local interest groups get wrong idea about the asylum population, leading to unfounded fears and prejudices.

At the same time, Serbia suffered a lot of pressure to provide conditions for sustainable integration of its citizens who continuously in great numbers go to the rich European countries to seek asylum. Namely, extremely poor citizens of Serbia, mainly Roma but also Albanian, Serbian and other nationalities, with no prospects in Serbia go to developed European countries to seek asylum. Their unfounded asylum claims in the European Union countries have caused adoption of the mechanism for reintroduction of the visa regime for the Western Balkans countries by the EU's decision-making authorities. Thus, there is a real danger that the citizens of Serbia in the near future might be denied entry into the Schengen area without visas. The abolition of the visa-free regime would slow the pace of Serbia's accession to the EU, while at the same time additional stigma would be attached to already socio-economically marginalized citizens of Serbia - failed asylum seekers in European countries, who would be blamed for the reintroduction of the visa regime.

The aim of this study is to contribute, by revealing profiles and life stories of asylum seekers in Serbia and asylum seekers from Serbia, their reasons for leaving the countries of origin, as well as their needs and expectations of the future, to a better understanding of these two categories

of migrants, which is a necessary prerequisite for the proper functioning of the asylum system and the sustainable integration of rejected Serbian asylum seekers returnees to Serbia.

From August to December 2013, the APC project team (consisting of a political scientist, psychologist, lawyer, and a social worker) conducted in-depth interviews with 60 asylum seekers in Banja Koviljača and Bogovadja¹ and 55 rejected Serbian asylum seekers in the EU and Switzerland.² Previous six-year experience of APC in providing legal and psycho-social assistance to asylum seekers in Serbia³, and the gained trust, which helped significantly the members of the project team in conducting interviews and collecting reliable information, contributed greatly to good representativeness of the sample. The wholehearted assistance of local NGOs that directly and in the field have been working for many years with the returnee population - Serbian citizens who sought asylum in European countries, contributed greatly to the part of the research related to Serbian citizens. APC is especially grateful to Ecumenical Humanitarian Organization from Novi Sad, Nexus from Vranje, Association of Roma from Braničevo District, Požarevac, Youth Forum for Education of Roma, Bujanovac, as well as to the Red Cross of Belgrade and the Red Cross of Serbia. The sample of asylum seekers who participated in the research was formed in relation to the official statistics of the Ministry of the Interior on ethnic and gender structure and previous place of residence for asylum seekers in Serbia in 2012 and 2013. The interviews were semi-structured, with custom-fit issues for all respondents, while the project team adapted the flow and dynamics of the conversation to the mood of respondents to share their experience and testimony. The aim of this study is to point out the flaws and problems in functioning of the asylum system in Serbia, as well as the limitations and shortcomings of the measures for the integration of rejected asylum seekers - Serbian citizens into the Serbian society. In order to fully understand the framework for dealing with returnees under the readmission agreement, the project team conducted a total of 18 interviews with representatives of state bodies and institutions, representatives of local governments and experts in this area, including officers of the Commissariat for Refugees and Migration, officials of the Ministry of Labor, Employment and Social Policy and the Government Office for Social Inclusion and Poverty Reduction Strategy (SIPRS), representatives of the EU Delegation in Serbia, leader of the EU project "Legal Aid", experts

¹ In the project period, the APC project team conducted the study that included 60 asylum seekers from asylum centers in Banja Koviljača and Bogovadja of which 38 % were asylum seekers from Syria, 17 % from Algeria and Morocco, 15 % from Somalia, 10 % from Eritrea, 8 % from Nigeria, 8 % from Afghanistan, and 4 % from Sudan. When it comes to the gender structure, 80 % of respondents were men and 20 % of the asylum seekers were women. In relation to the age structure, the respondents were between 17 and 32 years of age, 25 % of them had higher and 45 % lower secondary education, while 30% of respondents completed primary school.

² In the project period, the survey was conducted among 55 failed asylum seekers, citizens of Serbia, residing in Novi Sad, Zrenjanin, Zemun, Zemun Polje, Belgrade (Palilula), Požarevac, Vranje, Bujanovac, and the Varna Collective Center near Šabac, of which 54 % were men and 46 % women. In relation to ethnicity, 88% of them were Roma, 6 % Albanians, and 6 % Serbs. Regarding the age structure, 88 % of respondents were 29-35 years old, 6 % between 15-18 and 6% 50-55 years of age. 52 % of respondents sought asylum in Sweden, 35 % in Germany, 6 % in Switzerland and 6 % of them in France. 80 % of respondents had primary or incomplete primary education, while 20 % had lower secondary education.

³ Asylum Protection Center (APC) was founded on December 5, 2007 and since the beginning of operations of the asylum system in Serbia it has been providing legal and psychosocial assistance to asylum seekers and persons granted asylum in Serbia. APC has been recognized in the Strategy on Migration Management of the Government of the Republic of Serbia for the period 2009-2014 (The Official Gazette of the Republic of Serbia No. 25/2009) as the organization that provides legal and other assistance to asylum seekers in Serbia. All persons granted asylum or any other protection in the Republic of Serbia were represented by APC.

from Social Welfare Centers in Vranje, Bujanovac, Novi Pazar, Vrsac and Palilula, and trustees for refugees in Novi Pazar, Vranje, Pozarevac, Bujanovac and Zrenjanin.

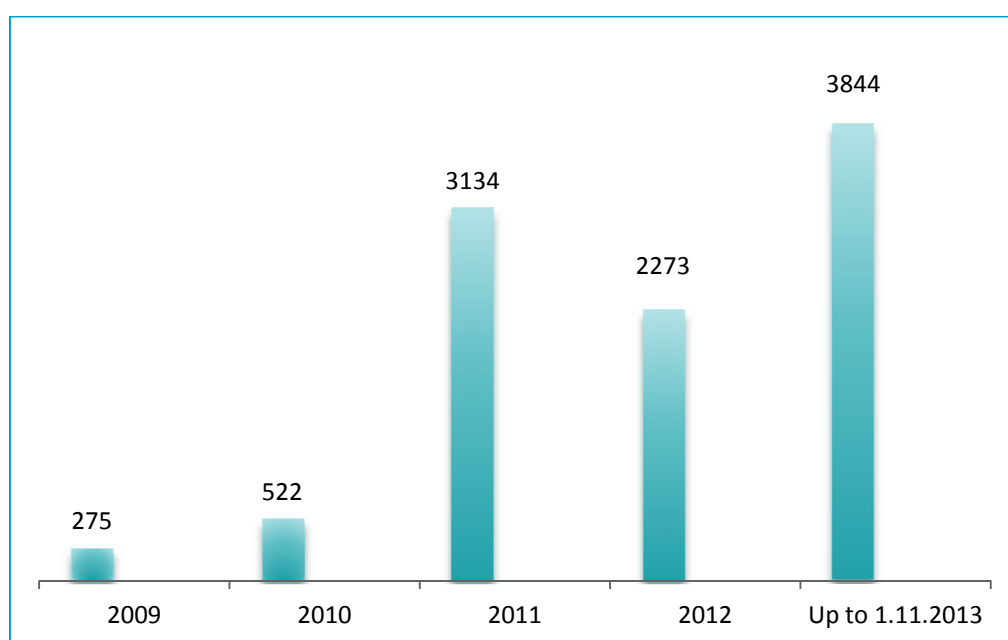
Part of the project activities also included field visits to Bulgaria and Switzerland, countries with previous experience in the area of admittance and integration of asylum seekers and experience in cases of persons who abuse the visa-free regime, with the aim of finding the most appropriate solutions in terms of improving the asylum system and the integration and inclusion of these categories of people into the Serbian society. Interviews were held with officials of the Swiss Federal Office for Migration, Canton Bern dealing with the integration of persons with international protection status, as well as representatives of the non-governmental organization Caritas, which works directly with refugees in Switzerland. The research was also conducted in Bulgaria, the country that also has challenges in the integration of the Roma population. Meetings were held with representatives of the International Organization for Migration (IOM) and Caritas NGO in Sofia.

This report has been divided into two parts. The first part deals with the profile of asylum seekers in Serbia, their way from the country of origin to Serbia, and gives the analysis of the asylum system in Serbia with recommendations for its improvement. The second part presents the profile of rejected asylum seekers from Serbia after their return home, describes the institutional framework for dealing with returnees under the readmission agreement including rejected Serbian asylum seekers in European countries, analyzes the limitations in the functioning of the adopted measures for the integration of returnees under the readmission agreement, and finally makes suggestions that should contribute to the efforts in finding the ways for lasting and viable integration of rejected asylum seekers from Serbia, as socially vulnerable citizens of Serbia, into our society.

II. Profile of Asylum Seekers in Serbia

1. Who are asylum seekers in Serbia?

Since the establishment of the asylum systems in Serbia (with the entry into force of the Law on Asylum on April 1, 2008) up to November 1, 2013, 10,048 people sought asylum, of which only ten people received positive decision - refugee status or subsidiary protection. The reasons for this drastic disproportion between the number of asylum applications and the number of positive decisions are twofold. Namely, Serbia for an absolute majority of its asylum seekers is a transit country on their way to the developed countries of Northern and Western Europe, bearing in mind that the majority of asylum seekers leave Serbia before the end of the asylum process. At the same time, asylum seekers in Serbia become unmotivated while waiting for the completion of the asylum procedure because of the slowness and inefficiency of the asylum system of Serbia.⁴ Most asylum seekers enter Serbia illegally, usually by crossing the border outside border crossings. However, by expressing their intention to seek asylum, their stay in Serbia, becomes legal, and during the asylum procedure asylum seekers among other things, have the right to shelter in an asylum center, asylum ID, freedom of movement within the territory of Serbia, healthcare, free primary and secondary education.⁵

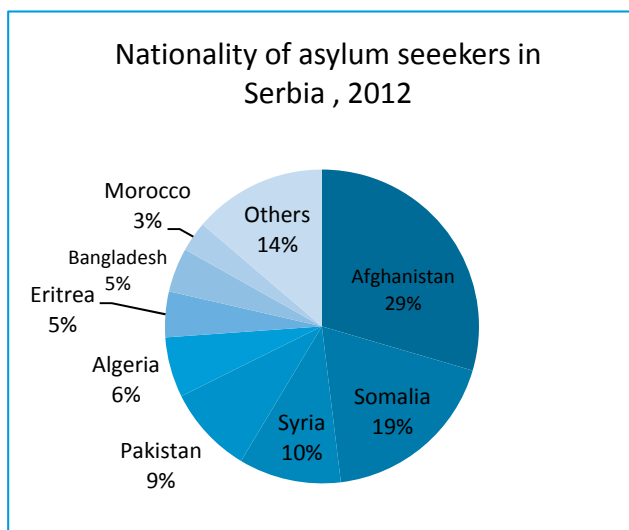
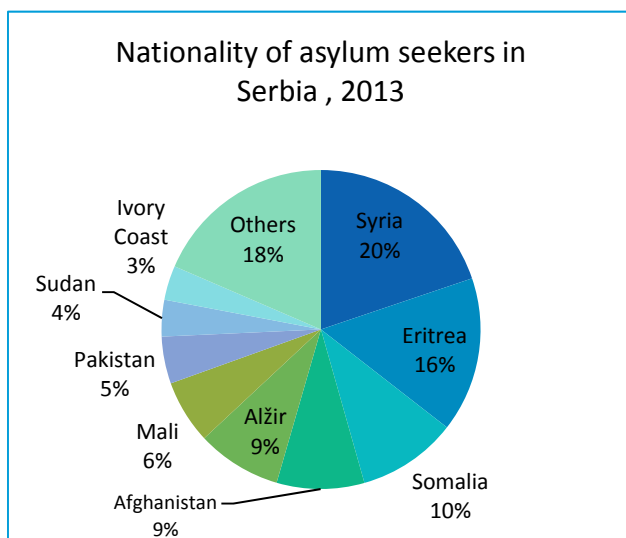


The number of asylum seekers in Serbia, Jan.1, 2008-Nov.1, 2013.

⁴ In 2012, only 12.34% of persons of the total number of 2,723 who expressed their intention to seek asylum applied for asylum. 350 out of 419 decisions of the Department for Asylum in 2012 were not made due to willful abandonment of the asylum procedure by asylum seekers: Government of the Republic of Serbia, Migration Profile of the Republic of Serbia for 2012, p.45, http://www.kirs.gov.rs/docs/migracije/Migracioni_profil_Republike_Srbije_za_2012.pdf

In 2013, from Jan. 1 to Oct. 31, 2013, a total of 3,844 people expressed their intention for seeking asylum, 132 applications for asylum were submitted, 366 identity cards issued, but only 15 interviews were conducted. In the same period, 7 decisions on the rejection of the asylum application, 2 on denied asylum and 2 on granted asylum were made: Asylum Protection Center.

⁵ The Law on Asylum (The Official Gazette of the RS No. 107/2007) articles 39, 40, 41, 51, 60.



The largest number of people who seek asylum in Serbia are from Africa, the Near and the Middle East, actually from countries the largest part of the global asylum population come from ⁶ Syria, Somalia, Afghanistan, Eritrea, Pakistan, Algeria, Mali, etc. This fact puts Serbia in the center of the phenomenon of intercontinental migration from Africa and Asia to Europe, which is of the "mixed" nature (*mixed migrations*), because the immigrants are persons fleeing from armed conflicts in the country of origin (the most acute case is Syria), discrimination, fear of persecution and poverty, lack of food and water, but also with desire for a better and safer life. According to estimates of the Asylum Protection Center, the number of persons who illegally enter Serbia, never seek asylum and go through Serbia unnoticed by the state authorities of Serbia (these persons fall into the category of irregular migrants) in 2012⁷ is a six to seven times larger than the number of persons who sought asylum in Serbia and the same trend continues in 2013.

When taking into account the structure of the asylum seekers in Serbia in

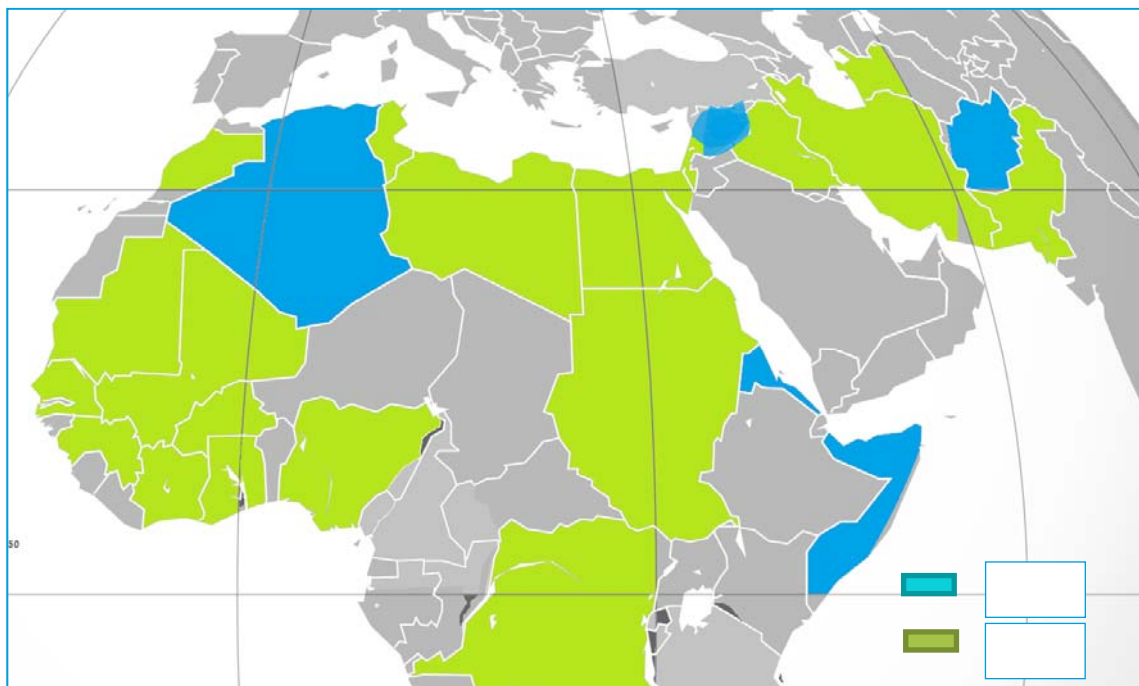
relation to their number and geographical origin in the past five years (from the establishment of the asylum system in 2008 to date), it may be noted that the national structure is often changed, receiving new features dependent on the current, regional, political and other developments in the world. For example, due to the civil war in Libya in 2011, the number of asylum seekers from Libya that year had a great share in the total number of asylum seekers, but their number significantly reduced in 2012⁸. In the past two years (2012 and 2013), on the other hand, the number of asylum seekers from war-affected areas and countries such as Syria,

