

"The Official Gazette of the RS", No 25/2009

Pursuant to Article 45 Para 1 of the Law on Government ("The Official Gazette of the RS", No 55/05, 71/05 - correction, 101/07 i 65/08),

The Government hereby adopts

S T R A T E G Y
FOR COMBATING ILLEGAL MIGRATION IN THE REPUBLIC OF SERBIA
2009-2014

I INTRODUCTION

Position and characteristics - The Republic of Serbia is based on the rule of law and social justice, civil democracy principles, human and minority rights and freedoms, as well as respect for European principles and values. The government organisation resides in the division of power into legislative, enforcement and justice pillars, that are effectively exercised in the whole territory of the Republic of Serbia except for the territory of the AP of Kosovo and Metohija (hereinafter referred to as AP K&M).

In geographic terms, the Republic of Serbia covers the central part of the Balkan Peninsula, with the surface 88.361 km², borders' length of 2.351,7 km and population of nearly 7,5 million (according to the 2002 census this doesn't cover the area of AP K&M). It is bordered by eight neighbouring states, three thereof being European Union members (hereinafter referred to as: EU), while other states, like Serbia, are in the process the EU association.

Favourable geographic and demographic characteristics of the Republic of Serbia contribute to its leader position in the region in the field of combating illegal migration. At the same time, such position of Serbia attracts the citizens of countries with high migration risk who head towards EU countries.

The transitional process, market liberalisation and economic development at the beginning of this century have created increased interest for foreign investments and bigger business cooperation with the economic entitites in the Republic of Serbia, and consequently the investments and employment of foreigners from the countries characterised by high migration rate.

Political developments in the former SFRY at the end of the past century have provoked migratory movement of population and resulted in increased number of refugees from the former Yugoslav republics and internally displaced persons from AP K&M, who came to central Serbia and the AP Voivodina. Economic poverty caused by the sanctions and NATO bombing, have brought about intensified emigration, which resulted in large

number of Serbian citizens leaving the Republic of Serbia, particularly many young and highly educated persons.

Reasons for adoption of the Strategy – It's been many years now since the issue of illegal migration has been pending in the relations between the Republic of Serbia (former FRY and SMN) and EU. It was also one of the main reasons for which in the nineties of the past century the FRY was placed on the negative EU visa regime list.

The Republic of Serbia invests significant efforts in the field of combating illegal migration, deriving from and going through its territory and is one of the first countries in the region that has established efficient institutional mechanisms for combating human trafficking.

Joining the EU represents for the Republic of Serbia a strategic commitment, that comprises adoption of the European values and standards in a number of areas. Free movement of persons and goods among the EU member countries requires introduction of appropriate measures in the field of combating illegal migration. Given that the Republic of Serbia already borders three EU Member States, one of which is within the Schengen zone and having in mind that other countries in the region will soon join the EU, it is extremely important to introduce standards in the above area, that will be compatible with the solutions in the region and within the EU itself.

The Strategy for combating illegal migration in the Republic of Serbia for the period 2009-2014 (hereinafter referred to as the Strategy) is based on the National Programme for Integration in the European Union, adopted Strategy of Integrated Border Management in the Republic of Serbia and current reform processes in the country, above all those listed in the European Partnership document. In addition to that, we used the guidelines from the Schengen Catalogue, Schengen Acquis and the concluded international conventions in the field of human rights protection, rights of asylum seekers and refugees. It is also based on the concept of integrated Western Balkans border management issued by the European Commission that comprises coordination and cooperation among all competent public authorities and services included in border security and trade facilitation aiming at establishment of effective, efficient and integrated border management systems for the purpose of achieving common goal of open but controlled and secured borders.

Legal framework – The Republic of Serbia assumed obligations from international acts implying balanced policy of the countries for combating illegal migration as a form of organised crime that takes place on territories of several countries, and represents a challenge for all factors in international security policy. From the aspect of combating illegal migration, the most important ratified international acts are the following:

- **The Law on Ratification of the United Nations Convention against Transnational Organised Crime and Additional Protocols** („The Official Gazette of the FRY-International Treaties”, No 6/01) adopted in Palermo in 2000, with its additional Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women

and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air, that directly govern the above issues;

- **The Law on Ratification of the Convention on Police Cooperation in Southeast Europe** („The Official Gazette of the RS- International Treaties”, No 70/07), that provides a wider legal framework for cooperation of the Southeast Europe countries in combating all forms of organised crime as common threat for the region. Given that illegal migration are of crossborder character, the Convention serves to upgrade the existing police mechanisms for suppression of this incriminated phenomenon;
- **The Law on Ratification of the Agreement on Stabilisation and Association between the European Communities and their Member States on one side and the Republic of Serbia on the other** („The Official Gazette of the RS- International Treaties” No 83/80) adopted by the National Assembly on September 9, 2008. This Agreement comprises in the Section on *Justice and Home Affairs* the issues of asylum, migration and visas, namely the obligation of the Republic of Serbia to create in these fields legislative, institutional and procedural framework compatible to that of EU countries.

The importance of the document –Republic of Serbia creates in this Strategy a policy for establishment of an efficient system for combating illegal migration, sets the frameworks for implementation plans development, defines the roles and responsibilities of the state actors, identifies the strategic objectives and establishes basic action directions within the process of achieving and realising a longterm sustainability and efficiency of the system for combating illegal migration.

Annex 1 – Key terms of the Strategy were printed with this Strategy and constitute its integral part.

II VISION

The Republic of Serbia is the leader in the region that initiates, integrates and coordinates the activities of combating illegal migration.

The Republic of Serbia as democratic, multicultural and multiethnic community is characterised by economic and natural potentials, developed integrity and identity, international credibility and respect, professionalism and responsibility.

The modern national system for combating illegal migration is composed of highly competent, motivated and loyal civil servants, efficient and flexible organisation, high standards and clear operational procedures, efficient legal regulations, developed infrastructure and communications.

III GOAL OF THE STRATEGY

Significant improvement of effectiveness and efficiency in combating illegal migration.

IV MISSION

Ministry of the Interior (hereinafter referred to as MoI) will, together with other ministries, public authorities and associations, as well as in cooperation with other countries in the region and international organisations, above all with EU and United Nations, by using and developing the existing capacities and potentials at national, regional and international levels, create and develop modern organisation, methodology and technology for combating all types and forms of illegal migration, in order to create a professional and functional system for combating illegal migration, as an integral part of the overall system of migration management.

V STRATEGY PRIORITIES

1. Meeting the criteria for visa regime liberalisation (White Schengen).
2. Intensification of the process of EU stabilisation and association of the Republic of Serbia.
3. Strengthening security capacities and potentials of the Republic of Serbia.
4. Implementation of the integrated border management concept.

VI VALUES

- Security of the Republic of Serbia and its citizens;
- Lawfulness in the operation;
- Respect of people and their needs;
- Protection of fundamental human rights and freedoms, especially right to life, health and personal security;
- Human treatment of illegal migrants;
- Respect of consular protection;
- Respect of voluntary return principle;
- Respect of family reunion principle;
- Protection of asylum seekers;
- Professionalism;
- Quality police officers and quality system enabling their development and promotion;
- Conformity between individual and group interests on one side and organisational interests on the other;
- Acceptance of individual responsibilities;
- Respect of national and international standards;
- Transparency of the public authorities' work;
- Ethical leadership;

- Honourable, truthful and adequate principles of openness and justice;
- Partnership with the community;
- Promotion and acceptance of diversity in all its forms;
- Continuous development and openness to changes;
- Understanding and respect for different cultures and foreign languages;

VII CURRENT SITUATION ANALYSIS

The analysis categories were derived by deduction from the title of the strategic document itself- the Strategy for Combating Illegal Migration. The following key categories were derived: strategy (parties and the process), combating (proactive and reactive) and illegal migrants. The narrower categories were derived by deduction from the listed categories.

The analysis was preceded by the formulation of the following basic questions of the Strategy:

- 1) **What** should be done by the Strategy parties with a view to achieving the Strategy goal? (What are the Strategy parties doing now?)
- 2) **How** the Strategy parties should act with a view to achieving the Strategy goal? (how are the Strategy parties acting now?)
- 3) **What** the Strategy parties should be like in order to achieve the Strategy goal? (What the Strategy parties now are like?)
- 4) **What parties** influence the realisation of the goal of the Strategy?

1. STRATEGY PARTIES

The Strategy parties are the actors creating and developing the strategy, strategy partners and other parties interested in strategy.

1.1. Parties creating and developing the Strategy

The parties creating and developing the Strategy for Combating Illegal Migration are the Government, other public authorities and public administration authorities.

Pursuant to the Constitution of the Republic of Serbia, **the Government** is the holder of executive power. Within its competence, the Government directs, harmonises and monitors the operation of public authorities. Public authorities prepare draft laws, other regulations and general acts for the Government and propose to the Government development strategies and other measures shaping the Government policy.

The Courts are independent and autonomous; operating on the basis of the Constitution, laws and other general acts, if envisaged by the law, commonly accepted rules of international law and ratified international treaties.

Public prosecution is an independent public authority prosecuting the perpetrators of criminal and other punishable acts and takes up measures for protection of constitutionality and lawfulness.

In performance of their competencies, the courts and public prosecution are constituents of the system of the parties creating and developing the Strategy.

