



CBMM Project

Capacity Building of Institutions Involved
in Migration Management and Reintegration
of Returnees in the Republic of Serbia

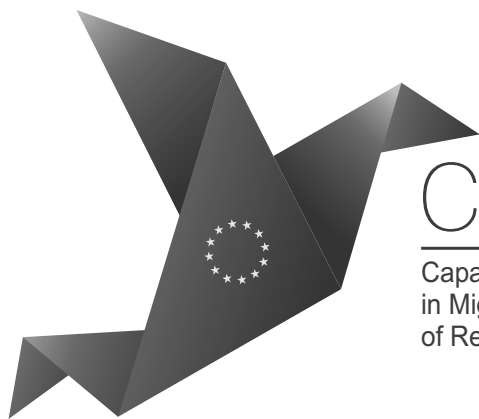
International Organization for Migration

FUNDAMENTALS OF MIGRATION MANAGEMENT IN THE REPUBLIC OF SERBIA



Ministry of Foreign Affairs
of the Czech Republic

The project is funded by the European Union through the Delegation of the European Union to the Republic of Serbia



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CBMB Project Team

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I

Introduction

In the past two decades, the Republic of Serbia has encountered all types of migration: *external* (mainly emigration) and *internal* (from rural to urban areas); *forced* (refugees, internally displaced persons and returnees under the Readmission Agreement) and *voluntary; legal and illegal*, as well as *labour migration*. Despite the existing efforts of the state to regulate the migration flows, the Republic of Serbia is still lacking a clear policy of an integrated approach to this phenomenon.

The **Fundamentals of Migration Management in the Republic of Serbia** handbook has been divided into several parts that deal with topics relevant for migration flows in the Republic of Serbia. A short overview of the migration management system in Serbia is followed by a presentation of the institutional framework for migration management, along with an overview of the legislative framework for migration management in the Republic of Serbia. A chapter on the rights and duties of migrants constitutes a separate part, containing individual descriptions of domains such as non-discrimination, education, employment, social welfare, health care and housing. This is followed by the part of the handbook which deals with the protection of migrants at the local level, which also focuses on the role of non-governmental organisations. The final part of the handbook is focused on a very important issue of correlation between migration and development.

Accession to the European Union (the EU) is a strategic decision to the Republic of Serbia, which entails acceptance of the adopted European values and standards, primarily those in the domain of human rights protection. Strategically, legally and institutionally regulated domain of migration is extremely important for the accession to the EU and exercise of the freedom of movement for citizens of the Republic of Serbia, improvement of its international reputation as well as for the exercise of a higher level of protection of all persons within its jurisdic-

tion. To achieve all this, it is necessary to ensure a coordinated system of cooperation between all relevant authorities and institutions, both those that create policies and the operational ones, as well as between the central and local level, in this respect. The goal of this handbook is to present the migration management process at both central and local level to local self-government employees.

This handbook and the accompanying training make one of the activities within the project dealing with the capacity building of institutions of the Republic of Serbia responsible for migration management and reintegration of returnees, which is aimed, in one of its components, at enhancing the central and municipal authorities in terms of implementing the Strategy for Migration Management and the relevant Action Plan.

II

Overview of the Migration Management System in the Republic of Serbia

Migration management entails a regulated system that establishes a clear migration policy, as well as the planned and organised management of migration flows, including the monitoring of external and internal migration movements and implementation of activities that will stimulate regular and repel irregular migration.

Main elements of the migration management system are the following:

- Visa policy;
- Integrated border management;
- Regulated stay of foreigners;
- Mechanisms for integration of migrants into the society;
- Overall protection of own nationals who work and stay abroad; and
- Active employment policy.

A precondition for successful migration management is to formulate a clear and coherent migration management strategy, establish the legal and institutional framework for a consistent implementation of the migration policy and ensure the efficient coordination between all authorities and institutions involved. This is particularly important in the Republic of Serbia, which is faced with all types of migration.