⁶ In 2012, the top 10 countries from which the largest number of asylum seekers come from are: Afghanistan, Syria, Serbia and Kosovo, China, Pakistan and the Russia Federation, Iraq, Iran, Somalia and Eritrea: UNHCR, "UNHCR Asylum Trends 2012", <http://www.unhcr.org/5149b81e9.html>

⁷ See: APC "Asylum seekers and irregular migrants in Serbia: phenomenon, problems, needs, expectations, profile", August., <http://www.apc-cza.org/images/publikacije/CZA%20brošura%20Profil%20Trazioci%20azila%202012-2013.pdf>

⁸ In 2011, 139 Libyan nationals applied for asylum in Serbia (4.4% of total number of claims), while in 2012 their number was 42 (1.5% of the total number of asylum claims in Serbia): Migration Profile in the Republic of Serbia, 2012 p. 41 and 44 http://www.kirs.gov.rs/docs/migracije/Migracioni_profil_Republike_Srbije_za_2012.pdf

Eritrea, countries of West Africa where basic human rights were systematically violated dramatically increased, while the citizens of Afghanistan, Pakistan, Somalia and the Maghreb countries (Algeria, Morocco, Tunisia) have been constantly present during all the years of the existence of the asylum system in Serbia in a significant share.⁹



The largest populations of asylum seekers in Serbia

Common for an absolute majority of asylum seekers in Serbia is the fact that they came to Serbia from their countries of origin crossing illegally the borders of at least a few states. The reason for this is usually their inability to legally arrive and enter Serbia due to active persecution, war and generalized violence in their countries of origin, lack of opportunities to request and wait for visa in their countries of origin, absence of documents, long and complicated procedures for obtaining visas, as well as due to inability of applying for asylum in diplomatic and consular representations of most states. To manage to leave their country, find shelter or reach the desired destination, asylum seekers often use the services of smugglers and facilitators who help them for a high price to cross borders outside border crossings and provide accommodation in transit countries. Asylum seekers risk their lives during the trip and smuggling, as the positive outcome of smuggling can never be guaranteed. Moreover, according to the testimonies of asylum seekers in Serbia, it often happens that asylum seekers be fooled and abused by smugglers, and to suffer or witness the suffering of their loved ones or some of their friends and companions. Illustrative examples, according to the statements made by respondents, are suffering and drowning in the Aegean Sea, when due to bad weather and speed of boats, migrants were falling from boats while boats moved on

⁹ In 2011, 54% of the total number of asylum seekers accounted for Afghans, 15.7% Somalis, 11.1% Pakistanis, and 6.2% were the citizens of the Maghreb countries (Algeria, Morocco, Tunisia). In 2012, 29.5% of the total number of asylum seekers in Serbia were the citizens of Afghanistan, then 18.5% the citizens of Somalia, 10.5% Syria, 9%, Pakistan, 6.2% Algeria, 3.2% Morocco, and 1% the citizens of Tunisia: Statistics of the Asylum Protection Center (APC) for years 2011 and 2012.

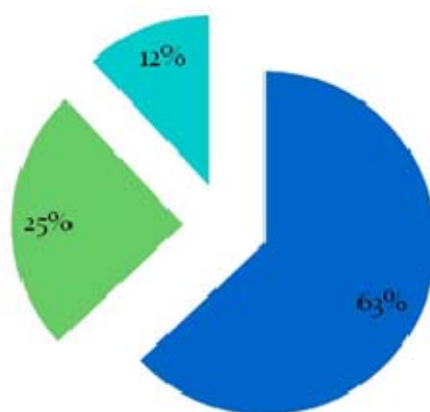
and no one looked back and helped, and relatives and companions were held by smugglers to be prevented to jump into the sea to help the drowned.

2. Reasons for leaving the country of origin and expectations of the future

The surveyed asylum seekers had very different experiences and therefore gave different reasons for their departure from the countries of origin. While respondents from the countries of the Maghreb (Algeria, Morocco, Tunisia) cited economic reasons only, asylum seekers from Syria, Eritrea, Sudan and Afghanistan as the reason for leaving the country of origin stated fleeing from war, persecution and disapproval of the political regime. Somalis and Nigerians had mixed reasons - most Somalis flee from armed conflict, while most Nigerians are looking for a better life and to feed their family¹⁰, a small number of them from each group have left the country due to the desire for education as well.

Reasons of surveyed asylum seekers for leaving the countries of origin

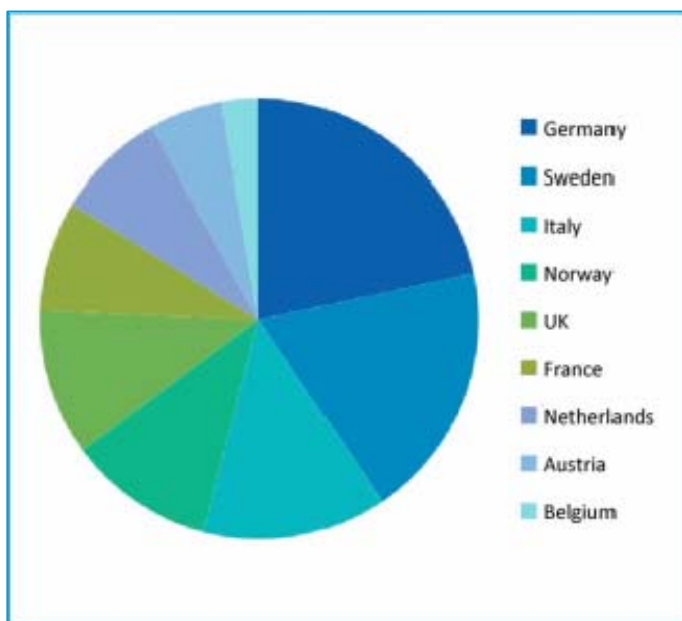
■ Armed conflicts ■ Economic reasons ■ Combined reasons



Based on interviews with asylum seekers from Syria, Eritrea and Sudan, one came to the conclusion that they indeed belong to the group of asylum seekers who are eligible to be granted asylum for fleeing from persecution on the basis of religious, political and ethnic affiliation and belonging to particular social groups in the country origin. The majority of respondents from Syria and Eritrea (65%) state that they would return to their homeland if the war and the violation of basic rights ended, while individuals from Syria even admitted that they feel bad about leaving the country. On the other hand, the interviewed Afghans, Nigerians and Somalis who fled from the civil war or persecution do not want to return, ever again, to their countries, because of resignation and conviction that the situation will never change for the better, and for fear of persecution and vendettas if returned.¹¹

¹⁰ Persons from Nigeria who escape the waves of religious violence in northern Nigeria are currently rare, and their increasing number, in the group Nigerian asylum seekers, is expected in the future

¹¹For more information on the countries of origin of asylum seekers coming to Serbia consult the Asylum Library of the Asylum Protection Center (APC), available at <http://www.apc-cza.org/sr-YU/coi.html>



Respondents who gave reasons of economic nature or desire for a better life and education (this group often included Algerians, Nigerians, Somalis and Eritreans) do not want to return to their homeland. Although most Algerians said during the interview that this was their first attempt to reach Europe, further interview however revealed that they had already stayed in some Western Europe countries or had been expelled from them. When asked which country is their final destination, most respondents choose the states in which they already have relatives and

friends, or which language they speak or according to their knowledge that these countries are rich and tolerant towards immigrants. Thus, the largest number of the respondents answered that they would like to go to Sweden, then to Germany, Norway, France, Italy, Great Britain, Netherlands and Austria. The citizens of the Maghreb would like to live in France, Italy, and Belgium, Afghans and Somalis in Sweden and Norway, while most of the Syrians mentioned Sweden or Germany as the country of their final destination.

When it comes to the expectations of the interviewed asylum seekers in terms of their assimilation into the society of the state they intend to go, all respondents are confident that it will take them six months to a year to become integrated. All respondents said they expect a decent life and a normal admission, and that in order to achieve faster integration they will first try to learn the language. Interestingly, a great number of respondents were able to say very clearly and precisely how much they expect to earn and what they will be able to do/buy for that money, probably thanks to information and talks with relatives and friends.¹² However, the general impression is that asylum seekers have unrealistic expectations of the country of final destination in terms of earnings and quality of life, bearing in mind that they are guided only by exclusively positive examples of their compatriots whose successes in the West result mostly from rumors and exaggerations due to extreme desire for a better life. However, if general conditions of life in European countries are compare with those in third world countries, it can be easily concluded that living conditions in Europe are enough reason for leaving countries of origin.

One of the conclusions of the survey is that all respondents are characterized by extraordinary perseverance, and the very fact that asylum seekers were able to come to Serbia is another proof of their perseverance and determination. According to the survey, respondents from the

¹² Asylum seekers from Algeria expect to earn in Italy about 1,500 Euro per month; all interviewed Somalis specify that they expect to earn in Sweden about 30,000 Swedish Krona (about 3,000 Euro); a few Syrians expect to earn in Germany between 1,500 and 2,000 Euro per month.

countries of the Maghreb are best prepared for the challenges of the travel, especially bearing in mind that in most cases they have not been headed Europe for the first time, which is not the case with the other respondents of the sample.

It should also be noted that the number of highly educated asylum seekers is as much as 25% and they are asylum seekers with university degrees or those who did not manage to pass a few final exams to graduation at the moment of leaving the country of origin. Most of these respondents came from Syria, and then from Eritrea and Sudan. Also, it should be noted that according to the religious structure, 18% of asylum seekers are Christians (from Nigeria, Eritrea, Syria and other countries), while the remaining respondents are asylum seekers predominantly of Islamic faith.

3. The route of asylum seekers from their countries of origin to Serbia

If we consider the route the interviewed asylum seekers took before coming to Serbia, their testimonies confirmed the fact that Turkey remains a major gathering place of all immigrants from Asia and Africa who go to Europe.¹³ Because of its geographic location, Turkey is the most advantageous point in which further plans and organization are made on the way to Europe. An additional mitigating circumstance is the fact that the nationals of some countries, such as Syria, Morocco and Algeria, who make up a significant share of the asylum population in Serbia do not need visas for their entry into Turkey, while for example the procedure for obtaining visas for the citizens of Nigeria to enter Turkey is not complicated. The respondents from Eritrea got false passports to fly to Turkey, while some of them from Somalia, Sudan and Afghanistan reached Turkey on foot or by road from the neighboring countries, to which they came either by plane¹⁴ or by other means of transport, and cross the border on foot illegally outside border crossing points.

Asylum seekers do not stay long in Turkey, up to three months on average. Only some respondents from Somalia stayed up to a year. While staying in Turkey, mostly in Istanbul, asylum seekers try to earn money for another leg of their trip, working as construction workers or taking jobs that smugglers or already existing community of their fellow-countrymen in Istanbul find and provide for them. As for accommodation, the respondents stayed in hotels, smugglers' rented houses, or with acquaintances from the communities to which they belong. According to migrants' statements, no one had any problem nor did get in any contact with the Turkish police, while staying in Istanbul. It should be emphasized that the migrants reside mostly in districts of Istanbul, which the police rarely visits, and which are known as insecure and poor, and which migrants do not leave hiding in them all the time of their stay (Afghans mostly reside in Zeytinburnu, while the citizens of the Maghreb countries and Somalis in the district of Fatih). From Istanbul, organized transfer of migrants is provided

¹³ For comparison, see the APC report "Asylum seekers and irregular immigrants in Serbia: phenomenon, problems, needs, expectations, profile", August 2013, p.12-14 <http://www.apc-cza.org/images/publikacije/CZA%20obrosura%20Profil%20Trazioci%20azila%202012-2013.pdf>

¹⁴ In the period before the war in Syria, a number of migrants from Africa and the Arabian Peninsula, with the help of smugglers, enter Turkey via Syria. Today, smuggling through Syria has almost stopped though according to the statements of asylum seekers it still functions with exceptional security risks.

to the Turkish-Greek land border or to Izmir and other Turkish cities, the closest ones to the Greek islands in the Aegean Sea.

The testimonies of several respondents are very interesting. They claim that the Turkish police indirectly help them to cross into Greece in the port of Izmir, with no intention to stop or legitimize migrants, while the Turkish army did the same thing on the Greek-Turkish land border.

When it comes to the way of crossing the border from Turkey to Greece, the experiences of surveyed asylum seekers confirmed, to a great extent, the situation that is present for more than a year, and is associated with increased measures of the Greek police at the Greek-Turkish border, carried out from August 2012.¹⁵ Namely, the asylum seekers from Algeria, Morocco, Somalia, Syria, who entered Greece before August 2012, did not have difficulties in crossing the river Evros by boat. In contrast, the migrants who came to Greece after August 2012 have managed to enter Greece after several attempts. Two Syrians who crossed the river Evros in May 2013 in their fifth attempt, testified that several of their companions in the boat drowned after they had been caught by the Greek police and forced to return to the other, Turkish side, of the river. In 20% of cases, due to unsuccessful attempts of crossing the Evros, the respondents switched to go to Greece by sea. More than 45% of respondents came to Greece by sea, avoiding crossing the Evros, while the remaining respondents who left Turkey after August 2012 succeeded in crossing the Evros, or went on foot from Turkey to Bulgaria, which becomes a more often way of traveling.

On the basis of these data, a number of new phenomena can be distinguished in comparison to the previous APC research conducted in March 2013. The consequences of increased measures of the Greek police at the Turkish-Greek border in the area along the river Evros became visible in Serbia just over a year after their introduction. They resulted in the diversification of the routes of exit from Turkey. One of the routes is going to Greece by sea, usually from the port of Izmir to the Greek island of Samos. From there, some questioned asylum seekers managed to board the ship to Thessaloniki, which brought them much closer to the Greece's northern borders, while some were arrested and placed in the Detention Center in Athens. Another route that leads from Turkey to Bulgaria is especially common among asylum seekers and irregular migrants from Afghanistan and Pakistan.

3.1. Stay in Greece

The experience of surveyed asylum seekers gained during their stay in Greece is very different in terms of stay length.¹⁶ It is characteristic for the respondents, who lived in Greece in 2010, 2011 and 2012, that they spent some time detained in detention centers, after the Greek police had legitimized them and found to have no documents, and they were often denied the right

¹⁵ Since August 2012, the Greek police have stepped up border controls in the zone of the river Evros by deploying additional 1,800 police officers and the construction of 10.5 kilometers long barbed-wire fence along the land border, completed in December 2012. Through these actions at the Greek-Turkish land border, a decrease of 35% in the number of illegal immigrants was detected in 2012 in relation to 2011: Frontex, "Annual Risk Analysis 2013", 18 April 2013, page 22, http://www.frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2013.pdf

¹⁶ Persons who entered Greece before August 2012 (27% of respondents) remained in Greece from 5 months to three years, while other respondents stayed there from several weeks to several months.

to request for asylum.¹⁷ Respondents from Algeria and Morocco said that they had spent up to a year in detention centers.

Being under intense pressure due to a huge influx of potential asylum seekers, the Greek authorities often limit the opportunity of seeking asylum.

Namely, in 2012, out of 29,713 irregular migrants arrested on the Greek territory¹⁸, 9,580 of them have failed to submit their requests for asylum.¹⁹ Since the Aliens Police Directorate in Athens is open once a week, only 20 immigrants per week, on average, succeed to obtain application registration card, the so-called "pink cards" that permit the asylum seekers besides freedom of movement the right to work, accommodation, free medical care, vocational training, and free education for children.²⁰ One of the respondents actually waited nearly three years to obtain the certificate of intent to apply for asylum and the asylum document, the so-called "pink card".

As the submission of asylum applications is almost an "impossible mission",²¹ the asylum seekers we talked to worked during their stay in Greece "in the black" on the plantations of fruits and vegetables, as retailers, cleaners, assistants of the elderly, or as translators.

Respondents who entered Greece in 2013, which make up the majority of the sample, stayed in Greece to five months. Syrians mainly rented apartments, while Somalis and Nigerians stayed with friends or in smugglers' apartments. The migrants were hiding and tried to go out on the street as rarely as possible to avoid contact with the police.

For an absolute majority of respondents who met with the Greek police at the border or in Athens, the entire stay in Greece remained in their memories as something negative and difficult, because according to their statements they were beaten or abused by the police; respondents from Eritrea testified that they experienced "culture shock" in a positive sense when came to Greece, since they met for the first time while walking through the streets of Athens with the European civilization and gradually started to adopt some of its achievements in appearance and dress.

¹⁷ When they are in Greece, the immigrants tend to stay as short time as possible in order to avoid arrest and imprisonment in detention centers where they can stay up to 18 months. This practice of imprisonment, which is completely inconsistent with international law, deprives potential asylum seekers of their right to freedom of movement and proper asylum procedure, while irregular immigrants are deprived of the opportunity to seek asylum. The Greek government has been implementing this practice since November 2012 with the aim of suppressing a large number of irregular immigrants present on the Greek territory. Detention centers are located in Athens and near the border with Turkey. For more information see: Pro Asyl, "Walls of Shame", April 2012, p.26-40, http://www.proasyl.de/fileadmin/fm-dam/q_PUBLIKATIONEN/2012/Evros-Bericht_12_04_10_BHP.pdf

¹⁸ Official statistics on asylum of the Greek Ministry of the Interior, http://www.astynomia.gr/index.php?option=ozo_content&perform=view&id=12080&Itemid=429&lang=

¹⁹ UNHCR, „Asylum Trends 2012“, p.20. <http://www.unhcr.org/5149b81e9.html>.