Ministry of the Interior

Scope of work – The scope of work the MoI is defined by the Law on the Ministries ("The Official Gazette of the RS", no. 65/08) pursuant to which it performs following duties, directly related to illegal migration issues: protection of life, citizens' personal and property safety; prevention and detection of criminal acts, tracing, arresting the perpetrators and bringing them before the competent authorities; maintenance of public peace and order; providing assistance in case of danger; security, road traffic regulation and control; state border security; stay of foreigners; residence and stay of the citizens; identity cards; travel documents; international assistance and other forms of international cooperation in the sector of home affairs, including readmission, illegal migration; asylum.

In comparison to other parties involved in creation of the Strategy, the MoI has the widest competence and responsibility in combating illegal migration, thus it is the major leader in the creation and implementation of the strategy.

Legal framework – MoI combats illegal migration by applying the provisions of the following legal acts: the Constitution of the Republic of Serbia ("The Official Gazette of

the RS", no 98/06); the Law on Police ("The Official Gazette of the RS", no 101/05); the Criminal Code ("The Official Gazette" no.85/05, 88/05- correction and 107/05-correction); the Criminal Procedure Code ("The Official Gazette of the FRY", no.70/01, 68/02 and "The Official Gazette of the RS", no.58/04, 85/05, 85/05, 115/05 and 49/07) and the Criminal Procedure Code ("The Official Gazette of the RS, no. 46/06, 49/07 and 122/08); the Law on Misdemeanours ("The Official Gazette of the SRS", no. 44/89 and "The Official Gazette of the RS", no. 21/90, 11/92, 6/93, 20/93, 53/93, 67/93, 28/94, 16/97, 37/97, 36/98, 44/98, 65/01 and 55/04) and the Law on Misdemeanours ("The Official Gazette of the RS", no.101/05 and 116/08- applicable of January 1, 2010); the Law on Travel Documents ("The Official Gazette of the RS", no.90/07 and 116/08); the Law on Foreigners ("The Official Gazette of the RS", no.97/08); the Law on State Border Control ("The Official Gazette of the RS", no.97/08); the Law on Asylum ("The Official Gazette of the RS", no. 109/07); the Law on General Administrative Procedure ("The Official Gazette of the FRY", no. 33/97 and 31/01); the Law on Residence and Stay of Citizens ("The Official Gazette of the SRS", no. 42/77, 24/85, 6/89 and 25/89 and "The Official Gazette of the RS", no. 53/93, 67/93, 48/94 and 101/05); the Regulations on the Control of Crossings of the Administrative Line with Kosovo and Metohija ("The Official Journal of the FRY", no. 41/02) and other legal acts and by-laws regulating the above matters.

For the purpose of implementing the new laws on foreigners, asylum, state border control and other regulations related to the matters listed, the Government and the line ministers will, within the legal timeframe, adopt the corresponding by-laws that will regulate in detail the implementation of the above laws.

Organisational structure – The organisational structure of the MoI is very complex, however the main forces in charge of combating illegal migration are within the General Police Directorate; namely: the Border Police Directorate, the Criminal Police Directorate, the Administrative Affairs Directorate, the Police Directorate for the City of Belgrade and Regional Police Directorates, as well as police stations.

Within the Border Police Directorate, the Criminal Police Directorate and the regional police directorates, apart from regular units combating illegal migration, there have also been established specialised units for combating illegal migration and human trafficking.

A problem of overlapping of the actual and territorial competence in suppressing illegal migration and human trafficking is evident between the specialised units of the border police in regional centres near neighbouring states and those established within the regional police directorates.

The present organisational structure partially satisfies the requirements of illegal migration combat. Consequently, a need has emerged for the MoI to address the present issue of conflict of competencies of the specialised units of the border police within the regional centres and those established within the regional police directorates. As for the development of the Strategy, in line with the needs assessment aimed at achieving the goal, the MoI should consider the possibility to reorganise the current structure of the

organisational units for illegal migration combat, followed by adequate human resources selection and recruitment.

Human resources – According to the data provided, the organisational units of the MoI in charge of combating illegal migration are not fully staffed, which is particularly reflected in the functioning of the Border Police Directorate.

Bearing in mind the short deadline for transfer of the state border control competence from the Army- border demilitarisation, it was not possible to fully meet the defined criteria related to the human resources selection and recruitment, which is reflected in the ethical and professional component of the personnel.

There is a need to adequately select and recruit human resources in all organisational units in charge of combating illegal migration.

Regarding the existing composition, we need to organise a special training course for implementation of anti-corruption ethical code and combating illegal migration, as well as to establish monitoring and control of their operation.

Material resources – The infrastructure and equipment in the units of the MoI in charge of combating illegal migration is not balanced, standardised and modern, which is reflected in the quality of the operation.

We need to develop adequate infrastructure and equip the units in charge of combating illegal migration in accordance with the unique standards and specific needs.

Financing – All units in charge of combating illegal migration are financed from the MoI budget, but the resources allocated are not optimal, *therefore we need a plan for allocation of the resources from the MoI budget on the basis of needs and importance of the illegal migration combat.*

The Strategy might be of interest for certain factors who could contribute to success of the Strategy implementation by investing financial resources. *Therefore, we need to promote the Strategy and create and benefit from the opportunities to participate in donation projects related to illegal migration combat.*

Professional ethics – The professional ethics of the MoI is developed and based on the values, principles and standards of police profession, as well as on traditionally good relations with the citizens. The existing system of values is not equally respected by all, which is reflected on the reputation of the Ministry and success in performing police duties, including the illegal migration combat.

In that sense, we need to promote defined values of the Strategy in all structures of the Ministries, especially in the structures for combating illegal migration.

Management system – The management system if the MoI is based on the principles of functioning of the public administration authorities. The managing competencies within

the organisational units of the MoI are acquired in the first place through experience and on individually organised seminars and courses. The concept of training system for police managers was adopted at the level of the MoI and it comprises three levels: operational, coordination and strategic. However, there is no plan and training programme developed for the managers, or a training course for the units' managers on illegal migration combating, *we therefore need to create necessary conditions and organise this type of course.*

The managers within a modern system of illegal migration combating need to acquire skills for managing material and human resources equally well, to know both the national regulations and interstate agreements that represent framework for their services operation.

We need continuous education for the managers or leaders in the field of combating illegal migration, at all three levels for the purpose of raising awareness, monitoring the current trends in this area, intelligence-led policing and risk analysis, as well as better motivation of the police officers.

We also need to organise training course in the field of strategic planning and implementation of the strategy for the strategic managers of the units in charge of the illegal migration combat.

Organisational competencies – The MoI is characterised by mostly individual and group approach to work, but by almost none **team work**. The organisational units in charge of illegal migration combat need team work, as well as to establish special teams at the regional level. The awareness on the team work importance and principles of the team establishment and management mostly isn't satisfactory, *therefore we need training courses within the organisational units in charge of illegal migration combat aiming at acquiring the necessary know-how concerning team work.*

Assessment of the performance of the MoI employees is outdated and not completely harmonised with the Regulation on Principles of Internal Organisation of the Ministry of the Interior ("The Official Journal of the RS", no.8/06 and 14/09), which often brings about unequal application of the assessment criteria. Such an approach to assessment leads to dissatisfaction of a certain number of employees and influences negatively their motivation to achieve good results that would be in line with their capabilities. Having in mind the above, *we need in MoI a training course for the managers in this segment of managing that would include the managers of the organisational units in charge of illegal migration combat.*

MoI is characterised by several structures of employees that mutually differ by competencies, responsibilities, resources at disposal, interests and other characteristics. The employees also differ mutually by their capacities, experience, habits, rewards, communication skills, confidence level, self-control, general and professional culture and other characteristics. The above differences often bring about conflicts among the employees. Conflicts settlement in MoI, namely in the organisational units in charge of

combating illegal migration is mostly based on experience, while there are no organised education and training courses in this field. The conflicts are often settled without success, or they are repressed, which later creates problems in the form of stressful situations and negative feelings. Having in mind that such situation in the relations among personnel negatively impacts the efficiency, *we need an organised training course for conflicts settlement among the employees within the organisational units in charge of combating illegal migration.*

Relations with the surrounding – In accordance with the law and professional guidelines provided by the minister, the MoI employees cooperate with authorities of the territorial autonomy and local government in taking up measures aimed at securing persons and property. Police officers also cooperate with other authorities and institutions, associations and international organisations, minority and other organised groups, as well as with self-organised individuals for the purpose of developing partnerships for prevention or detection of offences and their perpetrators and achievement of other security objectives. Traditionally good relations of the police and the citizens were occasionally disturbed by unstable social and political situation in the country, which partially resulted in the loss of trust in police by citizens.

With a view to achieving permanent improvement of relations primarily between the citizens and the police, we need to develop relations of mutual trust through permanent presence, contacts and cooperation within the local community, by improving the mechanisms of protection, providing assistance to citizens and other activities directed towards security of persons and property. In the field of achieving the goal of the Strategy, the security culture of the citizens needs to be raised by means of informing.

The following parties participate in creating and developing the Strategy within the state administration authorities:

- Ministry of Foreign Affairs;
- Ministry of Defense (including the Military Security Agency and the Military Intelligence Agency - authorities within the Ministry);
- Ministry of Finance (and the Customs Administration - administration authority within the ministry);
- Ministry of Justice;
- Ministry of Human and Minority Rights;
- Ministry of Economy and Regional Development;
- Ministry of Labour and Social Policy (and its Directorate for Gender Equality and Inspectorate for Labour - the administration authorities within the Ministry);
- Ministry of Health;
- Ministry for Kosovo and Metohija;
- Commissariat for Refugees.