The starting point for planning is to assess the specificities of the migration situation in Serbia, which is characterised by the following:

- Large number of refugees and internally displaced persons
- Poor socio-economic situation, characterised by reduced economic productivity and scope of trade, increased unemployment rate, lowered standard of living and economic restructuring;
- Returnees under the Readmission Agreement concluded with the EU countries (including the category of false asylum seekers in the EU)
- Serbian Diaspora
- Demographic trends/internal migration: depopulation of certain regions/ movement to urban areas; and
- The expected Republic of Serbia's accession to the European Union will cause an increase in the number of asylum seekers and foreigners in Serbia.

After assessing the situation and expected trends, priority activities are determined that are reflected in the adoption of the appropriate legal framework and implementation of relevant strategies. In Serbia, they refer to the following:

- Adoption of the Law on Migration Management
- Implementation of the Migration Management Strategy from 2009 and Action Plan for the Strategy Implementation from 2011;
- Continuity of activities of the Coordination Body for Migration Monitoring and Management, for which the Commissariat for Refugees performs expert, operational, administrative and technical affairs;
- Implementation of the Strategy for Reintegration of Returnees from 2009 and the Relevant Action Plan; and
- Implementation of the Law on Asylum from 2007.

In addition to the aforementioned priorities, activities in Serbia need to focus on the following:

- Development of mechanisms for integration of foreign nationals;
- Creation of a more coherent mechanism for monitoring and control of migration movements;
- Integrated border management;
- Regulation of entry and stay of foreign nationals;
- Ensuring permanent solutions for refugees and internally displaced persons and reintegration of returnees under re-admission; and
- Harmonisation of the national policy in the field of asylum, migration and visas, in line with the European standards.

The Strategy represents a general plan of actions whose aim is to achieve particular goals that are clearly defined. Relevant strategies are adopted in each field, defining the goals that need to be accomplished within a set timeframe. This mainly refers to a period of ten years. In the mean time, the strategy's efficiency level is monitored in the light of the goals accomplished. If the level of the goals accomplished is low, a revision of the strategy is needed, including amendments or adoption of a new document.

Considering the fact that the European Union accession process has been a priority to the Republic of Serbia in the last decade, the Government has developed a large number of sectoral strategies and policies whose aim is to facilitate the accomplishment of this goal and the process of harmonisation of legal regulations of the Republic of Serbia with regulations applicable in the European Union has started. One of the relevant strategic documents of the Government is the National Programme for Integration of the Republic of Serbia into the European Union, containing, among other, an overview of the planned legislative and other activities in the field of migration management, visa policy and asylum.

Strategies of the Republic of Serbia directly concerned or indirectly touching upon the field of migration management include the following:

- Migration Management Strategy;¹
- Strategy for the Suppression of Illegal Migration in the Republic of Serbia for the Period 2009-2014;²
- Strategy for the Reintegration of Returnees under the Readmission Agreement;³
- National Strategy for Resolving the Issues of Refugees and Internally Displaced Persons for the Period 2011-2014;⁴
- Strategy for the Integrated Border Management in the Republic of Serbia;⁵
- Strategy for Combating Human Trafficking in the Republic of Serbia;⁶
- National Strategy for Combating the Organised Crime;⁷
- National Strategy for Improvement of the Status of Roma in the Republic of Serbia;⁸
- Strategy for the Sustainable Subsistence and Return to Kosovo and Metohija;⁹
- Public Health Strategy for the Republic of Serbia;¹⁰
- National Sustainable Development Strategy,¹¹
- National Strategy for the Youth;¹²

1 “Official Gazette of the RS”, no. 59/09.

2 “Official Gazette of the RS”, no. 25/09.

3 “Official Gazette of the RS”, no. 15/09.

4 “Official Gazette of the RS”, no. 17/11.

5 “Official Gazette of the RS”, no. 11/06.

6 “Official Gazette of the RS”, no. 111/06.

7 “Official Gazette of the RS”, no. 23/09.

8 “Official Gazette of the RS”, no. 27/09.

9 “Official Gazette of the RS”, no. 32/10.

10 “Official Gazette of the RS”, no. 22/09.

11 “Official Gazette of the RS”, no. 22/09.

12 “Official Gazette of the RS”, no. 55/08.