²⁰ The right to freedom of movement is partly limited by introducing the practice of detention of asylum seekers in camps, i.e., detention centers, from November 2012: the Hellenic Ministry of Protection of the Citizens, Asylum and Immigration, Rights and Obligations, http://www.yptp.gr/asylo.php?option=ozo_content&perform=view&id=3467&Itemid=465&lang=&lang=&lang=&lang=&lang=EN

²¹ See the testimonies of asylum seekers in Serbia who were waiting in line in Athens' Petrou Ralli Street in front of the Aliens Police Directorate of the Greek police: APC "Asylum seekers and irregular migrants in Serbia: phenomenon, problems, needs, expectations, profile", August 2013, p.14, <http://www.apc-cza.org/images/publikacije/CZA%20obrosura%20Profil%20Trazioci%20azila%202012-2013.pdf>

3.2 New routes from Greece to Serbia

Unlike earlier surveys and studies in defining the profile of asylum seekers and irregular migrants in Serbia and their routes to Serbia, which showed that the vast majority of asylum seekers and irregular migrants had come to Serbia from Greece over Macedonia, in the present sample this is the case with only 30% of respondents, while 8% of respondents entered Bulgaria directly from Turkey and continued on to Serbia. Increased pressure at the Turkish-Greek land border clearly affected the routes of migrants from Turkey to Bulgaria, which is facing in 2013 a drastic rise in the number of irregular migrants and asylum seekers, mostly from Syria.²² The novelty is also a route from Greece via Albania and Lake Skadar to Montenegro and over Pljevlja and Rozaje to Serbia or from Greece, Albania and Kosovo to Serbia. As many as 43% of the respondents followed the route Greece-Albania-Montenegro-Serbia, while 20% of them followed the route Greece-Albania-Kosovo-Serbia.

It is interesting that a number of respondents chose the route through Albania after several unsuccessful attempts to cross the Macedonian-Serbian border, which confirms the fact that the control of the Macedonian-Serbian border was strengthened in 2013.²³ In addition, it is interesting to note that several asylum seekers, Algerians and Syrians were deceived by smugglers and instead of embarking on a ship to Italy they were against their will transferred to Serbia. It should also be noted that respondents, who crossed the Macedonian-Serbian border helped by smugglers, managed to do that on foot, outside border crossings, and often hidden in vehicles.

The majority of respondents who moved through Albania and Montenegro to Serbia crossed the borders on foot, with partial mediation of smugglers. They were intercepted by the Albanian police, and were harassed, beaten, and their money taken by them if they move in groups, therefore the majority of respondents tried to move individually. On the other hand, the Albanian police supported two respondents in reorientation and finding a way to Montenegro. Asylum seekers said that the most traumatic part of the trip to them was a meeting with the Albanian mafia, which is part of the smuggling chain, who abused some of them. Upon arrival in Montenegro, a small number of the migrants spent some time in the Asylum Camp Konik near Podgorica, before they went to Serbia, while the majority of them moved on to Serbia without stopping and seeking asylum in Montenegro. The remaining respondents from Syria and Algeria, who went through Kosovo, were smuggled to Serbia, hidden in vehicles, avoiding in this way any contact with the Kosovo and the Serbian police.

²² According to the data of the State Agency for Refugees of the Republic of Bulgaria, from Jan.1 to Nov. 30, 2013, 6,494 persons sought asylum in Bulgaria, of whom 4,021 were Syrian nationals. In 2012, the number of asylum seekers in Bulgaria was approximately four times smaller than in the first ten months of 2013 (1,387 asylum seekers). Statistics data available online <http://www.aref.government.bg/?cat=2>, accessed on Dec. 17, 2013.

The number of illegal crossings of the Bulgarian borders was over 10,200 up to November 2013. More information on the state of the Bulgarian asylum system: Amnesty International Briefing, "Refugees in Bulgaria trapped in substandard conditions", <http://www.amnesty.org/en/library/asset/EUR15/002/2013/en/722a9655-1caa-4c95-b387-e238f1bd56ec/eur150022013en.pdf>

²³ In June 2013, the Macedonian police arrested 15 people, including members of the Macedonian police suspected of smuggling and trafficking of people from Greece through Macedonia to Serbia. One group of the organizers comes from Lojane near the border with Serbia, a place previously known as the meeting place for smugglers and irregular migrants in Macedonia <http://www.apc-cza.org/sr-YU/8-vesti/305-u-makedoniji-uhapseni-krijumcari-imigranata.html>

Based on interviews with asylum seekers one comes to the conclusion that the average amount spent on services of smugglers for the trip from the country of origin to Serbia ranges from six to ten thousand euros, while the most expensive part of the route is the crossing from Turkey to Greece. Judging by the testimonies of asylum seekers, in addition to those who moved through the Balkan states for the most part on foot, those using smuggling services at the border crossing on their way through Albania, Montenegro to Serbia spent the smallest amount of money. Moving from Greece through Albania and Montenegro to Serbia costs, on average, eight hundred to one thousand euros. The second best option is the smuggling through Albania and Kosovo and costs, on average, between four hundred and fifty and six hundred euros. Finally, the option from Greece through Macedonia to Serbia costs between six and eight hundred euros. While being smuggled the migrants have to pay other services as well, for water, food, housing, beds, health care, etc.



The main routes of migrants/asylum seekers to Serbia, 2013

4. The main actors within the asylum system in Serbia and problems in its functioning

[Department for Asylum](#) is the most important authority in the asylum procedure and the asylum system in Serbia in general, since the authorized officers of the Department for Asylum carry out the entire asylum procedure and make decisions on the asylum claims in the first instance. Department for Asylum, located within Department for Aliens of the Border Police of the Ministry of the Interior, actually performs the functions that should be performed by

the Asylum Office, as defined by the Law on Asylum, which has not yet been established. This deficiency was noted in the last year's and this year's Serbia Progress Report of the European Commission.²⁴

Establishment of the Asylum Office will not fundamentally change the way of decision-making, personnel and procedures of the existing Department for Asylum. More important than it is the establishment of the Asylum Office is to improve the quality of work of the Department for Asylum / Asylum Office, which in the present circumstances shows a number of deficiencies.

→ Lack of human resources and their inefficiency

Practice shows that the registration of asylum seekers in the Asylum Center in Bogovadja does not take place immediately after their reporting to the Asylum Center.²⁵ The reason for this is the fact that the officer of the Department for Asylum for registration of asylum seekers comes to the Asylum Center in Bogovadja only once or twice in two to three months.²⁶ The lists of the present asylum seekers in Bogovadja are updated daily but it seems with some imprecision, which serves as an excuse for the Department for Asylum to justify their inefficiency by indicating the problem of finding a person who, although in the list are not present at that moment in the camp or have left it. Although the aforementioned problem can be overcome by simple registration of other present asylum seekers who are not registered and who are at that time in the center, Department for Asylum justify their own non-appearance by the lack of daily updated lists and the lack of human resources. In this way, the certificates of intent to apply for asylum, valid only 72 hours²⁷, in reality serve as identification documents, in some cases 5-6 months, and de facto they become a substitute for identity cards for asylum seekers by which they exercise their rights. Actually, the fact that the registration has not been carried out, i.e., that asylum seekers have no identification documents - identity cards, prevents asylum seekers from exercising their rights and often requires mediation of APC lawyers with various organs and institutions of the asylum system in order to realize the rights of asylum seekers. On the other hand, since the certificate of the expressed intent does not contain a photograph, this document may be the subject of abuse, because it allows an asylum seeker to use someone else's certificate so that many people just change the same certificate without the need to express their intent to apply for asylum to the officer or make any other efforts to register and enter the asylum system under his/her own name and with his/her own personal data. Unlike Bogovadja, in the Asylum Center in Banja Koviljaca there is a systematized work place and an officer of the Department for Asylum, since September 2013,

²⁴ European Commission, Serbia 2013 Progress Report, October 16, 2013, p.51, http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/sr_rapport_2013.pdf

²⁵ When an alien expresses his/her intention to apply for asylum to an authorized officer of the Ministry of the Interior anywhere on the territory of Serbia, the officer is obliged to issue a certificate of intent to the asylum seeker and to refer him/her to report to the asylum center. The certificate of intent serves only to provide the person legal residence and movement from the officer's department to the asylum center and is only valid for 72 hours: the Law on Asylum, (Official Gazette of the RS no.72/2009), Article 22, 23, and 24.

²⁶ This practice became particularly strict in the period September-December 2013 when the asylum crisis in Serbia escalated.

²⁷ Certificates of intent to apply for asylum are valid 72 hours, and their purpose is to provide legal arrival of asylum seekers from the department of the officer who issues them to the asylum center where the asylum seekers should be registered, their identity cards issued, and accommodation provided during the asylum procedure.

has been issuing identity cards to asylum seekers regularly after registration, which is performed on a weekly basis.

Currently, only two officers of the Department for Asylum appear in the field to carry out their official duties in the asylum procedure.²⁸

As a consequence of non-registration, the very practice of the Department for Asylum in respect of requests for asylum is often not in accordance with the Law on Asylum. Bearing in mind that the deadline for submission of asylum claims is 15 days of the date of registration, and that the deadline for the completion of registration is not legally prescribed, officers of the Department for Asylum allowed submission of a negligibly small number of asylum claims in relation to the total number of asylum seekers in Serbia.^{29 30} In addition, the application for asylum can be submitted in the presence of the authorized officer of the Department for Asylum only who files out the application form and signs it. Since the submission of the application for asylum has been controlled exclusively by the officers of the Department for Asylum, no initiative or expressing preferences regarding time and urgency in submitting their own applications for asylum has been left to asylum seekers. The fact that in 2012 only 12.3% of the total number asylum seekers applied for asylum (of 2,723 expressed intentions for asylum 336 requests for asylum were filed), while in 2011 only 7.4% of asylum seekers applied for asylum (of 3,134 expressed intentions 248 requests for asylum were submitted) confirms inefficiency of the asylum procedure.³¹ This trend is significantly exacerbated in 2013, since in the period of January - October 2013 only 3.4% of asylum seekers filed applications for asylum (of 3,844 intents to seek asylum 132 requests for asylum were submitted and only 366 new ID cards issued).³²

Need to strengthen the human resources capacity of the Department for Asylum is particularly apparent in the current conditions of chronic influx of asylum seekers, with the prospect that their numbers continue to grow. The fact that there is no systematized work place of an officer of the Department for Asylum in the Asylum Center in Bogovadja is not an excuse for irregular arrival of officers of the Department for Asylum from Belgrade to Bogovadja, which is only 70 kilometers away from Belgrade, in order to perform the registration of asylum seekers. A situation in which more than 300 asylum seekers have been waiting to be registered for more than a few months is a chronic problem and indicates negligence and indifference of the authorities in providing elementary conditions for the functioning of the asylum system.

²⁸ This practice became particularly strict in the period September-December 2013 when the asylum crisis in Serbia escalated.

²⁹ According to the Asylum Protection Center statistics for the period Jan. 01, 2013 – Oct. 31, 2013, out of 3,844 asylum seekers, 132 of them applied for asylum, 15 interview were conducted, while 366 new identity cards were issued

³⁰ According to the Law on Asylum there is no required deadline for registration, but every other administrative action is conditioned by the moment of registration, which is carried out with very long delay in the Asylum Center in Bogovadja by the Department for Asylum.

³¹ Government of RS, Migration Profile of the Republic of Serbia 2012, p.42-43
http://www.kirs.gov.rs/docs/migracije/Migracioni_profil_Republike_Srbije_za_2012.pdf

³² According to the asylum statistics and the case law of the Asylum Protection Center

→ **Insufficient training of officers of the Department for Asylum in respect of their treatment of asylum seekers during submission of asylum applications and conducted interviews**

In current circumstances, the officers of the Department for Asylum have been focused on examining the ways of crossing the border, help offered by smugglers, and asylum seekers arrival to Serbia, instead of focusing on an in-depth examination of the reasons for their fleeing the countries of origin and potential elements of persecution in the countries of origin.

→ **Lack of understanding of asylum issues by officers of the Department for Asylum while making the first instance decisions**

Taking into account the rationale of previous decisions of the Department for Asylum, it can be concluded that the decisions have not been sufficiently substantiated, and that they sometimes show a basic ignorance of asylum issues. For example, the Department for Asylum in two recent cases in 2013 did not recognize the difference between the refugee status and the subsidiary protection, and two Syrians fleeing from political and religious persecution were granted asylum in the scope of subsidiary protection instead of refugee status.³³

Asylum Commission This independent body acts as an appellate body in the asylum procedure, i.e., it hears appeals against first instance decisions of the Department of Asylum. The Asylum Commission comprises the Chairman and eight members, all with previous experience in the state administration affairs and human rights matters. The Commission is independent in its work and decides by a simple majority of vote of the total number of members.³⁴

In decision-making practice of the Asylum Commission, it has been noted that in most cases the Commission does not want to get to the heart of the matter, but decides acting within the procedural framework only, often with scant explanation and without evaluation of the presented evidence. As in the case of officers of the Department for Asylum, most of the members of the Asylum Commission have not enough substantive knowledge of the asylum matter, and attended only a few training courses in the field of asylum. Another problem is the fact that the asylum matter and the very asylum procedure is something new for the Serbian administrative bodies and courts, and that this domain lacks expert analysis, practice and further scientific research in the field of Serbian asylum legislation. The same conclusion can be drawn on the basis of the so far practice of the **Administrative Court**, before which administrative appeal procedure against negative decision of the Asylum Commission may be initiated.³⁵

Commissariat for Refugees and Migration of the Republic of Serbia (hereinafter Commissariat). This separate organization of the public administration system is, among others, responsible for admission and accommodation of asylum seekers and manages and coordinates the work of two asylum centers in Serbia - the asylum centers in Banja Koviljaca

³³ Ibid.

³⁴ The Law on Asylum, The Official Gazette of the RS no. 72 / 2009, Article 35,

³⁵ The Law on Administrative Disputes (The Official Gazette of the RS no. 111/2009), Article 17, 18 and 19

and Bogovadja and all temporary shelters for accommodation of asylum seekers.³⁶ Each asylum center is managed by the superintendent, who looks after the functioning of the center and providing basic living conditions for housed asylum seekers (accommodation, clothing, footwear, food and personal hygiene items), coordinates the work of the staff in the center and reports to the Commissariat and the Department for Asylum about the situation in the center and the people who stay in it. Upon reception of new asylum seekers in the center, the staff at the center holds an exhaustive conversation with them, and on that occasion the asylum seekers are presented with the book of rules and asylum centers' house rules and indicated their rights and obligations.