1.2. Partners in the Strategy

The partners in the Strategy are the actors that can at national and international levels contribute to the process of creating and developing the Strategy through professional, material and financial, organisational and other forms of assistance.

At the **national** level these parties are the following- state administration authorities, organisations, associations and media:

- Ministry of State Administration and Local Government;
- Ministry of Education;
- Ministry of Culture;
- Ministry of Infrastructure;
- Ministry of Religion;
- Ministry of Agriculture, Forestry and Water Management;
- Ministry of Youth and Sport;
- Ministry of Trade and Services;
- Ministry of Telecommunications and Information Society;
- Ministry of Environment and Spatial Planning;
- Ministry of the Diaspora;
- Republic Secretariat for Legislation;
- Republic of Serbia Development Bureau;
- Statistical Office of the Republic of Serbia;
- National Information Technology and Internet Agency;
- Social Insurance Agency;
- National Employment Agency.

Within the **non-governmental sector** there are associations addressing the illegal migration issues. "Astra" NGO provides information via SOS telephone line to potential illegal migrants and human trafficking victims, conducts preventive campaigns on raising awareness within different citizens' structures on the illegal migration and human trafficking phenomena, information on legal ways of migration, direct assistance to the human trafficking victims and other. „Group 484” NGO promotes the adoption of the European standards in the field of visas, asylum, readmission and illegal migration combat in the Republic of Serbia and conducts research in that area.

Media include the public information means (press, television, radio), electronic information transmission means (internet portals) and other. The role of the media is to transmit timely and objective information on the issues of illegal migration and to exercise influence in shaping corresponding public awareness and attitudes. There is a trend of increased interest in the Republic of Serbia for the problems of illegal migration, by both national and foreign media.

Partners in the Strategy at international level- Considering that illegal migration comprise movement of persons that violates regulations of the countries of origin, transit and destination, and for the purpose of more efficiently confronting this security threat, it is necessary to establish direct cooperation with the **countries of the region**, especially with those with whom partnership for security was established by signing the Convention on Police Cooperation in South East Europe such as: the Republic of Albania, Bosnia and Herzegovina, Republic of Macedonia, Republic of Moldova, Romania and Montenegro.

Improvement of cooperation with the countries in the region is realised through active participation in the Regional centre for combating crossborder crime in Bucharest- SECI Centre, especially in the field of combating illegal migration and human trafficking, as well as through participation in the regional initiative for the issues of migration, asylum and refugees (MARRI). The basic aim of the said initiative is improvement in migration management in the Western Balkans, namely harmonisation of the legal, administrative and institutional solutions in these fields, following international and EU standards.

In the field of migration we have established and are developing cooperation with **international organisations** (UN agencies, OSCE, IOM, Council of Europe, DCAF, ICMPD) that are often the leaders in EC regional projects implemented in the Republic of Serbia and the Western Balkans states. In addition, development of cooperation with specialised organisations such as INTERPOL, EUROPOL, EUROJUST, SEEPAG and FRONTEX can significantly contribute to combating illegal migration.

1.3. Other interested parties

Other interested parties comprise the parties that have certain interest in the process of implementing the Strategy from the security, economic, political and other aspects, and those parties include: the citizens, commercial transporters, tourist organisations, accommodation services providers, employers and informal social groups.

It is beyond any question that the **citizens of the Republic of Serbia** are interested in successful implementation of this Strategy because personal security and particularly state security depend on the results achieved in its implementation. The interest of our citizens is related to the resources allocated from the budget of the Republic to cover the costs of the procedure, subsistence and accommodation of illegal migrants until they return to the country of origin, the costs that would decrease with greater Strategy implementation success. In addition, the undeclared work of the foreigners lowers the labour price of the domestic citizens and their possibilities of employment.

In addition to the above, the citizens of the Republic of Serbia are interested in more liberal visa regime towards EU countries and having the information needed on secure travel and stay abroad conditions, particularly in the risks of becoming the human trafficking victims.

Commercial transporters, tourist organisations, accommodation services providers and employers will undoubtedly monitor the Strategy implementation, because consistent Strategy implementation and punishing of those who help illegal migration

(transport, accommodation providers, and undeclared work) will reflect upon their business policy, which will consequently make them consider more about their image, business opportunities and chances to avoid direct damage.

Among informal social groups and individuals, organised criminal groups are the most interested in not having the Strategy implemented, because better efficiency in combating illegal migration will affect their criminal assets related to illegal migration- human smuggling, human trafficking, falsifying documents etc. It is reasonable to expect that organised criminal groups and the compatriots of illegal migrants staying in the transit or destination country will, through corruption and different ways of exercising pressure, seek to hinder the implementation of the Strategy and achievement of the defined goal.

2. METHODOLOGY FOR COMBATING ILLEGAL MIGRATION

The methodology for combating illegal migration comprises two basic directions of activity: proactive and reactive.

The methodology for illegal migration of this Strategy is based on applicable regulations of the Republic of Serbia, the best practice of the Republic of Serbia police and EU Schengen catalogue of measures that comprises four phases of combating illegal migration: actions in third countries, countries of origin and transit; bilateral and crossborder cooperation; measures taken at external borders (border management- control and surveillance) and other activities in the country.

2.1. Proactive action

Proactive action comprises a set of measures taken up by the parties involved in creation and development of the Strategy in order to achieve the defined goal, directed towards prevention of the illegal migration phenomenon.

2.1.1. Incrimination – Misdemeanour responsibility of an illegal migrant, commercial transporters, guarantor, accommodation provider, persons assisting in illegal migration, persons illegally crossing the administrative line with the AP of K&M is governed by the following regulations: Law on Foreigners, Law on State Border Control, Law on Travel Documents, Law on Residence and Stay of the Citizens and by the Regulation on Control of Administrative Line with Kosovo and Metohija Crossing.

Criminal and legal responsibility of the persons assisting in illegal migration is governed by the Criminal Code ("The Official Gazette of the RS" no. 85/05, 88/05- correction and 107/05- correction), Article 350- Illegal crossing of the state border and human smuggling, Article 388- Human Trafficking, and by other provisions, as well as by the Law on the Responsibility of Legal Persons for Criminal Offences ("The Official Gazette of the RS", no. 97/08).

The Republic of Serbia applies a normative approach to the matters of illegal migration, but the formal legal framework doesn't meet the needs of the authorities to adequately process the recorded cases of illegal migration.

Therefore the criminal legislation of the Republic of Serbia needs to be harmonised with the European acquis, meaning that amendments need to be made concerning the criminal offences related to illegal migration in broader sense (by amending the Article 350 of the Criminal Code the number of persons that could be passive participants in a criminal offence would increase, so that the said Article concerns the domestic nationals- illegal migrants as smuggled persons. By amending the Article 350 of the Criminal Code the number of the offenders would be increased and would encompass those persons facilitating illegal border crossing even without intention to acquire material gain).

We also need to consider the possibility to introduce into the substantive criminal law of incrimination- sending of fictive invitation letters by physical and legal persons, entrepreneurs, to the citizens of countries with high migration risk, namely undeclared employment of foreign citizens.

We need consistent implementation of the provisions of the law envisaging sanctions for legal persons, entrepreneurs, in case it is legally determined, pursuant to the provisions of the newly adopted Law on foreigners that the legal person- entrepreneur is responsible for misdemeanour for having provided the transport for smuggled illegal migrants.

We need more efficient measures for the misdemeanour proceedings and punishing of the persons who have violated the Law on Travel Documents and the Law on Residence and Stay of Citizens in a sense that they abused the issuance of travel documents, shipping and sailor's booklets and visas, in case they hadn't declared their longer stay abroad in cases they had been returned from the EU countries because of their illegal stay or entry into the EU countries.

Pursuant to applicable regulations of the Republic of Serbia, the control measures of the Labour Inspection related to lawful hiring of persons (employment) can be taken only against the employers who own a company, while in cases of foreigners being hired by individuals (natural persons without a company registered) – the labour inspectors declare themselves not competent. *In accordance with the above, we need amendments of the legal regulations governing the monitoring and operation of the labour inspection in order to provide the labour inspectors with powers to take up measures against all natural and legal persons who unlawfully employ foreigners.*

2.1.2. Legal procedures – The legal framework addressing the issues of combating illegal migration is recent, while the adoption of by-laws for its implementation is in the procedure.

The implementation of criminal legal and procedural provisions in case law has to date been marked by restrictive interpretation of the provisions on obligatory seizure of the objects of criminal act referred to in Article 350 of the Criminal Code. *The above mentioned implies the need for consistent implementation of the provisions on seizure of the objects of commission of the criminal offence and seizure of the criminal assets pursuant to the Law on Seizure of Criminal Assets.*

We also need consistent implementation of the existing legal measures for determining the misdemeanour responsibility in all cases when the commission of the misdemeanour is directly related to illegal migration (e.g. measure of seizure of the travel document, undeclared stay abroad longer in the period than 60 days) or illegal administrative line crossing.

According to the data from the Annual report of the Labour Inspectorate for 2007, there were less registered cases of undeclared labour of foreigners or stateless persons in the Republic of Serbia, hired in construction and agricultural works. In the control period January- October 2008 there were no cases registered. *The above implies the need to intensify control of undeclared work of foreigners, especially in the field of construction and agriculture.*

2.1.3. Cooperation of the public administration authorities- The provisions of the Article 64 of the Law on Public Administration ("The Official Gazette of the RS", no.79/05 and 101/07 envisage that the public administration authorities are bound to cooperate in all joint matters and to provide needed data and information to each other. The public administration authorities establish joint bodies and project groups for the tasks that require several public administration authorities involvement.