- National Employment Strategy for the Period 2011-2020;¹³ and
- Strategy for Preserving and Strengthening the Relations between the Homeland and the Diaspora and the Homeland and the Serbs in the Region.¹⁴

Migration Management Strategy from 2009 stipulates that the Republic of Serbia shall manage migrations in all-encompassing manner, observing the European standards in the field of migration and appreciating its own specificities. Values that are fundamental to the migration management are based on the following:

- Safeguarding of state borders and all the citizens;
- Respect of the human rights of all groups of migrants;
- Facilitation of integration of vulnerable migrant groups in the society;
- International cooperation with the countries in the region and beyond, in particular with the countries of origin;
- Prohibition of discrimination;
- Facilitation of family reunification; and
- Respect of the needs of all stakeholders.

The national framework for migration management consists of the existing legal and institutional frameworks. The legal framework refers to the presence of relevant laws, strategies and declarations pertaining to the migration management and/or particular groups of migrants. On the other hand, the institutional framework for the migration policy development includes all the relevant institutions involved in the migration system of the Republic of Serbia pursuant to laws and corresponding normative acts and strategies. They include different ministries responsible for particular groups of migrants, whose competences will be described later on, in the chapter dealing with the institutional framework for migration management in the Republic of Serbia.

13 “Official Gazette of the RS”, no. 37/11.

14 “Official Gazette of the RS”, no. 4/11 and 14/11.

In the Republic of Serbia, development of the terminology concerning migrations is only in the inception phase. Several relevant laws, adopted recently, such as the *Law on Foreigners*,¹⁵ *Law on Asylum*¹⁶ and *Law on the Protection of the State Border*¹⁷, deal in their introductory provisions, with defining the meaning of certain terms relevant to the field of migration management, such as the terms of a foreigner, border police, border control, state border, border crossing point, integrated border management, asylum, shelter, subsidiary protection, refugees etc.

There are several organisations at the international level, involved in developing the migration terminology, including, first of all, the *International Organisation for Migration* (IOM) with its “Glossary on Migration”. The goal of this publication, being developed by the IOM in a number of languages, is to unify the migration terminology at the global level. The *European Migration Network* (EMN) has also prepared its “Asylum and Migration Glossary” in order to gradually increase the level of comparativeness of the European Union member states in the field of migration, by establishing and using the identical meanings of terms and definitions.

15 “Official Gazette of the RS”, no. 97/08.

16 “Official Gazette of the RS”, no. 109/07.

17 “Official Gazette of the RS”, no. 97/08.

III

Institutional Framework of the Migration Management System in the Republic of Serbia

As the field of migration management is multi-sectoral in its character, the competences in this field are, therefore, divided between several authorities of public administration. The institutional framework in this field is defined in line with the competences in the sphere of migration assigned to certain authorities of public administration, pursuant to the Law on Ministries¹⁸, Law on Asylum, Law on Foreigners, Law on Refugees¹⁹ and various regulations, decisions and strategies of the Government of the Republic of Serbia.

Several ministries have competences for migrants.

Ministry of Interior is responsible for:

- security of the state border and control of border crossing, movement and stay within the border zone;
- stay of foreigners;
- citizenship;
- residence and domicile of citizens;
- identity cards and travel documents;
- international assistance and other forms of international cooperation in the field of internal affairs, including readmission;

18 “Official Gazette of the RS”, no. 72/12.

19 “Official Gazette of the RS”, no. 18/92, “Official Journal of the FRY”, no. 42/02 – decision of Federal Constitutional Court and “Official Gazette of the RS”, no. 30/10.

- illegal migration;
- asylum; and
- administrative proceedings in the second instance pursuant to regulations on refugees.

Ministry of Labour, Employment and Social Policy is responsible for:

- exercise of employment rights of workers temporarily employed abroad;
- protection of citizens employed abroad;
- conclusion of agreements on referring the employees to work abroad and referring the employed to temporary employment abroad;
- keeping records in the field labour and employment;
- anti-discrimination policy;
- the social welfare system
- exercise of rights and integration of refugees and displaced persons, returnees under the readmission agreements, Roma population and other socially vulnerable groups;
- taking part in preparation, conclusion and enforcement of international treaties on social insurance;
- employment in the country and abroad and referring the unemployed citizens to work abroad;
- monitoring the situation and trends in the labour market in the country and abroad;
- proposing and monitoring the implementation of strategies in the field of migration in the labour market;
- conclusion of employment contracts with foreign employers and other contracts related to employment; and
- harmonisation with the European legislation and standards in the field of employment and monitoring of enforcement of international conventions..