→ The problem with accommodation facilities

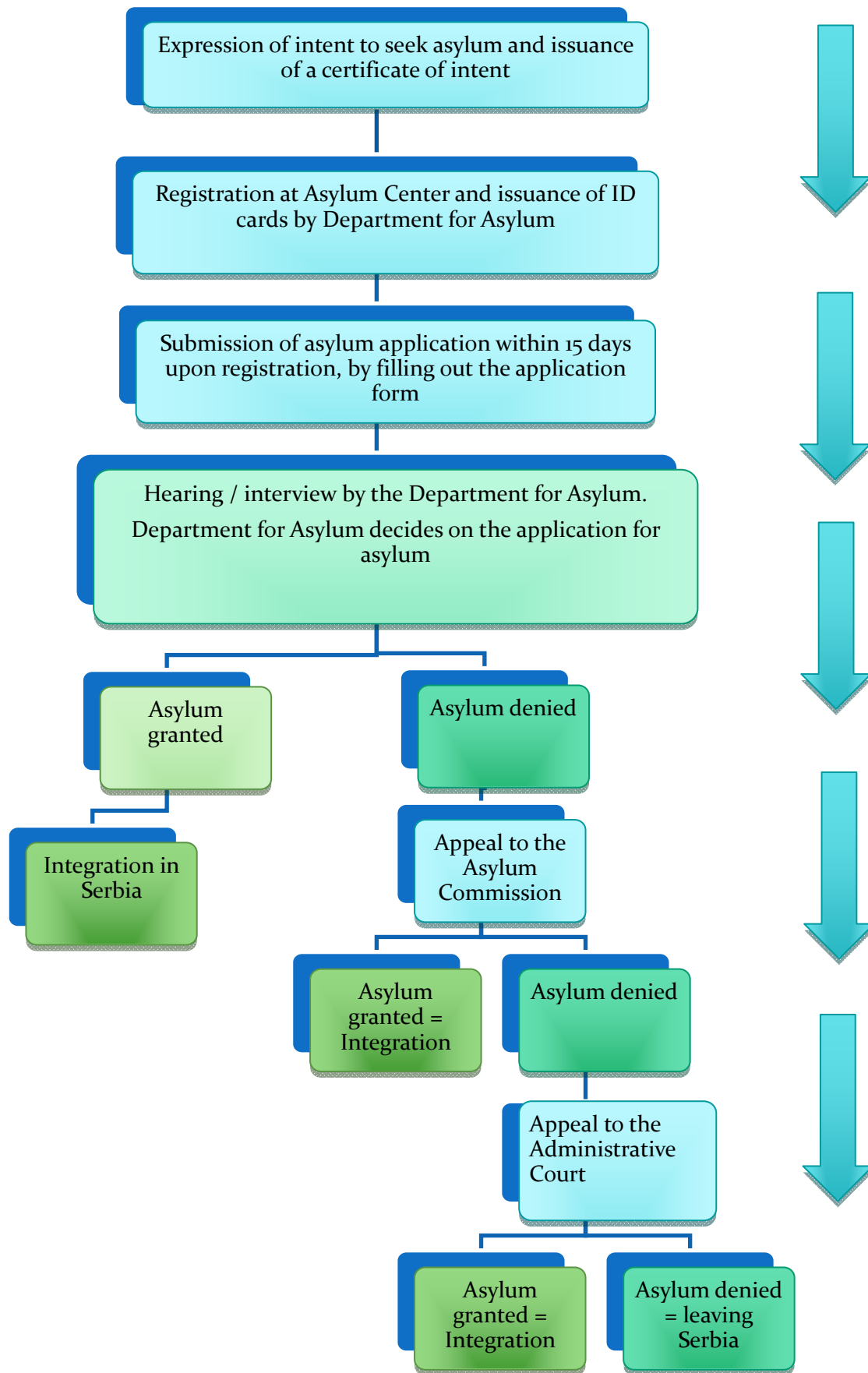
In November 2013, the problem of insufficient accommodation facilities for all persons who sought asylum and had no means to provide private accommodation for themselves escalated.³⁷ Insufficient capacities forced a large number of asylum seekers to stay outdoors, in woods and fields in the vicinity of the Asylum Center in Bogovadja, or to find alternative accommodation in deserted areas or weekend cottages in the village of Bogovadja and its surrounding.³⁸ Lack of identity cards for asylum seekers and insufficient accommodation capacities have brought asylum seekers in a very difficult position, even though they met all legal requirements to exercise the right to housing and fair and efficient asylum procedure. In this way, the asylum seekers outside the asylum centers have found themselves in extremely vulnerable position as persons without identity papers and not visible to the asylum system and state bodies and institutions, who as such are potential victims of different types of violence and abuse by individuals and various interest groups.

After the crisis in terms of accommodation of asylum seekers, the Government of the Republic of Serbia in November 2013 came up with a temporary solution of the problem by accommodating asylum seekers in hotels in Obrenovac, Sjenica and Tutin, until a new center for asylum in Mala Vrbica near Mladenovac is built, which at least temporarily prevented a humanitarian crisis of asylum seekers. The problem with accommodation remains a challenge keeping in mind the growing number of people seeking asylum and passing through Serbia, and in particular a large number of Syrian refugees who have flooded the countries in the region, such as Bulgaria, Greece and Turkey and whose presence in Serbia, mostly in transit, is expected in the future.

³⁶ Temporary shelters in Obrenovac, Sjenica and Tutin. In the shelters in Sjenica and Tutin, the Commissariat share support and administration management together with the local authorities

³⁷ Accommodation capacities in the asylum centers in Banja Koviljača and Bogovadja did not to exceed the total of 250 beds, which is not enough to respond to the influx of asylum seekers. Only in 2013, from January 1 to November 1, 3,844 people expressed their intention to seek asylum in Serbia.

³⁸ Only in November 2013, every day in front of the Asylum Center in Bogovadja and the surrounding area gathered between 200 and 300 asylum seekers.



Flow chart of Serbia asylum process

Cooperation and coordination of various actors in the asylum system in Serbia

The staff in asylum centers is required to work closely with the state and the local self-government authorities, in order to realize the rights of asylum seekers and ensure smooth proceeding of the asylum procedure. In particular, a preliminary health assessment of asylum seekers on their arrival to the center is carried out by a physician from the health center or in healthcare facilities. In the case that an asylum seeker has serious or less serious illnesses, employees in the center have to intensively cooperate and coordinate the activities with health centers, hospitals and other health care facilities. When unaccompanied minor is accommodated in the asylum center, cooperation with local social work center has to be intensified and a temporary guardian appointed for the minor asylum seeker. On the other hand, the management of asylum centers should cooperate with the Department for Asylum by informing it about the number of asylum seekers in the centers and the availability of asylum seekers so that officers may schedule and realize their official duties.

In practice, it happens that the exchange of information between the Asylum Center in Bogovadja and local health institutions on the number of asylum seekers whose preliminary health assessment have to be conducted is sometimes difficult, which makes the work of the health facilities difficult. Also, it is necessary to further improve cooperation between asylum centers and primary schools, which should enroll more children of asylum seekers. By mid-2013, two children - asylum seekers attended the primary school in Bogovadja. In addition, cooperation and communication between the Department for Asylum and the Asylum Center in Bogovadja needs to be improved with regard to exchange of information on the number of asylum seekers and implementation of all official actions of the Department for Asylum in the field, i.e., in the Asylum Center.

6. Integration of persons who have received asylum in Serbia

In the Republic of Serbia, after conducted asylum procedure, two types of protection can be granted to asylum seekers:

- **Refugee status** is granted to an alien on account of well-founded fear of persecution for reasons of race, sex, language, religion, nationality, membership of a particular social group or political opinion, who is not in the country of origin and is unable or unwilling, owing to such fear, to avail himself/herself of the protection of that country, as well as a stateless person who is outside the country of his/her previous habitual residence and who is unable or unwilling, owing to such fear, to return to that country.³⁹
- **Subsidiary protection** is granted to an alien, who would, if returned to the country of origin, be subjected to torture, inhuman or degrading treatment, or where his/her life, safety and freedom would be threatened by generalized violence caused by external aggression or internal armed conflicts or massive violation of human rights in country of origin.⁴⁰

³⁹ The Law on Asylum, Article 2, Paragraph 7

⁴⁰ Ibid. paragraph. 8.

According to the Law on Migration Management, the Commissariat is entitled to carry out the activities related to identifying, proposing and taking measures for the integration of persons granted asylum in Serbia in the form of refugee status or subsidiary protection.⁴¹ Also, specific measures for the integration of these persons shall be defined in a by-law proposed by the Commissariat and passed by the government.⁴² This by-law is still pending, which prevents the process of integration of persons granted asylum and who are staying in Serbia.

In the absence of a complete legal framework for dealing with persons granted asylum in Serbia, APC has been carrying out activities in order to integrate these people into the society through legal help after granted status, provision of the right to social assistance, work permits, various other certificates and documents, as well as through ad hoc assistance in terms of learning the Serbian language and culture.⁴³ In the process of obtaining the necessary documents for people who have been granted asylum in Serbia, APC has initiated actions of the state authorities in accordance with applicable regulations towards integration of these persons, which final definition by laws is pending.

7. What can Serbia take from the best practices of the Swiss integration policy ⁴⁴

Although the social system, economic strength and tradition of accepting foreigners are drastically different from Switzerland, Serbia may take into account a great deal of experiences and good practices of this country in designing and implementing measures for the integration of persons granted asylum in Serbia. Switzerland has many positive examples in terms of not only proper understanding of the integration concept but also in implementing integration of persons from the same countries as those present in the asylum system of Serbia.

The policy of foreigner integration into the Swiss society is based on the principle according to which the integration is a two-way process: on the one hand, the foreigners have to be prepared and motivated to adopt the Swiss values and social system, while on the other hand, the Swiss society needs to show tolerance and willingness to co-exist with foreigners and accept them as part of that society. Any integration measure or area that is planned must take into account this principle, while the activities are directed towards both foreigners and citizens of Switzerland alike. Motivating the persons granted asylum to integrate into society, along with raising awareness about this group of people among the Swiss, is a continuous process that always requires improvements.

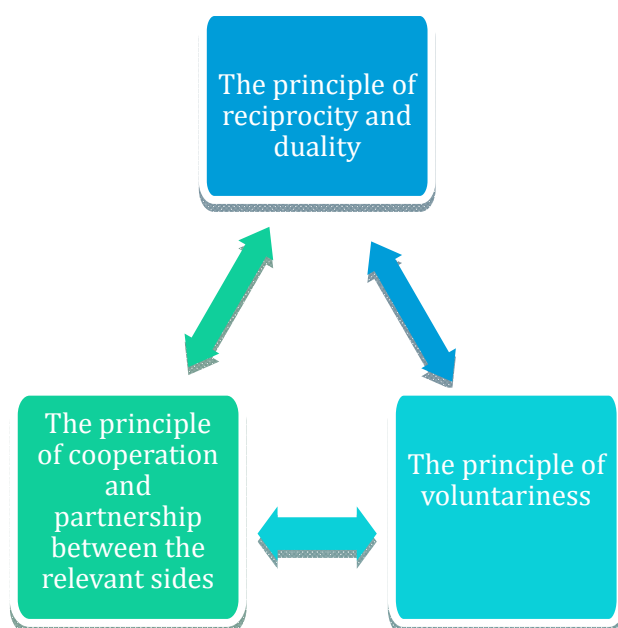
⁴¹ Law on Migration Management (the Official Gazette of the RS, no. 107/2012), Article 10

⁴² Ibid, Article 8.

⁴³ A pedagogue of the Asylum Protection Center in Belgrade assists asylum seekers who have been granted asylum with learning the Serbian language and culture.

⁴⁴ The information collected during the field visit of the APC project team to the Swiss Federal Office for Migration and Centers for Integration, Canton of Bern, on October 28 and 29, 2013.

Another important principle the integration in Switzerland is based on is the principle of voluntariness. The integration measures are intended to encourage, but not to force, those granted asylum to integrate into the society. In particular, if we take as an example the



learning of official languages of Switzerland, which is considered an essential prerequisite for sustainable integration of foreigners,⁴⁵ the courses should be organized based on mutual consultations and cooperation between teachers and students, i.e., to be adapted to the needs and interests of the person who has been granted asylum. In this way, the person is stimulated to integrate into the Swiss society and he/she gradually acquires qualifications for the labor market in Switzerland. Experiences of the Swiss NGOs confirm that, as a prerequisite for entering the labor market, it is necessary that a person who has been granted asylum learn the

language at least its elementary level. Young people are fast learners and the integration process usually proceeds smoothly. A special challenge is the example of illiterate adults from Eritrea, for whom a language course is at the same time a literacy course. If a person opposes integration measures - training courses, then the cash welfare he/she receives, can be reduced, but not completely abolished.⁴⁶

Finally, for the proper functioning of the integration policy in Switzerland the cooperation and a clear division of responsibilities among different levels of state authorities (federal, cantonal and municipal - local) are required, including also their permeation and, for example, partnership with NGOs and employers' associations. In 2012, funds for projects for the integration of foreigners were allocated as follows: 16 % by the Federation, 26 % by Cantons, 10 % by municipal and local authorities, the users contributed by 29 %, while 19 % of the activities were financed by external sources.⁴⁷ In this system, non-governmental organizations and local authorities are the backbone in implementation of the integration measures, while the cantons and federal government provide guidance and exercise horizontal coordination. In the allocation of funds for NGOs by the Confederation, as the federal level, particular attention is paid to the establishment of clear indicators for measuring the results achieved. Active involvement of all relevant state and non-state actors in creation and implementation of the integration policy is a necessity, particularly bearing in mind various aspects of integration that should be included and adopted to many regulations dealing with different sectors: working, social and others.

⁴⁵ The Federal Aliens Act of 16 December 2005 (Letr, 142.20), Article 4, <http://www.admin.ch/opc/fr/classified-compilation/20020232/index.html>

⁴⁶ The Ordinance on the Integration of Foreigners (OIE, 142.205), Oct. 24, 2007, Article 6, <http://www.admin.ch/opc/fr/classified-compilation/20070995/index.html>

⁴⁷ Encouragement de l'intégration de la Confédération et ses effets dans les cantons: Rapport annuel 2012, p. 20. <https://www.bfm.admin.ch/content/dam/data/migration/integration/berichte/ber-integrfoerd-2012-f.pdf>

Examples of activities aimed at integration of migrants (including those with international protection)

The project "Being a father in Switzerland" brings together fathers of immigrant origin, who talk about their reasons for coming to Switzerland, their everyday life and problems as fathers who are to feed their families. In this way they realize they are not alone, and that there are other people around them with similar concerns. Through conversations they become informed also about the matters of relevance to their daily lives, which additionally helps their integration. The debates are moderated by a trained person, preferably also of immigrant origin.⁴⁸

8. Conclusions and recommendations for improving the asylum system in Serbia

Taking into account the profile of asylum seekers in Serbia, the current state of Serbian asylum system, problems in its functioning, as well as good practices on the integration of persons with international protection in Switzerland, it is necessary to take a series of measures, which are mutually conditioned, so that the asylum system in Serbia can become more functional. Lack of human resources and adequate competence of the Department for Asylum, the state body of the highest importance in the asylum procedure and the asylum system in general, is a problem that has to be solved urgently. By increasing the efficiency of the asylum procedure preconditions would be created for further development of the Serbian asylum system through implementation of other necessary measures. This primarily relates to the increase in accommodation capacities to meet asylum seeker needs, amending the Law on Asylum in the direction of removing its deficiencies and establishing a legal framework for integration of persons granted asylum in Serbia. As the functioning of the asylum system is the process that requires involvement of not only the government authorities but the whole society as well, as evidenced by the case of Switzerland, constant and continuous improvement of state's professional staff involved in the asylum system, on the one hand, and conducting activities initiated by the government in terms of bringing closer the local and the asylum population, on the other hand, are crucial for the asylum system in Serbia. Constant double-engagement of the state actors and the whole society, due to lack of knowledge of asylum matters, asylum seekers' profile and the background of intercontinental migration, is particularly necessary for a relatively young asylum system in Serbia.

To improve the asylum system in Serbia it is necessary to take the following measures such as to:

→ Strengthen the Department for Asylum by increasing its human resources and their skills

Department for Asylum has to be urgently improved in terms of human and technical capacity to respond to the growing number of people seeking asylum in Serbia and to execute the

⁴⁸ Ibid, p.. 21

asylum procedure effectively. It is necessary to increase the skills of officers of the Department for Asylum in terms of their gaining knowledge on asylum law, human rights and international instruments concerning refugees and asylum seekers, interviewing techniques, carrying out official actions and information gathering, how to conduct research and collect information from the countries of origin of asylum seekers, establishing grounds for granting asylum protection and the elements of persecution. Officers of the Department for Asylum must further improve their knowledge of English and one more language, computer skills, and record keeping. Officers of the Department for Asylum should undergo professional trainings on asylum and asylum practices organized by international organizations and through exchange programs or trainings in immigration sister agencies and institutions in the EU.

Officers of the Department for Asylum must regularly visit all the asylum centers and shelters and to promptly and daily register asylum seekers and issue identity cards.

➔ **Raise the level of expertise of the Asylum Commission, the Administrative Court and other institutions involved in the asylum system**

Members of the Asylum Commission and judges of the courts of the Republic of Serbia who decide in asylum cases must undergo professional trainings on asylum, international refugee law, international judicial and administrative asylum practice through appropriate training systems of international organizations and international associations of asylum law judges, as well as through contacts and study visits to governing bodies and courts dealing with asylum matters in the EU countries.

Asylum Commission members and court judges of the Republic of Serbia must undergo trainings in research, collection and evaluation of information on countries of origin.

➔ **Increase the accommodation capacities of asylum centers**

Current accommodation capacity of the asylum centers in Banja Koviljača and Bogovadja of 230-250 beds is insufficient to accommodate all asylum seekers in Serbia. It is necessary to urgently increase the accommodation capacity for at least eight hundred to a thousand beds to meet a large influx of people in the future. In this sense, new asylum centers have to be opened, but their construction must comply with the far-reaching strategy of migration management and to follow the routes, phenomena and migratory movements through Serbia. It is necessary to build several smaller centers, which must be located in the large cities or in their surrounding, with 70 to 90 beds instead of a few large ones. For the given system and the network of centers, a strong, organized and coordinated management is needed, which should in technical and human resources meet the challenge of a large number of foreigners seeking asylum, sustainable operation, record keeping and programs to implement concrete measures within the strategy of migration management and legislation on asylum.