Pursuant to the above legal solution and principles of the integrated border management, with a view to combating illegal migration, the MoI cooperates closely with the Ministry of Finance, Ministry of Labour and Social Policy, Ministry of Foreign Affairs, Ministry for Human and Minority Rights, etc.

In accordance with the above, we need to establish a professional intersectorial working body of the Government that will coordinate the process of implementing, monitoring, control, evaluation and revision of the Strategy. The said body would develop cooperation of all the parties in the Strategy and significant preventive role in combating illegal migration.

We need to appoint the coordinator for implementation of the Strategy for illegal migration combating.

We also need to plan education on the issue of illegal migration for the employees of public authorities who might come in contact with illegal migrants while conducting their duties (the employees of the diplomatic and consular posts, labour inspections, health and social care institutions).

2.1.4. Keeping records – In addition to the records envisaged by the Law on Police and related laws that govern the matters of illegal migration, there are records kept by other public administration authorities that are of importance for prevention of illegal migration (Ministry of Foreign Affairs- records on visas issued, Ministry of Economy and Regional Development- register of the agencies assisting in employment of the citizens of the Republic of Serbia, Ministry of Labour and Social Policy- records on measures taken concerning undeclared work of foreigners).

The above implies the need to establish visa information system of the Ministry of foreign affairs and centralised database with unique records on the number of visas issued by the diplomatic and consular posts and at the border crossing points. It implies the need to create a database that could be accessed by the Ministry of Foreign Affairs and the Ministry of the Interior for the purpose of coordinating the implementation of visa regime.

We need by-laws that would regulate the establishment and keeping of records envisaged by the Law on State Border Control and the Law on Foreigners, and to enable electronic recording of the foreigners' stay declarations and measures taken against foreigners (establishment of electronic records will enable more efficient monitoring of the measures taken against the foreign citizens who illegally entered or stayed in the Republic of Serbia).

2.1.5. Information exchange is conducted through the existing mechanisms of state border control and frameworks for international cooperation (implementation of international agreements on cooperation and international organisations- INTERPOL, EUROPOL, SECI Centre), as well as Frontex.

The information exchange lacks appropriate technical conditions and equipment, standardised form and timely exchange, reliable data, professional personnel that statistically process information. The information exchange doesn't follow adequately the existing organisation of the units of the MoI. *Thus successful information exchange requires the following preconditions: use of modern information and telecommunication equipment, upgrading of the infrastructure, human resources and organisational capacities of the MoI for collection and processing of the data.*

Bearing in mind that the Republic of Serbia has no system established for information exchange via joint offices for police information exchange, namely that MoI hasn't appointed a representative in the joint office- a police officer, despite the need for crossborder police cooperation, *it is necessary to establish joint bilateral or trilateral office for police cooperation, on the basis of already signed international treaties and conventions.*

Through the existing information exchange channels, we also need to intensify the exchange of the data relating to illegal migration issues as a preventive measure: statistical data, new trends in illegal migration, changes in legal solutions and implementation of new technological solutions.

Within the present organisation of the MoI, we need to upgrade the capacities of all lines of work involved in information exchange or providing support for their exchange, especially the capacities and software for analytical and statistical data collection.

We need to conclude agreements on information exchange with the countries of origin, transit and destination of illegal migration, that haven't been covered by existing agreements up to now.

2.1.6. Early warning system – Having in mind the provisions of Article 6 of the Convention on Police Cooperation in South Eastern Europe, Albania, Bosnia and Herzegovina, Croatia, Macedonia, Montenegro and Serbia have signed the Memorandum of Understanding on the establishment of an early warning system which implies mutual exchange of information relevant for the prevention of illegal migration.

The Border Police Directorate has undertaken to establish a segment of the early warning system (processing of the data on used counterfeit documents and new forms of counterfeiting documents). Having in mind the fact that the early warning system in the Republic of Serbia has not been fully implemented due to the lack of adequate technical preconditions and equipment and insufficient number of officers competent for processing and communicating information, *it is necessary to strengthen infrastructural, human and organisational capacities for the functioning of the early warning system.*

2.1.7. Intelligence – Principles of intelligence which imply information gathering from different sources, analysis, abstraction, and communication of information relevant for police management have been accepted and are implemented by the MoI and Criminal Police Directorate.

From the point of view of combating illegal migration, in the process of information gathering by means of intelligence, observations and information obtained during border checks, border surveillance, cooperation with other authorities and states, from liaison officers, as well as reporting on them, are very important. Due to the above mentioned reasons, the Border Police Directorate has envisaged work posts for criminal intelligence, which are filled by 20%; *therefore, there is a need for the border police to appoint sufficient number of people responsible for intelligence, while the present staff should be educated and made competent for improved combating illegal migration.*

The Strategy for the Integrated Border Management in the Republic of Serbia (the Official Gazette of the Republic of Serbia, no 11/06), in the part on Information Technology objective, envisages integration of border services into the system for intelligence gathering, *in line with which it is necessary to implement the said objective.*

2.1.8. Risk analysis – The Border Police Directorate understands the importance of risk analysis as a means of optimising border management and collecting reliable information about the situation on the border. The risk analysis concept is developing. It is aimed at both external threat analysis and risk and threat evaluation of the most vulnerable points within community and on the borders. Also, border surveillance on rivers is applied to evaluate the data within the surveillance system, register of suspicious vessels and trade, as well as their movement and possible contacts with other vessels, in order to find out the facts deviating from the customary practice. The need for surveillance and control is evaluated on the basis of observation.

It is necessary to appoint sufficient number of staff in the Border Police Directorate responsible for risk analysis, who should be educated and trained for improved combating illegal migration, with a view to developing risk analysis concept following the CIRAM model, and fulfilling international obligations under the Convention on Police Cooperation in South Eastern Europe, and those deriving from cooperation with FRONTEX.

Having in mind the principles of the integrated border management, it is necessary to develop integrated models of risk analysis for all border services, police and customs in particular.

It is necessary to harmonise the register of crew members and passengers of vessels in transit over the territory of the Republic of Serbia with the Schengen Regulation and to carry out checks before the vessels anchor.

It is necessary to draft risk profiles and indicators related to illegal migration and train border services staff how to apply them i.e. it is necessary to make them acquainted with the manner of perpetrating illegal activities related to illegal migration.

2.1.9. Liaison officers – It is a practice in developed countries, in line with the Schengen Catalogue, to second a police officer to a diplomatic mission or consular post (DMCP). Such officer is an immigration officer in charge of detecting cases of illegal migration or abuse of travel.

In that respect, police liaison officers have been posted to the Republic of Serbia being seconded to their respective Embassies in Belgrade. Cooperation is achieved through the existing institutionalised mechanisms through the MoI, i.e. Cabinet of the Minister and Bureau for International Cooperation and European Integration. With a view to combating illegal migration, cooperation with liaison officers has been established and takes place through their contacts with the Criminal Police Directorate and Border Police Directorate.

At this moment, the Republic of Serbia does not implement such form of cooperation with other states, i.e. it has not posted its police liaison officers to the countries with high migration risk or other countries that are relevant for combating illegal migration.

The MoI and Ministry of Finance have sent one representative each to the South East European Cooperation Initiative Regional Center for combating transborder crime – SECI Center in Bucharest, over which information and operational data relevant for the fight against transborder crime is exchanged.

It is necessary to intensify and advance the existing cooperation with the seconded liaison officers in our country, and to involve the Ministry of Foreign Affairs into the cooperation process with a view to combating illegal migration.

It is necessary to adopt a new Regulation concerning secondment of liaison officers or other police officers to other countries, diplomatic missions and consular posts of the Republic of Serbia, international organisations, EU bodies, at joint offices, joint border crossing points, joint patrols, etc, pursuant to Article 151 and Article 193, Paragraph 2, Point 22, of the Law on Police.

It is necessary to define in a special Rulebook the issues related to labour legal relations of our representatives as well as selection, education, monitoring, control and coordination of work during their secondment or employment abroad, and following their return to the Ministry.

It is necessary to establish a network of police liaison officers at Serbian embassies in the countries with high migration risk and countries of transit or destination which are relevant for combating illegal migration.

2.1.10. Profiling – Profiling relevant for combating illegal migration is carried out during submission of visa application, at border crossing points, and inland.

As a part of preparations for performing duties related to issuing visas, DMCP officers are introduced with problems in the countries with high migration risk. If there are any doubts about a visa application, the relevant checks are done by MoI. Also, there is a problem of profiling-related overload of those DMCP officers who have jurisdiction in a large number of countries with high migration risk. *In line with the above, it is necessary to deliver a systematic and comprehensive training of DMCP officers posted to countries with high migration risk on recognition of counterfeit documents and profiling of persons who are possible illegal migrants. It is necessary to introduce certain topics related to combating illegal migration into the programme of training of MFA officers who are posted abroad. It is also necessary to organise and deliver joint training for DMCP and police liaison officers being posted to countries with high migration risk.*

Profiling of travellers is also done at border crossing points during border checks and inland during control of movement and stay of foreigners. However, there is no specialist course or programme of education that would help police officers to timely and positively detect possible illegal migrants, or to recognise among them possible victims of human trafficking. *In line with the above, there is a need to include into police education a special training on profiling of persons who are possible illegal migrants and on recognising cases of human trafficking related to illegal migration.*

It is necessary to implement the project of establishing the Visa Information System, and to equip DMCPs in countries with high migration risk with the necessary equipment for the recognition of counterfeit documents.