Ministry of Foreign Affairs is responsible for:

- protection of rights and interests of the Republic of Serbia, its citizens and legal entities abroad;
- issuance of visas through the diplomatic-consular network, providing the adequate consent previously obtained from the Ministry of Interior;
- keeping electronic records of the issued visas in the form of a database, as well as the records of denied requests for visa issuance; and
- issuance of travel documents free of charge to Serbian citizens – victims of human trafficking, who have been rescued abroad.

Ministry of Education and Science is responsible for:

- the complementary education of children of Serbian citizens abroad; and
- recognition and equivalence of personal documents²⁰ obtained abroad.

Ministry of Health is responsible for:

- taking part in preparation and implementation of international treaties on mandatory social insurance; and
- health care of foreigners.

In addition to the competent ministries, the **Commissariat for Refugees** is of particular importance, being responsible for:

²⁰ This refers to documents obtained during schooling (elementary, high school and university).

- carrying out the expert and other tasks related to providing care, return and integration of persons who were granted the status of refugees, pursuant to the Law on Refugees;
- establishing the status of a refugee and keeping records of refugees and internally displaced persons;
- providing care to refugees;
- harmonising the assistance efforts by other entities and organisations in the country and abroad;
- provision of accommodation and distribution of refugees across the area of local self-government units;
- provision of assistance to refugees in the process of refugee return and reintegration;
- resolving the housing needs of refugees pursuant to the Law on Refugees;
- provision of accommodation to asylum seekers in the asylum centre and the asylum centre management;
- provision of primary accommodation in redesigned collective centres to returnees under the Readmission Agreement;
- providing care to internally displaced persons and protection of their rights;
- carrying out the expert, operational, administrative and technical tasks for the Coordination Body for Managing and Monitoring Migration.

Certain bodies established pursuant to decisions of the Government of the Republic of Serbia have competences in the domain of migration management, namely:

Office of Human and Minority Rights is responsible for performance of expert tasks for the Government and competent ministries related to:

- protection and improvement of human and minority rights, including the rights of vulnerable migrant groups, such as refugees and displaced persons, returnees under readmission agreements and asylum seekers;
- monitoring of harmonisation of the national legal framework with international treaties and other international legal instruments pertaining to human and minority rights and initiating changes in the national legal framework; and
- providing assistance to vulnerable migrant groups, particularly when it comes to returnees returning to the country under the readmission agreements.

Office for Cooperation with Diaspora and Serbs in the Region is responsible for performance of expert tasks for the Government and competent ministries related to:

- monitoring the status of citizens of the Republic of Serbia who live outside the Republic of Serbia;
- supporting the process of improvement of conditions necessary for the exercise of electoral right of the citizens of the Republic of Serbia living abroad;
- improvement of connections of emigrants, citizens of the Republic of Serbia living abroad and their organisations, with the Republic of Serbia;
- provision of information to emigrants, citizens of the Republic of Serbia living abroad, on the policy of the Republic of Serbia; and
- supporting the process of inclusion of emigrants, persons of Serbian origin, persons originating from Serbia and citizens of the Republic of Serbia living abroad in the political, economic and cultural life of the Republic of Serbia and their return to the Republic of Serbia.

Office for Kosovo and Metohija is responsible for performance of expert tasks for the Government and competent ministries related to:

- cooperation with the Commissariat for Refugees in the segment concerning internally displaced persons from Kosovo and Metohija;
- sustainable return and subsistence of internally displaced persons to Kosovo and Metohija; and
- exercise and protection of rights of returnees to Kosovo and Metohija.

The Council for Integration of Returnees under the Readmission Agreements is responsible for:

- considering and proposing the measures and activities for the implementation of admittance, provision of care and integration of returnees;
- providing support in establishing and implementation of measures at the local self-government level aimed at offering assistance to returnees, in line with the possibilities and needs of the local community; and
- proposing the establishment of a framework for a dialogue between countries concerning the issues of protection and exercise of the rights of migrants and problems associated with the illegal migration, for the purpose of strengthening the regional cooperation relevant to returnees.