➔ **Revise the Law on Asylum**

It is necessary to urgently revise the existing Law on Asylum, especially in terms of the moment of starting the asylum procedure and in the manner of applying for asylum. The asylum procedure should start by expressing intention to apply for asylum, as it is the practice in countries with fully functional asylum system, instead of its starting by filing asylum claims.

In this way, the initiative to seek asylum and the entry into the asylum procedure will be shifted from the first instance state authority to asylum seekers, and therefore the issuance of a certificate of intent to seek asylum by the officer for foreigners will be taken as the first asylum administrative action instead of gaining the asylum applicant status formally by filing the asylum application after expressed intention, recording, registration and entry into the asylum center. Applying for asylum should not be conditioned by the presence of the officer of the Department for Asylum and filling out the form by the same officer and his signature on that form, which has so far been the case. It is necessary to relocate the Department for Asylum from the border police and the Ministry of the Interior and recruit civil servants with experience in migration and asylum instead of police officers. The most logical is that the Department for Asylum becomes part of the Commissariat for Refugees, and Migration, which is a separate organization that deals with the migration management in Serbia and has previous experience and knowledge of the asylum, integration and migration.

→ Facilitate the integration of people granted asylum protection in Serbia

Potrebno It is necessary to adopt a bylaw to regulate the issue of integration of persons granted refugee status or subsidiary protection in Serbia, which would include the following linked and conditioned areas:

- Providing information to such persons of their rights and obligations;
- Counseling and psychosocial support in eliminating initial difficulties in the integration process;
- Organizing Serbian language and culture courses;
- Organizing classes that would help people granted asylum in getting accustomed more easily to everyday situations and understanding of the functioning of the Serbian society and various systems - in bank, health center, municipality, etc.;
- Organizing vocational education and training courses to acquire qualification to apply for available jobs (training of these people for the labor market in Serbia).

Integration measures of the same extent and scope should be applied to all persons granted asylum in Serbia, including persons granted refugee status and subsidiary protection. In order to achieve this, it is necessary to fill the gaps in the Law on Asylum. The equalization of rights between persons granted refugee status and those with subsidiary protection is a general tendency in developed countries.⁴⁹

⁴⁹ For example, the definition of the term refugee in the Swiss Asylum Act contains and combines elements for refugee and subsidiary protection: Loi sur l'asile (Lasi 142.31) of June 26, 1998, Article 3, <http://www.admin.ch/opc/fr/classified-compilation/19995092/index.html> ; Article 20, paragraph 2 of the EU Qualification Directive on International Protection, which came into force on December 21, 2013, provides that international protection should be applied to the same extent and scope to persons granted refugee and subsidiary protection status: "Qualifications Directive" of the European Parliament and of the Council (2011/95/EU), <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:337:0009:0026:EN:PDF>

➔ Break down the prejudices of the society against the asylum population by engagement campaigns of state actors and responsible media reporting

Bearing in mind that the Serbian society has recently been faced for the first time with the phenomenon of intercontinental migration in Europe and the phenomenon of asylum seekers, citizens are not sufficiently aware and informed about this group of migrants. The state has not done anything to inform the citizens properly about the asylum seekers through shows, campaigns, appropriate activities and events. On the contrary, the citizens of Serbia have recently become more often victims of aroused prejudices and fear spread as a result of the manipulation at the local level by different actors for daily political purposes. Reactions and rhetoric of political actors in Banja Koviljaca in 2011, Mladenovac in 2012 and 2013, as well as in Obrenovac in 2013 on the issue of accommodation of uncared-for asylum seekers, when they imposed a number of untruths and inspired fear of alleged spread of disease, rape and violent behavior of asylum seekers, without harsh condemnation and a clear message of the state to the wider public in terms of what is lawful, humane and ethical, indicate that the state wrongly and superficially addresses these issues, which can leave far-reaching consequences to the Serbian society as a whole. Inadequate media reporting and lack of vocal response of human rights organizations contributed a lot to this situation.

As in the future the issue of asylum seekers in Serbia will become more and more important, which in the context of the EU membership negotiations and progress achieved in the functioning of the asylum system in Serbia, and in view of the expected trend of continuing intercontinental migration through Serbia, the state must be systematically engaged in proper informing and bringing closer the local and the asylum population. The lack of information about the phenomenon of global migration and asylum seekers in Serbia, as well as the lack of public discussion, have a negative impact on the proper functioning of the asylum system, validly granted asylum, integration of refugees, raising awareness in local and urban communities and the society as a whole, and threaten the dialogue between the local and the asylum population as well as the development of tolerance and understanding of the status and needs of the people who sought refuge in Serbia.

III. Rejected asylum seekers from Serbia in European countries after the visa liberalization

1. Context

For the purposes of this study, asylum seekers from Serbia are the citizens of the Republic of Serbia who have applied for asylum in the EU countries and Switzerland after December 2009, from that date the Serbian citizens can travel to the Schengen area without visas.⁵⁰ The reason for studying the phenomenon of asylum seekers originating from Serbia, their profile and needs in a given time frame, is a sharp and continuous rise in the number of asylum applications submitted by them in countries of the Schengen area after the visa liberalization. Namely, from January 2010 to the end of 2012, more than 55 thousand asylum claims were submitted by citizens of Serbia in the countries of the European Union and Switzerland.⁵¹

	2009 (visa regime)	2010 (visa-free regime)	2011 (visa-free regime)	2012 (visa-free regime)	2013 (visa-free regime, Jan-Okt) ⁵²
EU	5 460	17 740	13 980	19 065	16 330
Switzerland	575	910	1435	1890	270

Asylum seekers from Serbia in the EU and Switzerland, 2009-2013. Source: Eurostat

When the number of asylum seekers from Serbia is put in the context of European asylum, Serbia according to the submitted number of applications for asylum in European countries in 2012 is the fourth country, under Afghanistan, Syria and the Russian Federation, and over Somalia, Eritrea, Iraq and Iran.⁵³ However, the number of asylum seekers from Serbia who

⁵⁰So that its citizens could travel without visas to the Schengen area (comprising all EU members except Great Britain, Ireland, Bulgaria, Romania, Cyprus and Croatia, as well as non-EU members Switzerland, Norway, Iceland and Liechtenstein) Serbia had to meet the conditions set by the EU in order to be transferred from the so-called "black Schengen list" to the "white Schengen list" (*Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders of Member States and those whose nationals are exempt from that requirement*), in the form of so-called "Road Map", which addresses four sets of requirements: document security, i.e., introduction of biometric passports; border and irregular migration management and establishment of the asylum system; public order and security - the fight against organized crime, judicial cooperation in criminal law, data protection; and finally fundamental rights, including the rights of minorities. In addition to fulfilling these requirements, it was necessary to adopt and implement the Agreement on Readmission between the EU and Serbia, as well as the Agreement on Visa Facilitation, which entered into force on January 1, 2008. The visa-free regime for Serbia entered into force on December 19, 2009.

⁵¹ Eurostat, "Asylum and new asylum applicants by citizenship, age and sex. Annual data (rounded), Code: [migr_asyappctz a]" http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database, accessed on November 21, 2013. pristupljeno 21. novembra 2013.

⁵² According to Eurostat data, accessed on December 10, 2013: Eurostat metadata, "Asylum and new asylum applicants by citizenship, age and sex. Monthly data (rounded) (migr_asyappctzm)" http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database.

⁵³ UNHCR, "Asylum Trends 2012", p.24. According to this statistics, Serbia is in the third place, however, the statistics take into count the number of asylum seekers from Serbia together with the number of asylum seekers from Kosovo. When one considers the number of asylum seekers without Kosovo, Serbia comes to the fourth place.

were granted international protection in one of the EU countries or Switzerland in 2012 is only about 1.1% of the total number of asylum applicants.⁵⁴ This fact indicates that the absolute majority of asylum claims of the citizens of Serbia was unfounded, i.e., that their claims did not meet the criteria required for international protection in the EU according to the relevant EU directive⁵⁵ and national regulations of specific countries in the field of asylum.

Despite almost impossible chances of getting asylum in a European country, the number of asylum seekers from Serbia in European countries according to the available data did not decrease even in 2013. Only in Germany, the country with the highest share of asylum seekers from Serbia in the EU, the number of asylum applications submitted by Serbian citizens up to October 2013 was 12,735⁵⁶, which is approximately 25% higher than in the same period of the previous year (January-October 2012)⁵⁷ and slightly lower than the total number of asylum applications submitted by Serbian citizens in Germany for the entire year 2012. Unlike Germany, the number of asylum seekers from Serbia in the period January-September 2013, compared to the same period in 2012, slightly declined in Sweden, while significantly decreased in Switzerland, Belgium, Luxembourg and Denmark.⁵⁸

	2011	2012	2013
Germany	6990	12810	12735 (Jan.-Okt.)
Sweden	2645	2670	1150 (Jan.-Sep.)
Belgium	1995	1095	460 (Jan.-Sep.)
Switzerland	1435	1890	160 (Jan.-Avg.)
France	665	840	525 (Jan.-Avg.)

States in which asylum seekers from Serbia submit the greatest number of applications

⁵⁴ According to Eurostat data for the year 2012, 225 Serbian citizens were granted asylum in one of the EU countries, while 35 of them were granted asylum in Switzerland. Previous years show quite similar situation – in 2011, 270 Serbian citizens were granted asylum in the EU, while in 2010 that number was 285. Statistics available from the Eurostat database, "Final decisions on applications by citizenship, age and sex Annual data (rounded) [migr_asydcfina]". http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database, accessed on November 20, 2013.

⁵⁵ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:337:0009:0026:EN:PDF>

⁵⁶ Asylum statistics of Eurostat, http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database, accessed on November 21, 2013.

⁵⁷ From January to October 2012, citizens of Serbia filed 10,425 asylum claims in Germany. Eurostat, "Asylum and new asylum applicants by citizenship, age and sex. Monthly data (rounded), Code: [migr_asyappctz m]", accessed on November 21, 2013.

⁵⁸ In the period January-September 2012, the citizens of Serbia filed 875 asylum claims in Belgium, while in the same period in 2013, 460 applications were submitted. In Sweden in the same period of 2012, 1730 asylum applications were filed, while at the same time in 2013 there were 1150 applications; in Luxembourg from Jan. to Sept. 2012, 370 asylum applications were submitted by citizens of Serbia, while in the same period of 2013 the total of number of applications was 40. In Switzerland, the largest decline in the number of asylum seekers from Serbia was observed - 1560 in the first 8 months of 2012, 160 in the first 8 months of 2013. Between September 2012 and April 2013, in Denmark, an average of 100 asylum applications per month were filed by Serbian citizens, while in the period from April 2013 to October 2013 a total of 80 requests for asylum were submitted: Eurostat, Statistics, http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database, Accessed on November 21, 2013

2. Lack of basic data on asylum seekers from Serbia

There are no complete data on rejected asylum seekers from Serbia - Serbian citizens in European countries after the visa liberalization. The exact number of rejected and returned Serbian citizens - asylum seekers is still an unknown and they cannot be accurately separated from the large population of Serbian citizens returnees from European countries on various other grounds. In addition to the final number, therefore, other basic information about the Serbian asylum seekers in the EU remains unknown. Namely, the number of asylum applications submitted by Serbian citizens, more than 55 thousand in the period January 2010 to December 2012, does not represent the exact number of asylum seekers from Serbia, since some of them sought asylum several times in the same or different European country during that period.⁵⁹ It should also be noted that the total number of failed asylum seekers from Serbia who were returned to Serbia is unknown.⁶⁰ Rejected asylum seekers from Serbia have the opportunity to voluntarily return to Serbia and to voluntarily leave the European country where they sought asylum without being registered as returnees or as persons who were asylum seekers in European countries. Also, the very readmission procedure does not reveal details about the person being returned ⁶¹ (the requesting State does not notify Serbia on grounds for return: illegal residence on its territory, whether it is the case of criminal activity, rejected asylum claim, invalid visa, etc.). For these reasons, the total number of failed asylum seekers returned based on the readmission agreement remains unknown for the Serbian state authorities.

The data that are available relate to all returnees in Serbia, including persons who while applying for asylum in a European country did not show their identity documents, but who after denial of their asylum claims in the readmission procedure were proved to be the citizens of Serbia.⁶² Such persons were deported back to Serbia and included in the Serbian statistical data on returnees. The same group of people registered according to the data of the Republic of Serbia as returnees includes also Serbian citizens - rejected asylum seekers with valid travel documents but who were in need of adequate medical assistance, therefore they could not leave the European countries alone, but the European country that rejected their claims and

⁵⁹ Information obtained through interviews with Serbian returnees - asylum-seekers from the research sample, as well as interviews conducted with officials from the Federal Office for Migration of Switzerland from September to October 2013.

⁶⁰ Returnees upon an agreement on readmission are persons who are returned, or readmitted, on the basis of the agreement on readmission between two countries, due to unfulfilled conditions for entry, stay or residence on the territory of the country the agreement on readmission is signed with.

⁶¹ Agreement between the Republic of Serbia and the European Union on the Readmission of Persons Residing without Authorization, The Official Gazette of the RS - International Treaties", no. 103/2007, Article 16

⁶² After the Requesting Member State submitted application for readmission to the Ministry of the Interior of Serbia, MI determines on the basis of prima facie evidence that the person is a citizen of Serbia and gives positive reply to the readmission application. Then, the competent Diplomatic Mission or Consular Office issues within three days the travel document, required for the return of the person to be readmitted, valid for a period of three months. See Agreement between the Republic of Serbia and the European Union on the Readmission of Persons Residing without Authorization, The Official Gazette of the RS - International Treaties, no. 103/2007, Articles 2 and 6

carried out deportation orders had to inform Serbia about them seeking adequate medical assistance for their return.⁶³

Incomplete but relatively credible and only official indication of the basic data and needs of rejected asylum seekers from Serbia is the database of the Commissariat formed on the basis of the questionnaire the returnee upon readmission filled out on a voluntary basis at the Readmission Office at the airport Nikola Tesla.⁶⁴ Based on completed questionnaire, information are collected on the country the returnee was returned from, his nationality, sex, marital status, status of persons abroad (among offered options is "asylum sought"), place of residence in Serbia, current type of accommodation, education and type of occupation, health status, and type of assistance required (treatment, obtaining documents, legal aid, assistance in finding jobs, housing, etc.).⁶⁵ According to the data of the Ministry of the Interior and the Commissariat, of the total of 16,324 citizens of Serbia - returnees under the readmission agreement in the period 2010-2012⁶⁶, 4,977 people were recorded by the Readmission Office staff and completed the questionnaire.⁶⁷ Based on available data of the Readmission Office, it can be concluded that more than 90% of the recorded returnees under the readmission agreement in the past two years are persons who were returned from the countries of Western and Northern Europe (most of them from Germany, Sweden, Switzerland, Denmark and Belgium), and there is a high probability that these persons sought asylum in these countries.⁶⁸ In this way, the database of the Commissariat contains only the data on a minor portion of the total number of Serbian citizens who sought asylum, whose total number up to now due to conditions and limitations described has remained unknown.

3. Impact of the high number of asylum seekers - Serbian citizens in European countries on the pace of Serbia's EU accession

The phenomenon of unfounded asylum claims of Serbian citizens in the EU could potentially slow the pace of Serbia's EU accession. Namely, the amended EU Regulation is expected to come into force in January 2014. It lists the countries to which the EU applies the visa and the visa-free regime⁶⁹ and also defines the circumstances under which the visa-free regime could

⁶³ Information obtained during interviews with Serbian returnees - asylum seekers from the research sample, as well as interviews conducted with officials from the Federal Office for Migration of Switzerland on 28. October 2013

⁶⁴ More about the Readmission Office at Nikola Tesla Airport in the next section on page 39.)

⁶⁵ Template of the questionnaire is available at <http://www.kirs.gov.rs/docs/read/Formular3.pdf>

⁶⁶ In 2010, 4434 people were returned according to the readmission procedure, in 2011 - 5150 and in 2012 - 6740 of them. Data available in the Migration Profile of the Republic of Serbia 2010 (p. 46), 2011 (p. 44) and 2012 (p. 48) available at <http://www.kirs.gov.rs/articles/navigate.php?type=15&lang=SER&date=0>

⁶⁷ In 2010, 1164 people completed the questionnaire; in 2011 - 1606; and in 2012 - 2 017 of them. See Report of the Readmission Office, available at <http://www.kirs.gov.rs/articles/readizvestaji.php?type=47&lang=SER&date=0> and Migration Profile of the Republic of Serbia 2011 (p.45) and 2012 (p.49)

⁶⁸ Interview with the representative of the Readmission Office, Nikola Tesla Airport, November 6, 2013.