2.1.11. Media campaigns have a large influence on public opinion formation, especially regarding combating illegal migration. Compared to the previous period, the illegal migration issue is more intensively covered in daily press, magazines, informational and educational broadcasts.

Another outstanding problem is understanding the essence of illegal migration and other related phenomena. Headlines and texts on illegal migration which appear in the media abound with inappropriately used expressions (sexist, racist, discriminatory, archaic, non-ethical, etc.), which adversely affect the strategy for combating illegal migration.

It is necessary to educate journalists about the essence of illegal migration and adequate use of expressions in that area.

Through the website of Serbian MoI, it is necessary to keep the public, stakeholders and partners implementing the Illegal Migration Strategy informed about illegal migration, a part of which would be publishing monthly statistical indicators.

2.1.12. The application of modern technology in combating illegal migration by MoI involves computers, scanners, equipment for detection of counterfeit documents, equipment for detection of living beings in vehicles, special purpose vehicles, video surveillance, night vision binoculars, etc.

Another problem is lack of modern equipment, such as travel document readers, visual inspection equipment, equipment for detection of counterfeit documents, etc; inadequate use of the existing equipment; outdated equipment and resources; lack of the knowledge and skills about using some of resources (highly sophisticated equipment and the Internet). *Therefore, it is necessary to equip adequately the Border Police Directorate and specialised units for suppression of illegal migration, particularly with highly sophisticated equipment.*

Given the fact that there have been some cases of Internet abuse while submitting visa application by the nationals of countries with high migration risk, *it is necessary to launch systematic and continual Internet monitoring and timely detection of all illegal migration related abuses, particularly those aimed at sexual exploitation.*

Another problem is insufficient use of certain methods of detection of criminal offences related to illegal migration and trafficking in people (Internet monitoring, in particular monitoring of websites advertising alluring employment offers, acquisition of counterfeit visas and travel documents, matchmaking, providing sexual services – sexual exploitation). In addition, there is not enough staff who are trained to use the said methods. *In this respect, it is necessary to train the MoI staff and link the units responsible for suppression of high technology crime and specialised units responsible for suppression of illegal migration.*

2.1.13. Cooperation with citizens – Cooperation between police on the one hand, and citizens and community on the other, is achieved through community policing projects and direct contacts, exchange of information and assistance, which is particularly relevant in the border area. *Therefore, there is a need to provide information and training about illegal migration for police officers who are already involved in the Community Policing project, as well as for the officers of the Border Police Directorate, in order to intensify*

direct cooperation with citizens in border areas with a view to preventing illegal migration.

Also, the on-duty police operations room of the Border Police Directorate has an open telephone line through which about 10 cases have been reported related to illegal migration. *Therefore, it is necessary to further promote the functioning of the open telephone line, educate the staff of the centre about illegal migration and call citizens to report the cases of human trafficking and illegal migration.*

In the Republic of Serbia there are associations engaged in the promotion of legal migration, checking advertisements offering employment abroad, providing advice about travel abroad and other activities having preventive function with respect to illegal migration. *Therefore, it is necessary to accomplish full and continuing cooperation with the associations which promote legal migration and conduct activities related to prevention of illegal migration.*

It is necessary to design multilingual promotional material explaining how to migrate legally and warning about the risks of illegal one. Material should be published on the websites of the Ministry of the Interior and Ministry of Foreign Affairs.

2.1.14. Conclusion of Readmission Agreements – The process of readmission in Serbia has been conducted since 1996 on a bilateral basis. The Agreement between the Republic of Serbia and the European Community on the Readmission of Persons Residing without Authorisation entered into force on 1 January 2008. In addition to the Agreement with the European Community, the Republic of Serbia has concluded 15 bilateral agreements on readmission covering 16 European countries and Canada. Between 2003 and 2008, the Republic of Serbia received 26,536 requests to readmit its own citizens.

Our strategic orientation is to open negotiations on conclusion of readmission agreements and harmonisation of positions with other states bordering the Republic of Serbia, as well as countries with high migration risk which are interested in this matter, in order to round off, through readmission agreements as an instrument in the fight against rising illegal migration, the overall efforts to include the Republic of Serbia into the processes of Euro-Atlantic integration, comprehensive relations and cooperation.

The exchange of operations-related information obtained through readmission agreement cases will contribute to more effective combating illegal migration, by doing which prevention-related work in suppression of illegal migration would improve.

2.1.15. Conclusion of agreements on employment abroad – Tasks related to employment and protection of our citizens when they leave the country, and during their work, stay and return from abroad are within the competence of the Ministry of Economy and Regional Development, Ministry of Labour and Social Policy, National Employment Service and employment agencies having the licence granted by the competent ministry. Since 2004 to date the employment agencies have been granted 49 operation permits, while between 2004 and 2008 521 persons got employed through their mediation.

In spite of clearly defined legal and institutional frameworks for operation of employment agencies, there have been several reports of illegal operation (without licence) of agencies and business entities. In most cases such agencies used to advertise on the Internet and in the media. Seven such cases have been tried so far. *The aforementioned shows the need to monitor advertising of employment agencies and persons involved in mediating jobs abroad in the media and on the Internet, in order to undertake timely measures to combat illegal migration, especially in cases indicative of human trafficking.*

Given the fact that SFRY had nine bilateral agreements on employment and rights of workers in the countries signatories, which were terminated after the sanctions were imposed on FRY by UNSC, *it is necessary to conclude bilateral employment agreements and relevant employment contracts with foreign employers, in accordance with national legislation of the Republic of Serbia. Also, it is necessary to establish new forms of protection of migrant workers and their families, stipulated by the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (approved by the General Assembly of the United Nations, New York, 18 December 1990, still not ratified), with a view to preventing illegal migration and providing overall protection of migrant workers.*

2.2. Reactive action

Reactive action represents a set of measures taken by the parties engaged in the design and development of the Strategy with a view to accomplishing the aforementioned goal, the measures being aimed at suppressing illegal migration.

2.2.1. Refusal of visa application – The Republic of Serbia has 83 DMCPs that issue visas. The Law on Foreigners, which is to become applicable in April 2009, stipulates the conditions for submitting the application for the visa of the Republic of Serbia, as well as the cases where prior consent of MoI is needed. It also lists conditions for refusal of the visa application. Acting upon applications for issuing entry and exit visas, MoI refused 5612 applications in 2006, which represents 38% of the total number of the applications received (14,622), while in 2007 there were 5439 applications refused, which represents 49% of the total number of the applications received (11,855). However, the said Law does not define and elaborate visa issuing procedure. *Given that, in the course of developing the relevant by-laws implementing the Law on Foreigners, it is necessary to take into consideration goals and objectives of the Strategy for Combating Illegal Migration.*

There is a problem related to insufficient and unskilled monitoring and analysing of the said data from the viewpoint of trends, profile of possible illegal migrants who have been refused Serbian entry visa, and typical case studies. There is not enough staff who would successfully perform the above mentioned tasks. *Therefore, in order to overcome the said problem, it is necessary to deliver training for the staff who will continually monitor the phenomenon, analyse data and submit them in a timely manner to specialised units of the*

Border Police Directorate, for the purpose of risk analysis and proper functioning of the early warning system.

2.2.2. Denial of entry – Foreign citizens are denied entry into the Republic of Serbia pursuant to the provisions of Article 11 of the Law on Foreigners (the Official Gazette of the Republic of Serbia, no 97/08). Every denial of entry is entered into the foreigner's travel document. In 2007, 18,993 foreigners were denied entry into the Republic of Serbia, which is a 24-percent increase compared to 2006, when 15,329 foreigners were refused to enter. Reasons for denying entry into the Republic of Serbia in 2007 were: damaged or expired travel document (4816 cases), lack of visa (3435 cases), violation of rules applied on vehicles used by foreigners (2225), and lack of funds (1397). As in 2.1.1., there is not enough staff skilled in professional monitoring and analysis of collected data; *therefore, it is necessary to deliver training for the staff who will continually monitor the phenomenon, analyse data and submit them in a timely manner to specialised units of the Border Police Directorate, for the purpose of risk analysis and proper functioning of the early warning system.*

2.2.3. Detection of illegal migrants, persons facilitating illegal migration and their bringing before justice. The Law on the Protection of State Border, as well as the Law on Foreigners, envisage that each natural person irregularly crossing Serbian state border and illegally entering the Republic of Serbia shall be considered to have committed a misdemeanour. In 2007 on the territory of the Republic of Serbia there were 874 foreign citizens detected who had irregularly entered the Republic of Serbia, which is a 31-percent decrease compared to 2006 (1270 cases). In 2007 the majority of measures related to irregular crossing the state border were taken against Albanian citizens, namely 39% (332) of the total number (874). It is evident that the majority of illegal migrants are Albanian citizens, and that the majority of illegal migrants enter the territory of Central Serbia from the territory of the Autonomous Province of Kosovo and Metohija (about 40% in 2007) irregularly crossing the administrative boundary line.