The Council for Combating Human Trafficking is responsible for:

- coordination of national and regional activities in combating human trafficking;
- considering the reports of relevant bodies of the international community on human trafficking;
- taking stands and proposing measures for implementation of recommendations by international bodies in combating human trafficking.

The Council for Combating Illegal Migration was established as a common, inter-departmental expert body gathering a number of experts in particular areas. The Coordinator for Combating Illegal Migration has been appointed to coordinate all activities and manage the work of the Council. The Council's task is to coordinate the activities of entities implementing the Strategy for Combating Illegal Migration for the Period 2009-2014, report to the Government on its implementation and potential problems associated with it and propose measures to the Government for the Strategy's revision.

The Coordination Body for Managing and Monitoring Migration ensures, through its activity, a unique policy and harmonisation of activities undertaken by competent ministries in the field of migration, by directing the activities of ministries and special organisations. Expert, operational, administrative and technical tasks for the Coordination Body are carried out by the Commissariat for Refugees.

The Commission for Monitoring the Visa-Free Travel Regime with the European Union is responsible for considering the issues related to the increase of the number of false asylum seekers in the countries of the European Union coming from the territory of the Republic of Serbia and proposing considerations and decision-making to the Government as regards the measures focused on reducing the number of false asylum requests.

IV

Legislative Framework in the Field of Migration Management in the Republic of Serbia

1. International Migration Law

Public International Law consists of a great number of different branches of law. Most important for the matter being the subject of this handbook are: the international human rights law, international refugee law and international humanitarian law, while in recent years a separate branch of law is being developed – the international migration law. In addition to these branches, a note should be taken of the international criminal law and international labour law.

International migration law is composed of the rules established in all previous subsystems of the international law pertaining to migrants. As migrants represent quite a diverse group, a set of norms that would directly concern migrants has still not been established at the international level. One of the reasons for that is the fact that migrants have not, for a long time, been in the focus of the international community and that this branch of the international law has been developing in the course of time.

Pursuant to the Constitution of the Republic of Serbia from 2006,²¹ all ratified international treaties, laws and other general acts must be in compliance with the Constitution, as the supreme legal act.

21 “Official Gazette of the RS”, no. 98/06.

The backbone of international treaties ratified by the Republic of Serbia, directly or indirectly concerned with migrants, include the following:

- International Pact on Civil and Political Rights;²²
- International Covenant on Economic, Social and Cultural Rights;²³
- Convention on the Refugee Status with the Final Act of the Conference of Plenipotentiaries of the United Nations on the Refugee Status;²⁴
- Protocol relating to the Status of Refugees;²⁵
- Convention on the Legal Status of Stateless Persons;²⁶
- International Convention on the Elimination of All Forms of Racial Discrimination;²⁷
- Convention on the Elimination of All Forms of Discrimination Against Women;²⁸
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;²⁹
- Convention on the Rights of the Child;³⁰
- Convention on the Rights of Persons with Disabilities;³¹
- International Convention for the Protection of All Persons from Enforced Disappearance;³²

22 “Official Journal of the SFRY”, no. 7/71.

23 Ibidem.

24 “Official Journal of the FNRJ- International Treaties and Other Agreements”, no. 7/60.

25 “Official Journal of the SFRY- International Treaties and Other Agreements”, no. 15/67.

26 “Official Journal of the FNRJ- International Treaties and Other Agreements”, no. 9/59.

27 “Official Journal of the SFRY”, no. 31/67.

28 “Official Journal of the SFRY- International Treaties”, no. 11/81.

29 “Official Journal of the SFRY- International Treaties”, no. 9/91.

30 “Official Journal of the SFRY- International Treaties”, no. 15/90 and “Official Journal of the FRY – International Treaties”, no. 4/96 and 2/97.

31 Official Gazette of the RS – International Treaties”, no. 42/09.

32 “Official Gazette of the RS – International Treaties”, no. 1/11.