⁶⁹ Regulation 539/2001, Council Regulation (EC) No 539/2001 of March 15, 2001, lists the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement. The European Parliament adopted amended Regulation at the plenary session in Strasbourg on September 11, 2013, while the EU Justice and Home Affairs Council adopted amendments to this Regulation at the meeting held on December 5, 2013 in Brussels. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the EU. To view the summary of the Regulation of the EU Council see http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/130926.pdf

be temporarily suspended to the country included in the so-called Schengen white list. One of the circumstances provided for the reintroduction of visas prescribed by this Regulation is a significant increase of unfounded asylum claims submitted by citizens of the country granted the visa-free regime observed in one or more Member States.⁷⁰

Bearing in mind the current number of requests for asylum submitted by Serbian citizens in the EU ⁷¹, Serbia will fulfill the conditions for the introduction of the temporary visa regime immediately upon entry into force of the envisaged mechanism if the number of asylum seekers is not urgently reduced. Eventual reintroduction of visas for Serbia, which has de facto started, by the process of screening, the membership negotiations with the European Union in 2013, after successful completion of the visa liberalization in 2009, would be a complete precedent in the relationship between the EU and future candidate country, with unpredictable political consequences for the process of Serbia's accession to the European Union. Conditionality of the EU accession process, on the one hand, and the large number of asylum seekers from Serbia, on the other hand, reveals the urgent need for a better understanding of this phenomenon by the Serbian authorities, the EU countries and the entire Serbian society, i.e., the need for improving the situation of rejected asylum seekers from Serbia after their return home.

4. Profile and needs of asylum seekers from Serbia

The data on asylum seekers from Serbia reveal that they are mostly people of very low socio-economic status, low education and high unemployment. The absolute majority of asylum seekers from Serbia are Roma, followed by Serbs and Albanians. Due to vulnerable economic position, discrimination they face and lack of prospects in Serbia, these persons decide to seek asylum in one of the developed European countries and in this way, at least temporarily (for the duration of the asylum procedure) try to solve their difficult economic and social position.

➔ Reasons for seeking asylum

An absolute majority of respondents (89 %) point out that they have left Serbia due to difficult economic situation and discrimination they encountered when seeking employment, while 11% of respondents state discrimination in the society in general because of their ethnicity as

⁷⁰To initiate the mechanism for suspending the visa-free regime, a sharp rise in asylum seekers should be considered in relation to the period of the previous seven years. The concerned Member State or several of them, submit evidence and a description of new circumstances to the European Commission. If within 90 days of submitted evidences, the situation in the concerned EU country does not change, the Commission will have a period of 6 months from the date when it is informed by the Member State about the problem, to adopt the so-called implementing act by a simple majority of voters, which would introduce a temporary suspension of the visa-free regime. The adoption of the implementing act does not provide for the participation of the European Parliament, which greatly accelerates the process of act adopting and reduces the possibility that the same act is rejected. Regulation (EU) 2013 of the European Parliament and of the Council of amending Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, p.10 -16, <http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&gc=true&sc=false&f=PE%2065%202013%201NIT&r=http%3A%2F%2Fregister.consilium.europa.eu%2Fpd%2Fen%2F13%2Fpe00%2Fpe00065.en13.pdf>

⁷¹From January to October 2013 in the developed European countries, 16,640 persons originating from Serbia sought asylum: Eurostat metadata, "Asylum and new asylum applicants by citizenship, age and sex. Monthly data (rounded) (migr_asyappctzm)", http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database

the reason for seeking asylum in European countries. Namely, these respondents say that during their whole live they were systematically discriminated on ethnic grounds in the community where they live, so they left Serbia in order to, in one respondent's words, "save one's sanity". In 7 % of cases, despite difficult economic situation, the motive for leaving the country and seeking asylum is their own medical treatment or the treatment of very ill children whose medical costs asylum seekers could not afford in Serbia. Two-thirds of respondents had valid documents before leaving the country and occasionally were the beneficiaries of social security and received monthly cash benefits. However, the amount of social support was not enough to feed the family. To compensate for the difference between the cost of survival and the amount of social assistance, 30 % of them were engaged in seasonal work and periodic collection of recyclables when they had the chance before leaving the country to seek asylum. A third of respondents say that they reported for years to the National Employment Service, but they have never been invited for retraining or additional training. Schoolchildren of all respondents attended school before going abroad.

When asked whether they were aware of small chances of being granted asylum in destination countries, a third of respondents said that they were sure they would be granted asylum, while two-thirds of respondents said that they knew they would not be granted asylum, but that they still wanted to try. However, 18% of respondents, who have repeatedly tried to get asylum in the EU, have said that they and their families do not want to give up because every time they hope to find themselves among "those lucky ones" who will be granted asylum and protection in the European countries.

With the exception of less than 10% of respondents, who left Serbia illegally being smuggled, other respondents left Serbia with valid travel documents. However, two-thirds of respondents did not want to show their passports in the asylum procedure, believing that in this way they would increase their chances of obtaining asylum. All respondents who did not show or have their passports with them were returned to Serbia under the Agreement on Readmission after the denial of their asylum applications. On the other hand, respondents who submitted valid passports in the asylum procedure claim that they did it because "they have nothing to hide," believing that their possession of travel documents would facilitate the asylum procedure. Among them are the families who traveled with sick children, and who were also returned upon readmission procedure. All other respondents who had their own travel documents after having been denied asylum returned to Serbia through regular border crossings paying their own travel expenses.

➔ **Staying in European countries**

About half of the respondents revealed in detail their experience of staying in the country where they sought asylum, particularly those who were in Sweden. The respondents who sought asylum in Sweden have said that a warm welcome they received from officers at reception centers, but also from local communities and the society in general made the best impression on them. The respondents particularly emphasized their own feeling that they were not seen as different and unworthy, according to some of them: "Nobody 's looking at us as dirty Roma". Wherever they moved in the streets, in shops, in state institutions - the locals greeted them kindly and understandingly. Those respondents who spent in Sweden more than a year for treatment of sick children have gained friends among Swedes with whom they

maintain contact even now upon their return to Serbia. One gets a general impression that their stay abroad has positively influenced the respondents in terms of raising their awareness about the importance of education for children, adoption of good habits and manners and generally positive values. However, most of those who have returned to Serbia under the readmission agreement had a very unpleasant and stressful experience with foreign police just before returning to Serbia. Namely, the police would have entered their residence in the middle of the night, awakened all the family members, ordered them to quickly pack up, put handcuffs and escorted them to the airport. The respondents believe that the practice of unannounced deportation and the way the police treated them are cruel and unjustified, and that this experience made their return to Serbia extra hard, and left far-reaching consequences.

➔ Needs and expectations of rejected asylum seekers upon their return to Serbia

Finding a job is the priority for two-thirds of respondents upon their arrival in Serbia. Many of them, however, cannot regulate their status in the labor market due to lack of required documents, and in this respect receive legal assistance from non-governmental organizations and international projects.⁷² However, although claiming that finding jobs is their priority, many of the returnees were not motivated enough to change the situation they were in and to accept free assistance of non-governmental organizations and the Red Cross in the form of training and re-training for specific occupations. As concluded from interviews with the respondents, there are actually significant differences in their desire and willingness to find a job. While some respondents in this regard rely solely on the assistance of non-governmental organizations, one-quarter of them are looking for a job alone and find ways to earn money.

At the same time, more than a half of the respondents state housing as one of their priorities. Many of them actually do not have registered addresses, which prevent them from qualifying for receiving cash benefits from the state. The majority of respondents live in very difficult conditions in informal settlements, in small rooms with members of the extended family, often without heat and electricity, while a few respondents said that they had received support from the Commissariat for Refugees and Migration ⁷³, NGOs and the Red Cross in the form of building materials, fuel and household appliances.

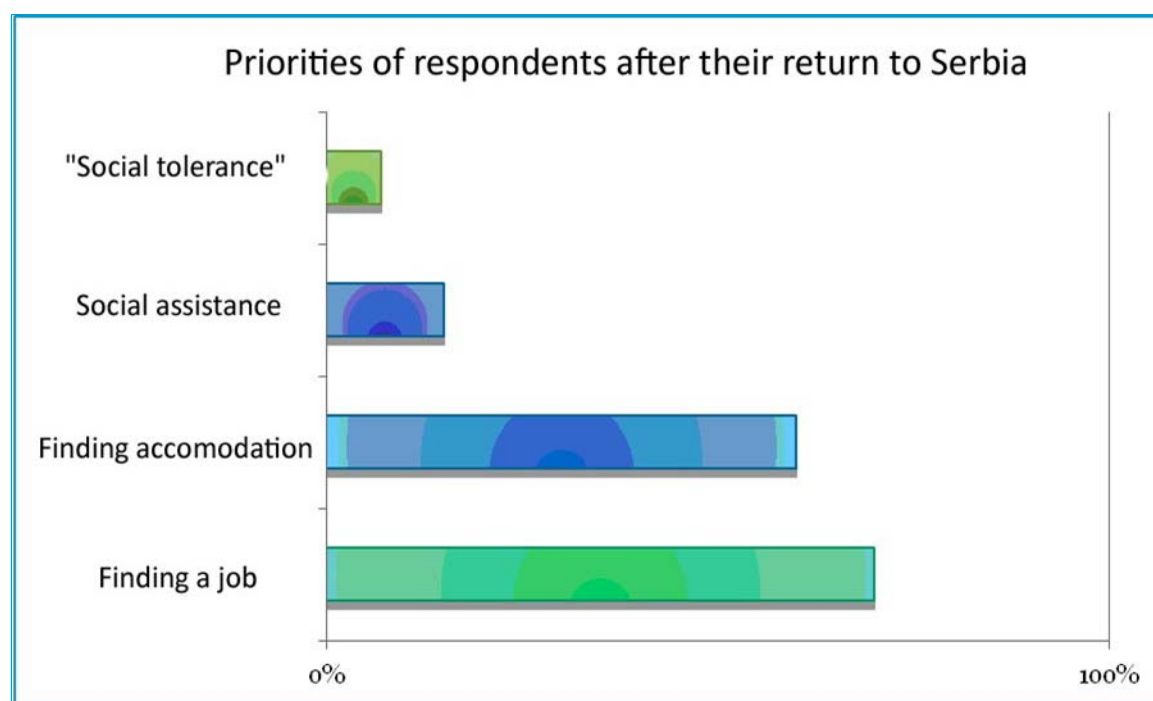
Almost all respondents claim that they just want a "normal life" in Serbia and that they would never go abroad to seek asylum if they had any perspective in Serbia, because "why would they go to someone else's and unknown state while having their own?" They are aware that they have been accused of being "fake asylum seekers" and believe that it is not correct to be called

⁷² The project "Support in implementation of strategies for internally displaced persons, refugees and returnees - legal assistance" realized by Diadikasia Business Consultants SA in cooperation with Euromed, Euro Management International and IDC in cooperation with the Office for Kosovo and Metohija. Funded by the European Union in the period from December 2012 until June 2014. The category of returnees under the readmission agreement was included in the project in August 2013. More details <http://www.pravnapomoc.org/web/index.php/sr/o-projektu.html>;

The Red Cross of Serbia in cooperation with the Red Cross of Sweden realize the program Migration in terms of assistance to returnees from Sweden under the readmission in the period Jan. 1, 2011 – Dec. 31, 2013.

⁷³ Note-If the Commissariat provides assistance in firewood and food, then the precondition is that the municipalities have adopted LAP.

like that. As they say, they do not understand "why would someone prevent them from traveling and trying to live better, if they could not do that in Serbia?" When asked about their vision of the future in Serbia, their statements on this point are divided. More than 45 % of respondents are repudiated and do not see that the situation in Serbia will ever be better, and are willing to try again at the first opportunity to go abroad. On the other hand, 55% of respondents have a desire to (re)integrate into society of Serbia and hope that they will succeed in it. Also, it has been noted that the respondents who spent more than a year in the asylum procedure in European countries are very aware of the need and importance of education for their children. They encourage their children to go to school, increasing in this way their own chances as well as of their family for a better life. Many of them due to the situation in which there are do not have enough funds for the education of their children, and therefore the help of the Red Cross, non-governmental organizations and the Commissariat for Refugees and Migration, which periodically but non-institutionally donate books and other school supplies to children, is welcomed.



5. Legal, strategic and institutional framework for dealing with Serbian citizens - rejected asylum-seekers in European countries

Rejected asylum seekers from Serbia have not been recognized as a separate category in any strategic or legal document of the Republic of Serbia. Partially established legal and institutional framework for rejected asylum seekers from Serbia exists only for those who have been returned to Serbia under the readmission agreement and who, as such, are included into the category of returnees according to this agreement. On the other hand, for rejected asylum

seekers from Serbia who have not been returned upon readmission⁷⁴ the existing legal and institutional framework is not valid and cannot be applied.

When we speak about the legal framework, excluding the Agreement on Readmission between the EU and Serbia⁷⁵ and bilateral readmission agreements that Serbia has concluded with the third countries,⁷⁶ the state action dealing with returnees under the readmission is not governed by any specific legally binding act. The Law on Migration Management from 2012⁷⁷ integrates the migration management into a general framework and defines the Commissariat for Refugees and Migration as the central state organization for proposing and setting the goals and priorities of the migration policy and migration management in the Republic of Serbia.⁷⁸ According to the Law, the activities related to proposing, formulating and implementing measures for the reintegration of returnees under the readmission agreement are within the competence of the Commissariat, too.⁷⁹ In addition, the Commissariat is responsible for providing temporary accommodation for returnees who are not able to do that themselves in one of the existing collective centers.⁸⁰

In terms of strategic documents of the Government of the Republic of Serbia, the returnees under the readmission agreement as a separate category have been comprehensively analyzed for the first time in **The Strategy for the Reintegration of Returnees under the Readmission Agreement (the Strategy)** adopted in 2009.⁸¹ The strategy contains a thorough analysis and description of the situation of returnees upon readmission after their return to Serbia, reviews the problems they face with, and provides for a series of measures and activities of the relevant line ministries directly involved in solving the problems of returnees (Ministry of the Interior, Ministry of Labor, Employment and Social Policy, Ministry of Justice and Public Administration, Ministry of Foreign Affairs), concretized in related Action Plans for the implementation of this Strategy.⁸²

The main problems in the integration of returnees in Serbia, recognized by the Strategy, are lack of identity documents, housing, employment, rights related to health care, social security and family protection-legal assistance, as well as integration into the educational system of Serbia.⁸³ The Strategy envisages the establishment of institutional framework for the work with the returnees that includes formation of the Council for the integration of returnees

⁷⁴ They are Serbian citizens - asylum-seekers who after receiving negative decisions on asylum claims have independently and voluntarily returned to Serbia through regular border crossings acting on decisions on cancellation of residence and leaving the European countries in which they sought asylum.

⁷⁵ Agreement between the Republic of Serbia and the European Union on the Readmission of Persons Residing without Authorization, The Official Gazette of the RS - International Treaties", no. 103/2007.

⁷⁶ Serbia has concluded bilateral readmission agreements with Switzerland, Norway, Denmark, Bulgaria, Croatia, France, Germany, Hungary, Italy, Slovakia, Slovenia and Sweden. Agreements available at <http://www.kirs.gov.rs/articles/readsporazumi.php?type1=44&lang=SER&date=o>

⁷⁷ The Law on Migration Management ("Off. Gazette" br.107/2012.).

⁷⁸ Ibid., Article 10

⁷⁹ The Law on Migration Management (Official Gazette of the RS no.107/2012), Article 10.

⁸⁰ Ibid., Article 14.

⁸¹ The Strategy for Reintegration of Returnees under Readmission Agreement (Official Gazette of the RS", no. 15/09) adopted on February 13, 2009. strategija reintegracije povratnika po osnovu sporazuma o readmisiji, („Sl. glasnik RS", 15/09,) doneta 13. februara 2009. godine http://www.kirs.gov.rs/docs/Strategija_reintegracije_povratnika.pdf

⁸² Action Plan for the implementation of the Strategy for the Reintegration of Returnees under the Readmission Agreement for year 2011 and 2012 (Official Gazette of the RS no. 74/2011).