There is a problem related to the control of the administrative boundary line towards AP K&M by international community forces that have jurisdiction over the territory of AP K&M (UNMIK Police, KFOR, EULEX) due to insufficient engagement and understanding of illegal migration matter. *Therefore, it is necessary to intensify cooperation with international community forces present in AP K&M in the area of combating illegal migration.*

Also, there is a problem related to the control of crossing the administrative boundary line towards AP K&M by Serbian Army and Police, who are not adequately trained and equipped for that task. *Therefore, it is necessary to better prepare military and police forces for the task.*

In addition, there is a problem related to inadequately formulated parameters for statistical monitoring of irregular crossing the state border and illegal entry of foreigners. *Therefore, in order to remedy the observed situation, it is necessary to set benchmarks*

for more efficient monitoring of irregular crossing the state border and illegal entry of foreigners.

Due to Hungarian joining the Schengen area (end of 2007), illegal routes have partly changed their direction, which in majority of cases now goes towards Hungary over Serbia, which is confirmed by the fact that between January and November 2008, out of the total number of foreign citizens who irregularly entered the territory of Serbia, about 37% tried to reach Western Europe via Serbia and Hungary. *Therefore, it is necessary to better equip and train the specialised police units for suppression of illegal migration in the area of the protection of the state border and in-country control.*

In 2007, MoI police officers brought 89 criminal charges of irregular crossing the state border and smuggling of people, pursuant to Article 350 of the Criminal Code (268 smuggled persons), which is about 11-percent increase compared to 2006 when 79 criminal charges were brought (389 smuggled persons). There is a problem related to quality and comprehensive processing of cases concerning illegal migrants, particularly while establishing misdemeanour or criminal responsibility of persons facilitating illegal migration. *Therefore, in order to remedy such situation, it is necessary to create conditions for quality processing of cases concerning illegal migrants.*

2.2.4. Cancellation of residence – The stay in the territory of the Republic of Serbia without a visa, approval of residence or other legal ground is considered unlawful residence. A foreigner unlawfully residing in the Republic of Serbia has to leave its territory immediately or within the set period. The cancellation of stay is carried out under the Law on Foreigners and Law on General Administrative Procedure. In 2006, 1919 cancellations of stay were pronounced, while in 2007 there were 1585 such measures.

There is a problem related to monitoring the implementation of this measure due to the possibility of abuse of the period set for leaving the territory of the Republic of Serbia, and because of the lack of obligation to record and control exiting the country. *Therefore, it is necessary to establish an effective system of monitoring the foreigner who has been pronounced cancellation of stay.*

2.2.5. Shelter for foreigners – A foreigner who cannot be forcibly removed without delay or whose identity has not been established or does not have a travel document, as well as in all other cases stipulated by the Law on Foreigners, shall be determined by the competent authorities to stay in the MoI Shelter for Foreigners. The stay there lasts until the foreigner is forcibly removed, which cannot be longer than 90 days. Each person accommodated in the Shelter is acquainted with the possibility to contact the DMCP of his/her country of origin. In 2007 there were 232 foreigners accommodated in the Shelter, among whom the majority were Albanian citizens (90). In this respect, cooperation with the Embassy of the Republic of Albania in Serbia is satisfactory, since establishing identity and provision of documents for return of Albanian citizens are carried out within reasonable time.

There is a problem related to outdated infrastructure and limited capacities of the MoI Shelter for Foreigners. The started projects of renewal of infrastructure do not develop as planned. *Therefore, in line with the started projects, it is necessary to renew the infrastructure, modernise equipment and enlarge capacities of the Shelter.*

2.2.6. Escort to the border – A foreigner who has been pronounced the measure of removal or expulsion and a foreigner who has to be returned under an international agreement, shall be forcibly removed without delay. If an illegal migrant does not have any funds, escorting costs shall be borne by MoI. In 2007, for the purpose of removal from the territory of the Republic of Serbia, 513 foreigners were escorted to border crossing points, while in the period January-October 2008 there were 190 foreigners escorted that way, out of whom 49 were citizens of Romania, 23 of Macedonia and Bulgaria, 21 of Bosnia and Herzegovina, etc.

There is a problem related to inadequate provision of material and financial resources for escorting purposes. *Having that in mind, it is necessary to plan for and provide material and financial resources from the budget or other funds, for efficient escort of illegal migrants to the border.*

2.2.7. Readmission – Readmission agreements are international agreements regulating the procedure of return and admission of persons who do not or who no longer fulfil the conditions for entry or stay on the territory of another state. By concluding and implementing readmission agreements, the Republic of Serbia has expressed readiness to be involved in combating illegal migration. The agreement covers the issue of return of Serbian citizens as well as third country citizens in transit over the territory of the Republic of Serbia.

The number of requests for readmission of third country citizens

2004	2005	2006	2007	by October 2008
198	615	669	169	140

The above table represents the number of requests for readmission of third country citizens for whom the requesting state assumed that they had illegally entered their territory from the Republic of Serbia. The actual number of foreign citizens readmitted under readmission agreements is smaller than the number of requests, since in some cases the checks have not confirmed that those persons entered their territory from the Republic of Serbia. For example, by October 2008 there were 140 requests received, and after the relevant procedure had been conducted, 80 foreigners were readmitted. Among readmitted foreigners there are citizens of Albania (33), Macedonia (29), Turkey (5), Syria (5), etc.

In practice, sometimes it is impossible to return the readmitted third country citizens to the country of origin or transit (territories from where they entered the Republic of Serbia), since with some countries the readmission agreements have not been signed yet.

In that respect, *it is necessary to open negotiations on conclusion of readmission agreements and harmonisation of positions with other neighbouring countries as well as with states with high migration risk.*

3. ILLEGAL MIGRANTS

The analysis of illegal migrants includes different categories, namely: economic migrants, political migrants – asylum seekers, juvenile illegal migrants, women, families, victims of human trafficking, possible illegal migrants, illegal migrants as offenders, and own citizens as illegal migrants.

3.1. Economic migrants. The majority of foreign illegal migrants detected to have irregularly crossed the state border or during their illegal stay and transit over the territory of the Republic of Serbia are identified as economic migrants.

3.2. Political migrants – asylum seekers. Having in mind the short period of implementation of the new Law on Asylum (the Official Gazette of the Republic of Serbia, no 109/07), as of 1 April 2008, i.e. the fact that only then did the Republic of Serbia take over the competence to determine the status in the asylum procedure, it cannot be said anything about any trends with certainty since the number of asylum seekers in the territory of the Republic of Serbia is relatively small (52). Previous UNHCR experiences demonstrate that the majority of asylum seekers used to come from the Near East, Central African and Caucasian regions.

The Instruction rendered by the Minister of the Interior concerning conduct towards asylum seekers has established the procedure and way of conduct of police officers.

3.3. Juvenile illegal migrants. Out of the total number of foreigners who irregularly entered the Republic of Serbia in 2007 (874 persons), juveniles and adults account for 22% (195 persons) and 78% (679 persons) respectively.

The Ministry of Labour and Social Policy, by the Decision on the Network of Social Welfare Institutions for Accommodation of Users (the Official Gazette of the Republic of Serbia, no 51/08), has designated, within the Centre for Upbringing of Children and Youth, the Unit “Belgrade” with the capacity to accommodate 12 persons as the Centre for accommodation of juvenile foreigners unaccompanied by parents or guardians.

Having in mind the fact that there is a problem of accommodation of juvenile illegal migrants found outside the limits of Belgrade, and that other centres do not have sufficient reception capacities or the programme of work with juvenile foreign illegal migrants, *it is necessary to expand capacities outside Belgrade for reception and accommodation of juvenile illegal migrants, and to draft a programme of work with them during their stay in the territory of the Republic of Serbia.*

3.4. Women – In the total number of foreign citizens who irregularly entered the territory of the Republic of Serbia in 2007 (874 persons), there were 77 females i.e. 9%. The

Instruction on Conduct orders that, in the course of profiling female illegal migrants, a special attention should be given to the elements indicative of human trafficking. Article 28 of the new Law on Foreigners stipulates the conditions for approving temporary stay to a foreigner who is a victim of human trafficking. Such foreigner is provided with accommodation, food and basic living conditions.

Having in mind the fact that female illegal migrants are the target group of human traffickers for sexual or labour exploitation, *it is necessary to educate police and DMCP officers about how to recognise and provide assistance to possible victims of human trafficking.*

3.5. Families – On the territory of the Republic of Serbia there have been cases of entire families illegally emigrating from their home countries mostly for economic reasons.

Having in mind the fact that such cases are inefficiently monitored and the manner of conduct towards such category has not been developed yet, *it is necessary to establish an efficient system of monitoring and develop methodology of conduct towards such category of illegal migrants.*

3.6. Illegal migrants as victims of human trafficking. Illegal migrants, regardless of their sex, driven by their wish for better life and economic prosperity, accept various offers and conditions presented to them by human smugglers, thus easily becoming victims of human trafficking for labour, sexual or some other form exploitation.

One of the ways to combat such form of illegal migration (human smuggling) is proactive work of police and DMCP officers who profile and identify possible victims of human trafficking. The problem of inadequate competence of public servants to recognise human trafficking and victims of trafficking is *possible to address by means of the delivery of the adequate training at basic level.*

It is necessary to develop a campaign about human trafficking through printing multilingual promotional material and placing it where it can be easily noticed (border crossing points, diplomatic missions and consular posts, institutions and other busy places).

3.7. Possible illegal migrants are identified through proactive work of DMCP and police officers who, in the course of interviews and profiling foreign citizens, are in the position to notice some of the reasons under Articles 11 and 21 of the Law on Foreigners, after which the foreign citizen is refused the visa and entry into the territory of the Republic of Serbia. The problem of ineffective recognising of possible illegal migrants (profiling) and detection of counterfeit documents by officers of the Ministry of Foreign Affairs is *possible to address by means of the delivery of an adequate form of training at basic level.*

3.8. Illegal migrants as offenders – In 2006, 1188 criminal charges were brought against foreign citizens, as well as 5789 requests to launch misdemeanour procedure. Such trend continued in 2007.