- European Convention for the Protection of Human Rights and Fundamental Freedoms; ³³
- The Council of Europe Convention against Trafficking in Human Beings. ³⁴
- Convention no. 97 of the ILO (International Labour Organisation) on Migration for Employment; ³⁵
- Convention on Migration in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers; and³⁶
- The United Nations Convention against Transnational Organised Crime, with Supplementary Protocols – Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and Protocol against the Smuggling of Migrants by Land, Sea and Air. ³⁷

2. Constitutional Framework

The supreme legal act of the Republic of Serbia is its Constitution from 2006. Article 17 of the Constitution regulates the status of foreigners, who are basically guaranteed all the rights enjoyed by Serbian citizens. An exception to this rule is a set of rights guaranteed by the Constitution to citizens of Serbia only. This includes the electoral rights stipulated in Article 52 Para 1, along with Article 39, stipulating that entry and stay of foreigners in the Republic of Serbia shall be regulated by the law, as well as that they may be expelled (Article 39, Para 3). Still, expelling shall only be possible if it was decided on by a competent body “in a procedure stipulated by the law and if time to appeal has been provided to him/her, only in cases where there is no threat of persecution on the grounds of their race, gender, religion, national origin, citizenship, association with a particular social group, political

33 “Official Journal of the SMN – International Treaties”, no. 9/03.

34 “Official Gazette of the RS – International Treaties”, no. 19/09.

35 “Official Journal of the SFRY- International Treaties and Other Agreements”, no. 5/68

36 “Official Journal of the SFRY- International Treaties”, no. 12/80.

37 “Official Journal of the FRY - International Treaties”, no.6/01.

opinion or where there is no threat of a serious violation of the rights guaranteed under this Constitution”.

The following human rights, guaranteed under the Constitution, are of particular importance to migrants:

- right to dignity and free development of personality (Article 23);
- right to life (Article 24);
- right to inviolability of physical and mental integrity (Article 25);
- prohibition of slavery, servitude and forced labour (Article 26);
- right to freedom and security (Article 27);
- obligation of humane treatment of persons deprived of liberty (Article 28);
- right to a fair trial (Article 32);
- right to legal certainty in criminal law – prohibition of retroactive penalties, presumption of innocence, *ne bis in idem* etc. (Article 34);
- right to citizenship (Article 38);
- freedom of movement (Article 39);
- freedom of thought, conscience and religion (Article 43);
- prohibition of inciting racial, ethnic and religious hatred (Article 49);
- right to shelter (Article 57);
- right to health care (Article 68);
- right to social welfare (Article 69); and
- right to education (Article 71).

It is stipulated in Article 20 of the Constitution that human rights may be restricted, but only under the following conditions:

1. that the restriction has been prescribed by the law,
2. it is for the purpose allowed by the Constitution,
3. it is to the extent necessary in a democratic society, and
4. it does not encroach upon the substance of the relevant right.

All public authorities shall be obliged to consider the substance of the right being restricted, pertinence of restriction, nature and extent of restriction, relation of restriction and its purpose and if there is a possibility to achieve the restriction in any other way, by less restrictive means.

These restrictions are called “facultative restrictions”. The Constitution also allows for derogation, or putting certain human rights out of effect, in the state of emergency or war (Article 202), which shall not be discriminatory and shall cease to be effective upon ending of the state of emergency or war. However, the Constitution explicitly states the rights which shall not be put out of effect even in that situation – guaranteeing the so called “absolute rights”. This group contains most rights that have already been listed as rights of particular importance to migrants.

3. Criminal Framework

The Criminal Code of the Republic of Serbia was adopted in 2005.³⁸ A special part of the Penal Code defines a number of criminal offences that are relevant to different aspects of migration management.

In the group of criminal offences against freedoms and rights of man and citizen, the following criminal offences may be relevant for migrants – criminal offence of **violation of equality** (Article 128), criminal offence of **violation of the right to use a language or script** (Article 129), criminal offence of **violation of the right to expression of national or ethnic affiliation** (Article 130) and criminal offence of **violation of the freedom of religion and performing religious service** (Article 131).

In the group of criminal offences against honour and reputation, the criminal offence that needs to be emphasised is **ruining the reputation due to racial, religious, ethnic or other affiliation** (Article 174).

38 “Official Gazette of the RS”, no. 85/05, 88/05 – rev., 107/05 – rev., 72/09 and 111/09

In the group of criminal offences against the constitutional order and security of the Republic of Serbia, the criminal offence that needs to be emphasised is **instigating national, racial and religious hatred and intolerance** (Article 317) among the nations and ethnic communities living in its territory.