⁸³ Strategy for the Reintegration of Returnees under the Readmission Agreements, p.2.

based on the readmission agreement⁸⁴ and the Team for monitoring the implementation of the Strategy.⁸⁵

In addition to the Strategy for the Reintegration of Returnees under the Readmission Agreement, returnees under the readmission agreement are also recognized as a separate category in the Migration Management Strategy from the year 2009,⁸⁶ The Strategy for the Suppression of Illegal Migration in the Republic of Serbia for the period 2009-2014,⁸⁷ National Strategy for Improvement of the Status of Roma in the Republic of Serbia from the year 2010,⁸⁸ and the National Employment Strategy for the period 2011-2020.⁸⁹

Council for the Integration of Returnees under the Readmission Agreement was formed in October 2008 with the task to review and propose measures and activities for admission, taking care of and integration of returnees; provide support in formulation and implementation of measures at the local self-government level to assist returnees in accordance with the capacities and needs of the local community; propose a framework for an interstate dialogue on the issues of protection and exercising the rights of migrants as well as problems of illegal migration in order to improve the regional cooperation that is of high importance for the returnees; monitor the implementation of established measures and give suggestions and opinions on other issues within the competence of the Government, with the purpose of conducting an integral and coherent policy.⁹⁰ The Council consists of ministers and state secretaries of relevant line ministries: Ministry of Labor, Employment and Social Policy, Ministry of Foreign Affairs, Ministry of Justice and Public Administration, Ministry of Education, Ministry of Health, Economy, etc.⁹¹

Team for Monitor the Implementation of the Strategy for the Reintegration of Returnees under the Readmission Agreement is a coordinating and competent body to ensure the implementation of the strategic objectives set out in the Strategy. The Team to monitor the implementation of the Strategy is composed of representatives of the Ministry of Labor, Employment and Social Policy, Ministry of the Interior, Ministry of Foreign Affairs, Ministry for Human and Minority Rights, Ministry of Health, Ministry of Education, Ministry of Public Administration and Local Self-Government, Ministry of Environment and Spatial Planning, Ministry of Diaspora, European Integration Office, and the Commissariat for Refugees. The team is headed by the President of the Council.⁹²

The Strategy and Action Plans assigned to the Commissariat a central role in the implementation and coordination of measures and activities for the reintegration of returnees under the readmission agreement.

⁸⁴ Ibid. Specific objective 1, Measure 1, p. 20

⁸⁵ Ibid. Specific objective 1, Measure 2, p. 21

⁸⁶ Migration Management Strategy (Official Gazette of the RS, no. 59/09).

⁸⁷ The Strategy for the Suppression of Illegal Migration in the Republic of Serbia for the period 2009-2014, (Official Gazette of the RS, no. 25/09).

⁸⁸ National Strategy for Improvement of the Status of Roma in the Republic of Serbia (Official. Gazette of the RS, no. 27/09).

⁸⁹ The National Employment Strategy 2011-2020, (Official Gazette of the RS, no. 37/11).

⁹⁰ Ibid., p 20.

⁹¹ The decision on the appointment of members of the Council for the integration of returnees based on the readmission agreement (The Official Gazette of the RS, no. 99/2008).

⁹² The Strategy for the Reintegration of Returnees under the Readmission Agreement p. 21

Commissariat for Refugees and Migration is according to the Strategy in charge of:

- The development and establishment of a comprehensive database on returnees and their needs;⁹³
- The establishment of a separate organizational unit within the Commissariat for Refugees with the tasks of coordinating and organizing the primary admittance and cooperation with the receiving communities, creating conditions for viable reintegration of this category of people (prevention of human trafficking, promotion of principles of affirmative action, as well as the realization of additional activities relevant to the implementation of the Strategy such as poverty reduction, etc.), and addressing issues of importance to the prevention of secondary migration;⁹⁴
- Informing the returnees about the readmission process, their rights, opportunities and obligations, as well as all the matters relating to their successful integration into a larger and smaller receiving community;⁹⁵
- Informing and educating professionals working in the social protection system and other public services on the readmission process;⁹⁶
- Informing all relevant actors and the public on the readmission process of and the problems of returnees;⁹⁷
- The support to local self-governments in establishing bodies responsible for the reintegration of returnees under the readmission agreement within the existing councils involved in the protection of vulnerable groups of the population at the local level⁹⁸ support for the drafting of local action plans⁹⁹;
- Activities for urgent support of returnees;¹⁰⁰
- The support to local self-governments in improving their capacity for dealing with the returnees.¹⁰¹

For the purpose of primary admission of returnees, the **Readmission Office** at Nikola Tesla Airport was established, governed by the Commissariat for Refugees. After the landing in Belgrade and conducted interview with the police when they are registered, the returnees may choose to be recorded at the Readmission Office (the Office). The Office staff and returnee fill out the questionnaire containing questions on the profile of the returnee, his/her main concerns and needs, as well as socio-economic situation. Based on information collected, a comprehensive database of returnees is formed and updated at the Commissariat. The Office staff speaks next to Serbian and Roma, Albanian and English. Upon filling out the

⁹³ The Strategy for the Reintegration of Returnees under the Readmission Agreement, Specific goal 1, Measure 2, Activity 4, p.22

⁹⁴ Ibid., Specific goal 1, Measure 3, Activity 2, p.22.

⁹⁵ Ibid., Measure 4, Activity 2, p.23

⁹⁶ Ibid., Measure 4, Activity 3, p.23

⁹⁷ Ibid., Measure 4, Activity 4, p.23.

⁹⁸ Ibid., Specific goal 2, Measure 1, Activity

⁹⁹ Ibid., Specific goal 3, Measure 1, Activity 2

¹⁰⁰ The Strategy for the Reintegration of Returnees under the Readmission Agreements, Specific goal 2, Measure 2

¹⁰¹ Ibid. Specific goal 3

questionnaire, the office staff assists the returnees by providing information about the readmission process, their rights and obligations, and by advising them on legal actions that have to be taken indicating organizations and trustees in local communities of their previous residence that can provide legal assistance. On this occasion, the returnees are given an Information Bulletin, available in Serbian (but only in the Cyrillic alphabet), Roma, Albanian and German. Also, the office provides emergency admission of returnees if they need hospitalization or psychological help. This kind of help is often necessary because the readmission process for many of them is a traumatic experience, for many of them were previously roughly treated by the police in destination countries.¹⁰² Office staff works from 9:30 to 21:30 h in two shifts, while the Commissariat has mobile teams working weekends, nights and holidays.¹⁰³

According to the Law on Ministries, the **Ministry of Labor, Employment and Social Policy** carries out, in addition to other activities of the state administration, the tasks related to the social security system and the rights and integration of returnees under the readmission agreement.¹⁰⁴ In accordance with the established powers, this ministry, according to the Strategy for the Reintegration of Returnees under the Readmission Agreement plays an important role in creating the conditions for reintegration (integration) of returnees into the society, especially in terms of creating an institutional framework for dealing with the returnees, establishing a comprehensive database on the needs of returnees, planning and defining additional budgetary funds for the realization of financial support in the field of social welfare and child protection, informing the returnees about the readmission process and their rights, as well as in informing and educating professionals in the social security system about the work with the returnees.¹⁰⁵

Migration Councils according to the Strategy for the Reintegration of Returnees under the Readmission Agreement, are the bodies formed at the local level, which are responsible for monitoring and reporting to the Commissariat about migrations on the territory of the autonomous province and local self-government units; proposing programs, measures and action plans to be taken for effective migration management on their territories, as well as other activities in the field of migration management, in accordance with the Law. As a rule, the Council is composed of representatives of the executive authorities, police departments, Social Welfare Center, National Employment Service and the trustee for refugees, displaced persons and returnees.¹⁰⁶ The authority of the Council is, inter alia, drafting, adoption and revision of **Local Action Plans (LAPs)**, local government strategic documents, which set out the measures and actions to improve the situation of refugees, internally displaced persons and returnees upon readmission, and improvement of the coordination of activities of the

¹⁰² Information obtained on the basis of personal testimonies of 20% of interviewed returnees and discussions with the representative of the Readmission Office at Nikola Tesla Airport

¹⁰³ Commissariat for Refugees and Migration, Information Bulletin for returnees upon readmission, p. 3, http://www.pbildprogramme.org/dokumenti/sr/1_43_INFORMATOR_PBILD_2610_-_srpski_final.pdf

¹⁰⁴ The Law on Ministries, the Official Gazette of the RS, no. 72/2012 and 76/2013, Article 17

¹⁰⁵ Action plan for the implementation of the Strategy for the Reintegration of Returnees under the Readmission Agreement for 2011 and 2012 (The Official Gazette of the RS, no. 74/2011), goals and measures par. 1.1.1, 1.2.2, 1.2.4, 1.4.2, 1.4.2.1.

¹⁰⁶ The Law on Migration Management, Article 12.

state and local authorities.¹⁰⁷ LAPs typically include information about these categories of migrants, analysis of their situation and unresolved issues, priorities, general and specific aims, activities, necessary budgetary resources and mechanisms for monitoring and evaluating the implementation of LAPs.¹⁰⁸ The original LAPs made in 2009-2010 were related to refugees and internally displaced persons, while the revised LAPs adopted in 2012 and 2013 by 60 municipalities with returnees on their territories, in addition of these two categories, included returnees upon readmission.¹⁰⁹ It is of great importance for the people who sought asylum in European countries - returnees under the readmission agreement that the municipalities in which they reside have adopted LAPs that include the returnees under the readmission agreement, since the existence of such LAPs is a prerequisite for these people to get one-time incentive, granted by the government, proposed by and through the Commissariat.¹¹⁰

Trustees for Refugees are the main link between the Commissariat on the one hand and the municipality and the local community into which the returnee comes back, on the other hand. The trustees are employees of the local self-government and are elected by the local authorities.¹¹¹ They should be the first interlocutors the returnees upon their arrival in the local environment turn to, advised by the Readmission Office staff at Nikola Tesla Airport. The task of the trustees for refugees is to provide information to returnees on their rights and direct them to other services and institutions that would assist them in achieving their rights, to the police departments for the issuance of identification cards, for social welfare centers to apply for cash benefits, national employment services to register as the unemployed, and to the primary and secondary schools to enroll their children.

When it comes to the exercise of any right in the area of social protection, the returnees under the readmission agreement are treated like all socially vulnerable citizens of Serbia. In other words, the returnees under the readmission agreement (and also all rejected asylum seekers from Serbia) have no special rights in relation to other vulnerable citizens of Serbia. The most important institution in the field of social protection, which provides the necessary support to returnees in need of social assistance in their integration is the **Social Welfare Center**, in which the rights guaranteed by law are exercised, and services in the field of social protection provided.¹¹² Social Welfare Center assesses the needs and strengths of its users, as well as the risks, and plans social welfare provision, conducts procedures, and decides on who is entitled to financial benefits and the use of social services, undertakes required measures, initiates and participates in judicial and other proceedings, keeps records and ensures the preservation of users' documentation.¹¹³ In addition, an important role of the center is to initiate and develop

¹⁰⁷ The project of the International Labor Organization (IOM), "Improving the capacity of institutions of the Republic of Serbia for migration management and reintegration of returnees" (CBMM), "Best practices in implementation of action plans addressing the issues of refugees, internally displaced persons and returnees under the readmission http://www.kirs.gov.rs/docs/lap/lap_najbolje_prakse.pdf

¹⁰⁸ The adopted local action plans are available at <http://www.kirs.gov.rs/articles/lap1.php?type1=22&lang=SER&date=0>

¹⁰⁹ CBMM project " Best practices in implementation of action plans addressing the issues of refugees, internally displaced persons and returnees under the readmission agreement," p. 9-12 http://www.kirs.gov.rs/docs/lap/lap_najbolje_prakse.pdf

¹¹⁰ Law on Migration Management, Article 17

¹¹¹ IOM, " Fundamentals of Migration Management in the Republic of Serbia", p.71. http://www.kirs.gov.rs/docs/migracije/Osnovi_upravljanja_migracijama_u_Republici_Srbiji.pdf

¹¹² The Law on Social Welfare (The Official Gazette of the RS, no. 24/2011), Article 14, Paragraph 1

¹¹³ The Law on Social Welfare (The Official Gazette of the RS, no. 24/2011 Article 14, paragraph 1), Articles 120.

programs that contribute to the meeting of individual and collective needs of the citizens in the area of social protection on the territory of the local self-government unit, as well as to initiate and develop the programs aimed at preventing and combating social problems.¹¹⁴

Rejected asylum seekers - returnees upon readmission, under the conditions prescribed by the law and provided by the social welfare center, are entitled to cash benefits,¹¹⁵ carer's allowance,¹¹⁶ accommodation in a center or another family,¹¹⁷ one-time assistance,¹¹⁸ accommodation in a collective center,¹¹⁹ and other types of assistance and support according to decisions on social welfare of local self-governments (payment in-kind, free one-way ticket to the place of residence, one meal a day in the soup kitchen, various subsidies on utilities, electricity).¹²⁰

6. Results achieved and challenges ahead

Bearing in mind the objectives defined in the Strategy for the Reintegration of Returnees under the Readmission Agreement and the accompanying action plans, the inadequacy of certain measures in relation to the dominant profile of returnees since 2010 to date (rejected asylum seekers from Serbia), as well as the lack of awareness of relevant state and local authorities about the relatively new category of rejected Serbian asylum seekers in European countries - the returnees upon readmission, it can be concluded that the measures outlined in these documents are only partially carried out. In other words, despite created institutional framework for dealing with returnees under the readmission agreement provided by strategic documents and action plans, the effects of implemented measures and activities have remained limited in scope for all returnees, including rejected asylum seekers from Serbia in European countries.

Within the existing legal framework, the lack of motivation of Serbian asylum seekers in European countries - returnees under the readmission agreement to be recorded by the Readmission Office at the airport Nikola Tesla in the process of primary admission prevents creation of a credible database of Serbian asylum seekers. Entering into records of a larger number of asylum seekers - returnees would, on the one hand, increase their awareness of their rights, while on the other hand Commissariat would have a more complete picture of their profile and needs. The fact that the recording is only possible at the airport Nikola Tesla, where the Readmission Office has its own facilities, is a limiting factor since about 12% of returnees - rejected asylum seekers from Serbia who voluntarily return to Serbia, primarily through other border crossings,¹²¹ do not have the opportunity to be recorded or to receive information about their rights.

¹¹⁴ Ibid. Article 121

¹¹⁵ Ibid. Article 99.

¹¹⁶ Ibid. Article 99.

¹¹⁷ Ibid. Article 47.

¹¹⁸ Ibid. Article 110.

¹¹⁹ Ibid. Article 55, paragraph 2

¹²⁰ Ibid. Article 111.

¹²¹ The Government of RS, Migration Profile of the Republic of Serbia for 2012, p.48, and The Government of RS, Migration Profile of the Republic of Serbia for 2011, p.45.

In addition to the lack of information on the number and the profile of rejected asylum seekers from Serbia, the great unknown is also an insight into the functioning of the institutions formed to improve the situation of returnees under the readmission agreement. The team for monitor the implementation of the readmission agreement, as a competent and operational body formed in order to propose measures and activities for dealing with returnees and to support local self-government authorities in the admittance of returnees, has neither presented any report on its work nor undertaken activities made visible to the public, and so the details about the functioning of this body are unknown.

In creating institutional framework and improving the conditions for reintegration/integration of Serbian asylum seekers, returnees under the readmission agreement, the activities of the Ministry of Labor, Employment and Social Policy in initiating development of the necessary support services in local communities, the majority of which, according to the Law on Social Welfare, are under the jurisdiction of local self-governments have been limited by the existing economic situation and available financial means. In addition, the Ministry does not have enough human resources to systematically and continuously monitor this issue and propose appropriate measures. According to the organizational structure of the Ministry and the jobs that are performed, as well as the planned revenues and expenditures, it can be concluded that the Ministry has not identified the activities related to the phenomenon and problems of Serbian asylum seekers / returnees under the readmission agreement, and accordingly there have been no funds for such purposes.¹²²

At the local level, the practice of adopting LAPs and the inclusion of returnees under the readmission agreement in municipalities and cities with large number of them is uneven. Although adopted LAPs in even 128 municipalities in Serbia can be considered a success, the fact that municipalities and cities like Bujanovac, Medvedja, Pozarevac, Novi Sad, Zemun, Novi Beograd, Beograd (Palilula), and Leskovac did neither include the returnees in their revised LAPs, valid till 2014 or 2015, nor the LAPs invalid since 2012 have been revised is something to worry about.¹²³ As the adoption of LAPs depends entirely on the political will of local authorities, the Commissariat cannot substantially affect their work and decision-making, except indirectly through the provision of trainings to increase their awareness of Serbian-citizens asylum seekers, returnees under the readmission agreement, as a special category of migrants.¹²⁴

Social welfare centers on the territories in which the returnees - Serbian asylum seekers reside are responsible for exercising their legally protected rights and for providing services and support under the jurisdiction of the local self-government in the area of social rights. Since a number of returnees live temporarily with their relatives and friends or in informal

¹²² See the Bulletin of the Ministry of Labour, Employment and Social Policy, October 2013 available on <http://www.minrzs.gov.rs/doc/informator/informator%200%20oradu%20MRZSP%20oktobar.pdf>

¹²³ Local Action Plans are available on the website of the Commissariat: <http://www.kirs.gov.rs/articles/lap1.php?type1=22&lang=SER&date=0>

¹²⁴ This was done through the project "Capacity Building of Institutions Involved in Migration Management and Reintegration of Returnees in the Republic of Serbia (CBMM)." See "Best practices in implementing action plans to address the issues of refugees, internally displaced persons and returnees under the Agreement on Readmission," available at http://www.kirs.gov.rs/docs/lap/lap_najbolje_prakse.pdf

settlements, the place of residence in some cases appears as the most serious obstacle to their access to social protection. In order to overcome this problem, the returnees are entitled to register their residence at the address of the local social welfare center¹²⁵, but in practice this option is very rarely used. One reason is the complexity of the residing registration process, as it requires prior review and approval of the Ministry of the Interior, which conducts investigations and determines whether the person actually have residence. The second reason lies in the motivation and willingness of the staff of the social welfare center to present that opportunity to returnees. In practice, it often happens that the staff does not mention this possibility to the returnees upon readmission, but only gives them a list of documents that need to be acquired in order to apply for cash benefits. The reason for this is that the law does not specify the duties of the center staff in relation to these persons (for example, in the case of a summons and the like).¹²⁶ On the other hand, the experience of the staff of social welfare centers suggests that asylum seekers are reluctant to identify themselves as returnees and therefore it is difficult to meet their needs.¹²⁷

One of the difficulties the professionals of social welfare centers are faced with in their work is the welfare abuse made by some recipients. In fact, it has been observed in practice that some welfare recipients leave Serbia for an indefinite period (presumably in order to seek asylum abroad) failing to inform the social welfare center about it. On the other hand, local social welfare centers do not have enough human resources to regularly monitor the movement of welfare recipients.