Taking adequate measures against this group of illegal migrants is directly linked to the *level of staff competence, organisation and regular keeping of records related to continual monitoring of different forms of criminal activities committed by foreigners, i.e. analysing the data and their timely submission to specialised units of the Border Police Directorate and Criminal Police Directorate.*

3.9. Own citizens as illegal migrants – Political events in the former SFRY at the end of 1990s, impoverishment, NATO bombing and transition have lead to dual migratory movements related to the Republic of Serbia: firstly, immigration, on which occasion a large number of refugees from former Yugoslav republics and internally displaced persons from AP K&M came to the territory of Serbia proper and AP Vojvodina; and secondly, emigration, which resulted in the departure of a large number of citizens of the Republic of Serbia and refugees towards EU Member States, USA, Canada and Australia. A majority of them emigrated through illegal migration channels, with a number of them seeking asylum in the countries of reception for economic reasons. It should be noted that a number of persons who migrated through legal channels from the territory of the Republic of Serbia stayed in the countries of reception illegally, which resulted in problems related to illegal migration, which have been present for a number of years in the relations between the Republic of Serbia (former FRY and SM) and the European Union, which eventually resulted in placing the Republic of Serbia on the negative list concerning EU visa regime.

The mechanism of return of citizens illegally staying in the EU Member States to their country of origin is explained in the Law on Ratification of the Agreement on the Readmission of Persons Residing without Authorisation (the Official Gazette of the Republic of Serbia – International Treaties, no 103/07), regulating the procedure of return and admission of persons who do not fulfil or who no longer fulfil the conditions for entry or stay on the territory of another state. It is the fact that the Republic of Serbia is a signatory of 15 bilateral agreements on readmission covering 16 European countries. Having in mind the fact that in the Joint Statement concerning Reintegration presented with the Agreement between the Republic of Serbia and the European Community on the Readmission of Persons Residing without Authorisation „the contracting parties acknowledge the need for efficient, effective and sustainable socio-economic reintegration of returnees who are citizens of Serbia“, *it should be more explicitly insisted on the need for a larger financial and economic involvement of the EU Member States in social and economic reintegration of returnees, bearing in mind that it is not possible to achieve a sustainable reintegration of returnees without a consistent and full implementation of the Strategy of the Republic of Serbia for Reintegration of Returnees under the Readmission Agreement.*

In recent years the citizens of the Republic of Serbia have increasingly appeared as asylum applicants in the EU Member States, right after the citizens of Iraq, Somalia,

Russian Federation and Afghanistan. In 2006, 15,810 citizens of the Republic of Serbia submitted asylum applications in 44 industrialised countries, while in 2007 there were 14,963 of them. A slight downward trend concerning the number of asylum applications submitted by the citizens of the Republic of Serbia was recorded in the period January-October 2008. It has been noted that among the citizens of the Republic of Serbia who are asylum seekers there are the so-called "false asylum seekers"; *therefore, with a view to preventing such form of illegal migration it is necessary to inform the "potential asylum seekers" about the pre-conditions for granting such status.*

Due to the lack of secondary legislation properly regulating visa issuing procedure, there have been some abuses (such as submission of falsified or incomplete documents) on the occasion of issuing visas on public documents of port authorities in sea or inland navigation. *In order to prevent abuses, it is necessary to pay attention to issuing visas for shipper's and seaman's booklets of crew members where family members are entered into, with a view to preventing the possibility of children and minors leaving the territory of the Republic of Serbia and entering the territory of another country without the other parent's consent. Also, it is necessary to establish closer cooperation between the Ministry for Infrastructure and MoI in the area of implementation of valid regulations governing this matter which is within purview of both Ministries.*

The Constitution of the Republic of Serbia guarantees the freedom of movement and settlement to all citizens of the Republic of Serbia. Consequently, movement of persons from AP K&M who are Serbian citizens towards Serbia proper and AP Vojvodina is governed by national legislation and the Regulation concerning control of crossing the administrative boundary line towards Kosovo and Metohija, although it cannot be fully controlled from the point of view of combating illegal migration. Displaced population from AP K&M is comprised of 32 ethnic groups, including Serbs (75%), Roma people (11%), Ashkali, Egyptians, Gorani, Bosniaks, Croats, and Albanians. The majority of internally displaced persons (IDPs) live in Belgrade and Subotica, as well as central and south Serbia in municipalities which are underdeveloped and poor (Požarevac, Kragujevac, Kraljevo, Kruševac, Niš, Bujanovac, Kuršumljija), which makes the position of IDPs very hard. *Therefore, with a view to combating illegal migration of own nationals, it is necessary to keep timely, full and automated records of crossing the administrative boundary line, and to establish true reasons for crossing. It is also necessary, particularly in places near the borderline, to control the movement of Serbian citizens who do not have registered residence in those places and to establish whether there are elements of misdemeanour responsibility under the Law on Stay and Residence.*

In 2007 police officers in charge of border surveillance prevented 315 Serbian citizens from irregularly crossing the state border between two crossing points, on the so-called "green line". Most detected cases were on the border with Romania. In 2007, 75 Serbian citizens were smuggled which is a 70-percent increase compared with 2006, where 45 such cases were recorded. Due to Hungarian joining the Schengen area, the illegal route has been changed, so in the period January-October 2008 the majority of detected illegal crossings by own nationals were detected on the border with Hungary (350), which is more than in 2007 on all borders. In 2007, 217 Serbian citizens used counterfeit travel

documents. Considering what has been said, *it is necessary to strengthen all capacities (human, financial, technical, organisational, etc.) of specialised units in charge of suppression of illegal migration and units of the Border Police Directorate in charge of border surveillance.*

Given the fact that corruption goes hand in hand with illegal migration (in 2008 border police arrested three police officers for their involvement in organising illegal crossing the state border), *it is necessary to strengthen capacities and cooperation between the Sector for Internal Control of the Police, Criminal Police Directorate and Border Police Directorate, with a view to combating illegal migration.*

In 2007, according to the data not kept in e-form, the state border was crossed by approximately 17.5m citizens of Serbia. A part of Serbian citizens who legally crossed the state border particularly with Bosnia and Herzegovina, Montenegro and Croatia continued their travel to the EU illegally. According to the data of Croatian MoI, in the period January-October 2008, measures were taken against 1580 foreigners for illegal crossing the state border, while in the same period in 2007 there were 3083 measures taken, which is an almost 50-percent decrease in 2008. The majority of measures were taken against Serbian citizens.

According to the data of the Police of the Republic of Slovenia, in the period January-October 2008 measures were taken against 189 Serbian citizens for their illegal entry into Slovenia, which is a considerable decrease, since in the same period in 2007, 736 measures were taken.

The number of measures taken against Serbian citizens who illegally entered Croatia and Slovenia in 2008 decreased due to the change of routes of illegal migration towards Hungary and the Schengen area.

However, since some EU Member States have recognised K&M independence and consequently organise their statistical indicators for the Republic of Serbia and Kosovo separately, it cannot be undoubtedly concluded that persons using documents issued by K&M authorities are at the same time Serbian citizens, since there are verified cases of issuing UNMIK papers to Albanian and Turkish citizens who settled in K&M after 1999. *Therefore, it is necessary to intensify cooperation with police forces of Croatia, Slovenia, and Hungary in order to combat illegal migration, as well as with the international community mission having jurisdiction over K&M territory.*

General conclusion of the gap analysis:

Based on the results of the gap analysis, it may be concluded that there is a significant gap between the present and wished-for situation (Strategy vision and goal) in the area of combating illegal migration; therefore, it is necessary to formulate the Strategy (goals and objectives and respective measures) through which the gap will be overcome in the next five years.

Based on the gap analysis, and following the standard matrix, a SWOT analysis has been conducted the results of which are shown in the table below: strengths and weaknesses of the parties involved in the design and development of the Strategy, and opportunities and threats from the environment as external factors.

General conclusion of the SWOT analysis:

Based on the results of the SWOT analysis, which is presented below, it may be concluded that there are weaknesses of the parties involved in the design and development of the Strategy, as well as the threats in their environment which, to some extent, may affect the accomplishment of the vision and goal of the Strategy; therefore, with a view to intensifying strengths and opportunities and eliminating or decreasing weaknesses and threats, the relevant goals and objectives and respective measures of the Strategy have been formulated.