In migration management, of crucial importance is also to define the criminal offence of **illegal crossing the state border and people smuggling** (Article 350), belonging to the group of criminal offences against the public order and peace.

The criminal offence of human trafficking (Article 388) has been separated from the criminal offence of people smuggling and belongs to the group of criminal offences against humanity and other values protected by the international law. Those who commit this criminal offence shall face three to twelve years' imprisonment. In addition to the criminal offence of human trafficking in the group of criminal offences against humanity and other values protected by the international law, the following criminal offences should be emphasised – the criminal offence of **racial and other discrimination** (Article 387), **trafficking in children for adoption** (Article 389) and **holding in slavery and transportation of enslaved persons** (Article 390).

4. Legislative Framework for the Border Protection of the Republic of Serbia

The primary responsibility of any country is to ensure the protection of its borders. **The Law on Protection of the State Border of the Republic of Serbia**, adopted in 2008, stipulates a modern system for managing the state border and a demilitarised border and ensures an enhanced free flow of people and goods. Article 2, Para 7 of this Law defines the integrated border management, which includes the following:

regulated cooperation of all services present on border crossings (intra-and inter-service cooperation and international cooperation) as well as other public authorities and institutions, for the purpose of achieving the state border that is open for movement of persons and trade and closed for any criminal or other activities jeopardizing the stability in the region.

Activities pertaining to the border control and security of the state border are carried out by the Ministry of Interior and other authorities of the public administration (e.g. customs authorities), while direct protection of the state border is the responsibility of the border police, as an organisational unit of the Ministry of Interior.

5. Entry, Movement and Stay of Foreigners in the Republic of Serbia

Conditions for the entry, movement and stay of foreigners in the Republic of Serbia, as well as competences and affairs of the public administration authorities of the Republic of Serbia related to these issues have been regulated in the **Law on Foreigners** and bylaws passed on the basis of this Law.³⁹ **This Law is not applicable to foreigners**

39 These are the following: Decree on More Specific Conditions for Refusal of Entry of Foreigners into the Republic of Serbia (“Official Gazette of the RS”, no. 75/09); Rulebook on the Manner of Keeping and Contents of the Records Maintained at the Ministry of Interior pursuant to the Law on Foreigners (“Official Gazette of the RS”, no. 59/09); Rulebook on More Specific Conditions and Procedure for Issuing Visas at the Border Crossing Point (“Official Gazette of the RS”, no. 59/09); Rulebook on Layout, Contents and Method of Entering the Temporary Residence Permit into a Foreign Travel Document (“Official Gazette of the RS”, no. 59/09); Rulebook on More Specific Conditions, Request Form and Manner of Extending the Visa Validity Period (“Official Gazette of the RS”, no. 59/09); Rulebook on the Layout of Form and Contents of the Certificate of Travel (“Official Gazette of the RS”, no. 59/09); Rulebook on the Manner of Entering the Cancellation of Residence and Prohibition of Entry into a Foreign Travel Document (“Official Gazette of the RS”, no. 59/09); Rulebook on the Manner of Registering the Domicile, Residence and Change of Address and Deregistration of Foreigner from their Residence (“Official Gazette of the RS”, no. 59/09); Rulebook on Meeting the Requirements for Permitting the Temporary Residence to Foreigner for the Purpose of Family Reunification (“Official Gazette of the RS”, no. 59/09); Rulebook on Meeting the Requirements for Permitting the Temporary Residence to Foreigner Concerning Health Insurance (“Official Gazette of the RS”, no. 59/09); Rulebook on Meeting the Requirements for Permitting the Temporary Residence to Foreigner for the Purpose of School Education, Studying or Specialisation, Scientific and Research Work, Practical Training, Participation in International Exchange Programmes for School and University Students and/or Other Scientific and Education Activities (“Official Gazette of the RS”, no. 59/09); Rulebook on More Specific Conditions for the Permanent Settlement Permit and the Layout, Contents and Manner of Entering the Permanent Set-

who have filed a request for asylum or have been granted an asylum in the Republic of Serbia, who enjoy the privileges and immunities pursuant to the international law and who have obtained the refugee status pursuant to the Law on Refugees.