Practice also shows that generally a very small number of returnees get in touch with the local trustee for refugees to seek help. The reasons for it, based on testimonies of interviewed trustees and returnees, are several specific or related factors:

- Poor awareness of returnees on their rights;
- Lack of motivation of returnees to engage in everyday life in Serbia, because they are focused on finding ways to re-leave Serbia;
- Fear of returnees to become visible to state institutions and thus to be blamed and punished for being "fake asylum seekers";
- Municipality or city has no approved LAP involving the category of returnees under the readmission agreement, and therefore, the returnees do not see the benefit of addressing the trustee;
- Insufficient training of trustees about their role in the treatment of returnees, and as a result of it their inability to pass accurate information on to returnees about their rights.

The city of Vranje is an example of how LAP applicable also to returnees affects the increasing awareness of returnees and their high response to the services provided by the local trustee. Since 2011, 253 returnees have reported to the trustee in Vranje, only four or five returnee

¹²⁵ Law on Permanent and Temporary Residence of Citizens (The Official Gazette of the RS, no. 87/2011), Article 11, par. 2, item 4

¹²⁶ Vujošević Marija, "The legal framework of homelessness in Serbia", p.1-27, Belgrade, 2012.

¹²⁷ Interview with officials of the Social Welfare Center in Vranje, Oct. 9, 2013.

families reported in Pozarevac, but no one in Novi Pazar and Bujanovac.¹²⁸ One of the reasons for the lack of trustees' awareness results from often changes in local governments that arbitrarily appoint new persons to exercise the functions of trustees, in this way the continuity is being lost and there is a need for training of new trustees in activities with returnees from European countries.

Based on field visits to the cities and municipalities the rejected asylum seekers from Serbia, returned in the readmission process, come from, it is observed that the quality of coordination and cooperation between local actors involved in the process of reintegration of returnees significantly affect the functioning of the legal and institutional framework for dealing with returnees. In fact, in areas where there is a good mutual communication between the trustees for refugees, staffs of social welfare centers, NGOs, the Red Cross and other institutions involved, the returnees exercise their rights to a greater extent than in areas where the collaboration and coordination of local actors are at a low level. In addition to the good coordination of local actors, the functioning of the framework for the reintegration of returnees is significantly influenced by political factor, i.e., the extent to which local authorities are aware of and interested in the problems of returnees under the readmission agreement. Finally, the functioning of legal and institutional frameworks for dealing with the returnees may be affected by general relations between local and state governments.¹²⁹

NGOs providing legal and psychological assistance to rejected asylum seekers from Serbia play an important role in improving the situation of these people. It has been noted that a much larger number of returnees turn to non-governmental organizations for help rather than to trustees at the local level, which probably stems from the fact that NGOs have much more direct communication and interaction with returnees than trustees. Information about organizations that can provide assistance to returnees can be found in the Information Bulletin, the returnees obtained upon their arrival at the Readmission Office. But most returnees find out about the NGOs listed in the Bulletin from good personal experiences and recommendations given by relatives and friends. Although their role and significance has not been recognized in the Strategy for the Reintegration of Returnees under the Readmission Agreement, non-governmental organizations that have experience in working with refugees - rejected asylum seekers from Serbia have shown that they have a strong potential to assume in the future a more important role in the process of sustainable integration of returnees - rejected asylum seekers from Serbia into the Serbian society.

7. Conclusions and recommendations for improving the situation of rejected asylum seekers from Serbia

➔ Legal and institutional framework for rejected asylum seekers

The fact is that the existing legal and institutional framework does not provide equal benefits to rejected asylum seekers from Serbia and those rejected asylum seekers who were returned

¹²⁸ Information obtained in interviews with trustees in Novi Pazar and Bujanovac in the period from September to November 2013.

¹²⁹ City of Bujanovac is an example of how the relationship between the state and local governments adversely affects the functioning of the legal and institutional framework for dealing with the returnees.

under the readmission agreement. While all socially vulnerable citizens of Serbia are equal in exercising their right to social protection, i.e., there is no distinction between returnees under the readmission agreement and failed asylum seekers from Serbia in general, this is not the case with the right to apply for assistance through Local Action Plans, for which only asylum seekers returnees upon readmission are qualified.

As the Strategy for Reintegration of Returnees under the Readmission Agreement was written and adopted in 2009, that is, before the visa liberalization and rapid increase of asylum seekers from Serbia, and therefore before an increase in the number of returnees of this profile to Serbia, revised strategy and legislation should take into account the needs of returnees returned after the visa liberalization process and adapt measures and activity in accordance with them. The revised measures should ensure that rejected asylum seekers from Serbia who were not returned upon readmission have the same benefits as the returnees upon readmission (to become welfare recipients provided for by Local Action Plans). Therefore, in addition to the travel document, which is the basis for the realization of the rights of returnees under the readmission agreement, the decision on rejected asylum application should also facilitate exercising of these rights, the returnees upon readmission already enjoy, to other rejected asylum seekers from Serbia. As in the case of returnees under the readmission agreement, recording of other returnees by the Commissariat and trustees at the local level based on decisions of rejected asylum applications should be performed on a voluntary basis. By implementing this measure a better insight into the total number and profile of failed asylum seekers from Serbia will be gained.

Although the existing support framework gives a significant role to the Ministry of Labor, Employment and Social Policy in the implementation of integration measures for returnees under the readmission agreement, the Ministry has not in its previous work recognized the issue of asylum seekers returnees upon readmission, due to lack of material and human resources. Therefore, it is necessary to define new job descriptions within the Ministry for its staff to systematically monitor the phenomenon of asylum seekers - returnees under the readmission agreement and failed asylum seekers in general, as a separate category of socially vulnerable citizens of Serbia.

In local communities, social welfare centers provide social services that comply with the necessary services in the areas of employment, housing, child protection, and education. Bearing in mind that the number of users of social welfare services is constantly increasing, while the number of skilled workers in the centers actually decreases, it is necessary to strengthen these institutions by increasing the personnel and funds, as they represent an integrative factor in the local community that provides access of socially vulnerable citizens, including rejected asylum seekers from Serbia, to whole social welfare system.

Since the largest number of failed asylum seekers from Serbia belong to the Roma ethnic minority, future measures and activities for the integration of rejected asylum seekers should be planned and deeply aligned with the Government's policy to improve the situation of Roma and other disadvantaged ethnic minorities in Serbia.

→ Cooperation with the countries from which the largest number of rejected asylum seekers from Serbia have been returned

Reduction in the number of asylum applications of Serbian citizens in European countries, and with it associated their sustainable integration upon return to Serbia, is conditioned by the commitment of both parties - the Serbian authorities and the affected states of the EU. Sustainable return and integration of returnees, that is, finding solutions to extremely difficult socio-economic situation of this category of migrants, is a long process and certainly unsolvable for a short period of time, bearing in mind the total number of vulnerable people in Serbia. At the same time, as long as a better life and the conditions than those they have in Serbia are provided by asylum procedures in the countries like Sweden and Germany, even if it is just for a few months, it is unlikely that the number of Serbian asylum seekers in these countries will drastically reduce. Some European countries, such as Austria and the Netherlands, the problem of large number of unfounded asylum applications of people from Serbia and the Western Balkans countries have solved by introducing accelerated asylum procedures for citizens of Serbia, i.e., by treating Serbia as a safe country of origin.¹³⁰ However, accelerated asylum procedures, in the case of Serbian citizens, addressed the phenomenon of unfounded asylum claims only partially. They obviously cause a decrease in the number of asylum seekers in these countries, thereby reducing the chances of activating the suspension clause, i.e., the reintroduction of visas for Serbian citizens. At the same time, the reduction in the number of asylum seekers from Serbia in European countries is not automatically the solution to the problem of difficult socio-economic status of these people on their return to Serbia, or elimination of the risk of re-applying for asylum or just illegal staying in the countries of Europe of this category of persons in the future.

Cooperation between Serbia and Switzerland in the field of migration stands out as a positive example of the efforts how to approach the phenomenon of sustainable return of rejected asylum seekers to Serbia comprehensively. In August 2012, Switzerland introduced an accelerated asylum procedure for the citizens of Serbia and the Western Balkans, which resulted in a considerable decrease in the number of asylum seekers from Serbia.¹³¹ In addition, the Swiss authorities did their best to spread the news about new measures in the asylum procedure to become available and clear to potential asylum seekers from Serbia (and the region), by translating the information into the Serbian language (and other languages of the region), and by including the Swiss Embassies and representatives of the communities of citizens of the Western Balkans countries in Switzerland in information campaign.¹³² On the other hand, thanks to the strategic dialogue between Serbia and Switzerland in the field of migration management, which includes meeting of state delegations twice a year to exchange experiences and knowledge as well as planning of joint projects, several projects whose beneficiaries were returnees upon readmission have been realized. For example, within the project "Support to the National Strategy for the Reintegration of Returnees under the Readmission Agreement", supported by the Swiss Agency for Development and Cooperation

¹³⁰ The countries in which accelerated asylum procedures have been carried out for nationals of safe countries of origin justify these measure by the need to protect persons from other countries with well-founded requirements for asylum, i.e., by the intention to improve the efficiency and fairness of their asylum system.

¹³¹ In August 2012, a total of 410 Serbian citizens sought asylum in Switzerland. The following month there were 200 of them, in October 2012 - 65, while starting from December 2012 until August 2013, there was an average of 30 of asylum claims of citizens of Serbia in Switzerland per month. Source: Eurostat, Code: [migr_asyappctz m], accessed on November 15, 2013.

¹³² Press release of the Swiss Federal Office for Migration of August 21, 2012, was translated into Serbian, Bosnian, Macedonian, Albanian and Turkish
http://www.ejpd.admin.ch/content/ejpd/en/home/dokumentation/mi/2012/ref_2012-08-21.html

(SDC), the database on returnees' needs was formed in order to effectively plan the measures for the integration of returnees, while the staff of the Commissariat held a series of trainings for the representatives of local services the returnees address to upon their return. Other projects assisted in sustainable return of some returnees from Switzerland by allocating resources for the construction of residential buildings.¹³³

To solve the problem of sustainable return of asylum seekers from Serbia, it is necessary to improve the cooperation with other countries a large number of citizens of Serbia seeking asylum go to. Destination countries should more intensively be involved in Serbia through capacity building projects, trainings and support to individuals who sought asylum and were returned to Serbia. The cooperation is necessary not only at the operational but also at the political level.

➔ Staff competency of institutions involved in the integration of returnees

Bearing in mind that the asylum seekers from Serbia are a relatively new and insufficiently known phenomenon, and that the framework for dealing with returnees upon readmission is still being established (through adoption or revision of the existing LAPs), familiarity of all actors with this issue needs to be further advanced. While the Commissariat, as a state institution that manages and coordinates the activities of the integration of returnees upon readmission, has knowledge and the best experience in this field, the sensitization of local institutions and agencies, trustees for refugees and the migration councils in general, should be carried out intensively and continuously, bearing in mind that the effects of the functioning of the entire system dealing with returnees depend on the level of their expertise. In this regard, local institutions should further strengthen their cooperation with local non-governmental organizations that have direct contact with returnees and the returnees have confidence in them. The state or local institutions should therefore entrust the activities related to direct work with the returnees to these NGOs. Through good awareness of local stakeholders on the issue of returnees and their good mutual coordination, the preconditions for sustainable integration of returnees in Serbia are being created. As the priority of the majority of failed asylum seekers from Serbia is housing, which is according to the Law on Social Welfare in the jurisdiction of local self-governments,¹³⁴ it is necessary to educate the staff in institutions at the local level on how to use the unused resources for housing (abandoned barracks, schools, municipal land, etc.), which could be used among other things for the housing of Serbian citizens, failed asylum seekers in European countries. By finding solutions for the housing problem the preconditions will be created for sustainable return and integration of these people into the Serbian society.

¹³³ Among them was the "Regional Housing Project", which helped building the houses for rejected asylum seekers from Serbia who sought asylum in Switzerland. Interview with officials from the Federal Office for Migration of Switzerland held on October 29, 2013 in Bern.

¹³⁴ The Law on Social Welfare, Article 121

IV. A review of the research and similarities between the two groups of asylum seekers

The aim of this study was to contribute to a better understanding of the phenomenon and needs of asylum seekers in Serbia and asylum seekers - citizens of Serbia, as these insufficiently studied and quite neglected issues due to increasing importance require a greater attention of not only experts, but the entire society as well. Also, the aim was to encourage future efforts of the state to improve the asylum system of Serbia and to create the conditions for sustainable return of asylum seekers - Serbian citizens to Serbia, by pointing out the shortcomings of the system and providing recommendations and guidelines. As for a better understanding of these phenomena and functioning of the system increased awareness of the whole society is necessary, the research results are equally directed at the general public as well.

The survey has shown that in terms of the reasons for leaving the countries of origin, the two groups of asylum seekers differ significantly. While two-thirds of asylum seekers in Serbia fled their homelands because of armed conflict or systematic violations of human rights in these countries, the reasons that qualify them for asylum, this is not the case with asylum seekers from Serbia, 90% of them go to seek asylum in rich European countries only because of the difficult economic situation, which makes their asylum claims unfounded.

The survey also showed that the two groups of asylum seekers differ in relation to the views and expectations of the future. While asylum seekers in Serbia are characterized by extraordinary perseverance and mental strength, as well as relatively unrealistic expectations about life and the reception in the country of final destination, asylum seekers from Serbia in the sample are mostly people poor in spirits, who being disappointed are pessimistic about their future in Serbia. Idealization of the future of asylum seekers in Serbia can be interpreted by their need to painlessly overcome many difficulties and accept the situation they are in, as well as by a strong belief in better life in the countries of Europe thanks to spreading information about it, while the defeatism of Serbian citizens, failed asylum seekers, is likely a result of their constant inability to get out of economic misery.

The issue of integration of persons who were granted asylum in Serbia and integration of Serbian citizens - rejected asylum seekers into the Serbian society is the domain in which the greatest similarities can be observed in relation to the needs of the two categories of asylum seekers and the existing legal and institutional framework. On the one hand, those who were granted asylum in Serbia have a need to learn the Serbian language and culture, to be trained for the labor market, to solve housing problems, and to obtain required identification documents to be integrated into the Serbian society. On the other hand, the survey has shown that the Serbian asylum seekers rejected in European countries after the visa liberalization are primarily in need of finding a job, housing and obtaining required personal documents. Providing legal assistance in obtaining health insurance, work permits and other documents necessary for the integration of both categories of asylum seekers into Serbian society, as well as the designing of training programs for the labor market in Serbia are the similarities between the two groups of asylum seekers for whom legal and institutional framework has not yet been established, since the issue of the integration of persons with granted asylum status

and persons who were rejected asylum seekers - Serbian citizens are areas that have not been systematically arranged.

Finally, a common feature of both groups of asylum seekers is that they emigrate in search of a better life, regardless of the specific reasons for leaving the countries of origin. Both categories of asylum seekers are aware of the existence of better opportunities outside their countries of origin, where they see no prospects or are forced to leave, and therefore the asylum institution is seen as the solution to their situation. As, on the one hand, the phenomenon of intercontinental migration from Asia and Africa to Europe will be, as expected, intensified in the future, and thus the number of asylum seekers in Serbia and those who receive the asylum protection in Serbia will be increased, and the process of Serbia's EU integration, on the other hand, will offer to Serbian citizens greater opportunities in terms of employment in European countries, it is expected that both categories of asylum seekers will have an impact on the demography of Serbia in the near future. Therefore, it is necessary to carefully monitor and review the trends and evolution of the phenomena of both categories of asylum seekers while designing and planning demographic projections of Serbia but also informing strategies and taking concrete steps aim at short-term and long-term resolution of the problem of these categories of people.



Fotografija: Merlin Nad Torma, Vatra

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