PARTIES THAT CREATE AND DEVELOP STRATEGY

STRENGTHS	WEAKNESSES
<ul style="list-style-type: none"> • MoI, other state administrations and special organizations, other authorities • Developed legal system • Human resources • Infrastructure • Finances- budget • Efficient organizational structure of parties • Developed management system • Existence of cooperation with partners • Existence of professional ethics • Developed system of proactive measures and developed system of reactive measures 	<ul style="list-style-type: none"> • Insufficient fulfillment regarding personnel • Insufficient level of training • Insufficient knowledge of modern concepts of management • Corruption • Insufficient knowledge of illegal migration problems in police directorates and regional centers towards neighboring countries • Limited financial resources • Inobservance of value system of MoI by individuals

SURROUNDINGS OF PARTIES THAT CREATE AND DEVELOP STRATEGY

OPPORTUNITIES	THREATS
<ul style="list-style-type: none"> • Donor processes • Common trainings • Common offices • Establishing common patrols and border crossing points • Cooperation with associations in monitoring problems • Research results of partners in the filed of illegal migration • Support of the international community- material-technical assistance • Expert and political assistance of partners • Amendment of Article 350 of the Criminal Code • Activities by liaison officers • Support by the media 	<ul style="list-style-type: none"> • Global economic crisis • Problem of AP K&M • Influence of organized criminal groups • Corruption in surroundings • Natural disasters (possible ones) • Terrorism as global problem • Political instability of the region • Development of cyber-crime

VIII GOALS, OBJECTIVES AND MEASURES

Goals, objectives, and measures of this Strategy, formulated based on the results of conducted GAP and SWOT analysis are matching with general and specific measures laid down in Comprehensive plan for suppression of illegal migration and human trafficking in European Community (known as Santiago Action Plan, 2002) as follows: in the filed of visa policy, information exchange and analysis, pre-border measures, measures referring border management, policy of readmission and reintegration of returnees, policy of penalty sanctions observing.

Measures conducted within each objective shall be presented in Action Plan of the Strategy and decomposed into activities and tasks in compliance with Strategy Parties as ones in charge of activities, resources being disposed with, time required for realization and sequence of taking over of certain activities.

GOAL 1: Development of capacities and competences of parties that create and develop Strategy

MoI

Objective 1.1.: Improvement of organizational structure of organizational unites in combating illegal migration;

Objective 1.2.: Development of capacities and human resources competences in organizational unites competent for combating illegal migration;

Objective 1.3.: Development of capacities and standards of material resources in organizational unites competent for combating illegal migrations;

Objective 1.4.: Addressing part of the MoI budget to problems of combating illegal migration and creating financial opportunities in surroundings;

Objective 1.5.: Development of value system as part of organization culture of MoI in certain structures of employees;

Objective 1.6.: Development of management system in unites competent for combating illegal migration;

Objective 1.7.: Development of training system for gaining competences in organization unites competent for combating illegal migration;

GOAL 2: Development of cooperation with partners and other interested parties to the Strategy

Objective 2.1.: Development of cooperation with partners of the Strategy on national and international level;

Objective 2.2.: Development of cooperation with other interested parties to the strategy;

**GOAL 3: Development of methodology of combating illegal migration
(proactive and reactive measures)**

Objective 3.1.: Improvement of proactive measure of incrimination in the filed of combating illegal migration;

Objective 3.2.: Improving proactive measure of legal procedures in the filed of combating illegal migration;

Objective 3.3.: Development of proactive measure of cooperation of state authorities in the filed of combating illegal migration;

Objective 3.4.: Accomplishing proactive measure of keeping records in combating illegal migration;

Objective 3.5.: Development of proactive information exchange measure in combating illegal migration;

Objective 3.6.: Promoting proactive measure of early warning system in combating illegal migration;

Objective 3.7.: Promoting proactive intelligence measure combating illegal migration;

Objective 3.8.: Promoting proactive risk analysis measure in combating illegal migration;

Objective 3.9.: Promoting proactive measure of liaison officer work in combating illegal migration;

Objective 3.10.: Promoting proactive measure of profiling of persons in combating illegal migration;

Objective 3.11.: Promoting proactive measure of media campaign in combating illegal migration;

Objective 3.12.: Promoting proactive measure of implementation of modern technology in combating illegal migration;

Objective 3.13.: Promoting proactive measure of cooperation with citizens and local community in combating illegal migration;

Objective 3.14.: Promoting proactive measure of conclusion of readmission agreement;

Objective 3.15.: Promoting proactive measure of conclusion of employment agreement in other country;

Objective 3.16.: Promoting proactive measure of denial of visa application;

Objective 3.17.: Promoting proactive measure of denial of entry into the Republic of Serbia;

Objective 3.18.: Promoting proactive measure for detection of illegal migrants, persons helping illegal migration and their processing;

Objective 3.19.: Promoting proactive measure of stay cancellation;

Objective 3.20.: Promoting proactive measure of accommodation in Shelter for Foreigners;

Objective 3.21.: Promoting proactive measure of escort to the border;

Objective 3.22.: Promoting proactive measure of readmission.

GOAL 4: Developing system of measures towards different categories of illegal migrants

Objective 4.1.: Developing system of measures towards political migrants- asylum seekers;

Objective 4.2.: Developing system of measures towards juvenile illegal migrants;

Objective 4.3.: Developing system of measures towards female illegal migrants;

Objective 4.4.: Developing system of measures towards families of illegal migrants;

Objective 4.5.: Developing system of measures towards illegal migrants- victims of human trafficking;

Objective 4.6.: Developing system of measures towards potential illegal migrants;

Objective 4.7.: Developing system of measures towards illegal migrants- offenders;

Objective 4.8.: Developing system of measures towards illegal migrants- citizens of the Republic of Serbia.

GOAL 5: Establishing national concept of combating illegal migration in domain of intensified causes and different types and forms of demonstration

Objective 5.1.: Forming national expert team for monitoring and analyzing of intensified causes and different types and forms of demonstration of illegal migration;

Objective 5.2.: Establishing and developing cooperation with scientific and university institutions that deal with problems of illegal migration;

Objective 5.3.: Establishing and developing special system of proactive and reactive measures directed towards intensified causes and different types and forms of illegal migration demonstration.

IX ORGANIZATIONAL STRUCTURE

In accordance with provisions of the Law on Public Administration, state authorities that create and develop Strategy are obliged to cooperate in all common issues related to implementation of Strategy of combating illegal migrations and to deliver each other data and information necessary for work.

Based on Article 64 of the Law on Public Administration and Article 27 of the Regulation on Principles of internal organization and job classification within the ministries, special organizations and Government services, for the implementation of this Strategy, Council for combating illegal migration, as common, inter -department expert body which shall be composed of experts for certain areas, is to be formed within three months. Task of the Council is to coordinate parties that implement Strategy, to provide professional assistance, accomplish insight and supervision over implementation of the Strategy, to keep Government informed on its implementation and possible problems in relation to it and to propose to the Government measures for Strategy revising.

Council shall be managed by coordinator for combating illegal migration; coordinator shall be appointed by the Government.

X FINAL NOTES

Strategy for combating illegal migration was made following approach of strategic project development, planning, placing and studying; the approach encompassed two phases of strategic management process, as follows: strategic analysis and strategy formulation. Strategic analysis had established current situation in the field of illegal migration phenomena, and afterwards it was compared with preferable situation defined by the Strategy (vision and goal of the Strategy). **SWOT** (strengths, weaknesses, opportunities and threats) and **gap** analysis (difference analysis), as well as quantitative and qualitative approach. Following principles of analysis were also followed: relevance, comprehensiveness, significance and correctness. Logical form of analysis is based on

following concept: setting premises and their comparing, exhibiting correct conclusion and providing recommendation.

Based on results (conclusions and recommendations) of the analysis, Strategy for combating illegal migration was formulated; it is composed of system of goals and objectives and measures for their accomplishment.

XI ACTION PLAN

Action Plan for implementation of this Strategy shall be made within six months as of the date of Strategy adoption.

Action Plan shall regulate more precise all relevant issues of implementation of this Strategy, and especially establishing efficient organizational structure, strategic surveillance, control, monitoring, evaluation and revising of Strategy.

XII FINAL PART

This Strategy is to be published in the "Official Gazette of the Republic of Serbia".

05 No. 110-530/2009-1
Belgrade, March 26, 2009

Government

First Vice Prime Minister-
Deputy Prime Minister
Ivica Dačić

ANNEX 1 - Key terms of the Strategy

Combating illegal migration - set of measures of proactive and reactive character taken by parties to the Strategy aiming anticipating and suppression of illegal migration.

Illegal migration - Illegal migration is each moving of inhabitants from one country to another, which is not in accordance with valid regulation of state of origin and state of destination, as well as stay in certain state opposite to valid regulations of the respective state.

Illegal migrant - Foreign citizen which illegally left/ entered into another country (entry outside border crossing point, entry with counterfeited or otherwise irregular travel document) for the purpose of stay or permanent settlement. Herewith are equalized also persons which had illegally entered the country, but after the legal stay expiration they did not leave respective country.

Possible illegal migrant - any person that was banned from entry into the territory of certain country, as well as person who did not receive positive reply to visa application may be treated as such.

Legal migration - regulated by regulations and harmonized with migration policies of the countries receiving migrants; they represent legal and ordinary way for foreign citizens to move into a country. Considering that the largest number of migrants comes from poor countries, searching for jobs and that they education is at low level, destination countries introduce migration policy aiming protection of domestic economy. Considering that number of migrants authorized to move in legally is significantly smaller than numbers of persons that want to move in, illegal migration take place.

Readmission - procedure of returning and receiving persons that do not fulfill, or no longer fulfill conditions for entry or stay in territory of other country.

SWOT analysis - strategic analysis that encompasses analysis of factors in organization (internally) in domain of strengths and weaknesses and analysis of factors in surroundings of organization (externally) in domain of opportunities and threats, on the other hand, and based on that comparison make decision on possibility of implementation of the Strategy, as well as to formulate goals and measures for the purpose of intensifying strengths and opportunities, and minimizing or eliminating weaknesses and threats.

Gap analysis - strategic analysis that encompasses identification of current situation and comparing with wanted situation in the organization (vision and goal of the Strategy), based on which the existing difference is being determined, gap, which is used for Strategy formulation, i.e. goals and measures leading towards fulfillment of identified difference and accomplishment of wanted situation.