5.1 Entry of Foreigners into the Republic of Serbia

Provisions of the **Law on Foreigners** stipulate that a foreigner may enter and stay in the Republic of Serbia, subject to this Law, with a valid travel document containing a visa or residence permit, if not otherwise stipulated by the Law or an international treaty.

5.2 Visa Regime

The entry of citizens of certain countries into the Republic of Serbia without a visa may be permitted by an international treaty or the Government decision. It is even possible to allow the entry of citizens of certain countries with a valid identity card or other document confirming their identity and citizenship. These categories of foreigners shall be allowed to stay in the country for up to 90 days in the period of six months starting from the date of their first entry. If a foreigner is required a visa, it shall be obtained prior to entering the territory of the Republic of Serbia and shall, generally, be issued by the diplomatic or consular representative office of the Republic of Serbia.

5.3 Types of residence of foreign nationals

The Law on Foreigners stipulates three types of residence of foreign nationals- **residence of maximum 90 days, temporary residence and permanent residence.**

Temporary residence may be granted to a foreign national who intends to reside in the Republic of Serbia for more than 90 days for

tlement Permit into a Foreign Travel Document and Identity Card for Foreigners and the Form of the Statement on Waiving the Right to Permanent Settlement (“Official Gazette of the RS”, no. 59/09); Rulebook on the Layout of Form, Contents and Manner of Issuing the Identity Card for Foreigners (“Official Gazette of the RS”, no. 66/09); Rulebook on the Manner of Entering the Compulsory Residence into the travel Document and the Layout of Form of the Temporary Identity Card (“Official Gazette of the RS”, no. 66/09) and Rulebook on Visas (“Official Gazette of the RS”, no. 27/10)

the purposes of work, education, family reunification or other valid reasons, in accordance with the law or other international agreement. A foreign national who has been granted temporary residence shall reside in the Republic of Serbia, in accordance with the purpose for which the residence has been granted. Temporary residence may be granted for the period of one year and may be extended for the same period. Residence of a foreign national may be terminated for reasons of the expiration of the deadline for which it has been granted, cancellation of residence and if the foreign national has been ordered a protection measure of removal or a security measure of deportation.

The Law on Foreigners also provides for the possibility of granting temporary residence to a foreign national who has been a victim of a criminal act of trafficking in human beings, providing that it is in the interest of conducting criminal proceedings.

The Law on Foreigners also specifies conditions for granting of permanent residence to a foreign national. Permanent residence may be granted to a foreign national:

1. who has continuously resided in the Republic of Serbia for more than five years , until the day of the submission of the application for permanent residence, based on the temporary resident permit;
2. who has been married for at least three years to a citizen of the Republic of Serbia or to a foreign national with a permanent resident status;
3. a minor, temporarily residing in the Republic of Serbia, providing that one of the parents is a citizen of the Republic of Serbia or a foreign national who has been granted permanent residence, with the consent of other parent; and
4. who originally comes from the territory of the Republic of Serbia.

Exceptionally, permanent residence may be granted to another foreign national who has been granted temporary resident status, if so required by humanitarian reasons or if it is in the interest of the Republic of Serbia. The foreign national who has been granted permanent residence has equal treatment with respect to rights and obligations as citizens of the Republic of Serbia, except with regard to those rights

and obligations from which he/she has been exempt, pursuant to the Constitution and law.

The right of permanent residence shall cease if:

- it has been determined that a foreign national has moved out of the Republic of Serbia or that he/she has continuously resided abroad for more than a year and has not inform the competent authority thereof;
- a foreign national has been cancelled a residence;
- a foreign national has renounced the right of permanent residence.

5.4 Domicile and place of residence of foreign nationals

Within the meaning of the Law on Foreigners, the place of residence shall be the place where a foreign national, who has been granted residence in the Republic of Serbia, intends to reside for a period exceeding 24 hours, whereas the domicile shall be the place where a foreign national, who has been granted permanent resident status, intends to reside permanently at a specified address.

The foreign national who has been granted permanent resident status shall register his/her domicile and change of address in it, within eight days from the day of arrival in the domicile or from the day of the change of the address. The foreign national shall deregister his/her domicile the day before leaving it.

5.5 Collection of personal data and register of foreign nationals

The Law on Foreigners provides for the possibility for the competent authority to collect personal data about foreign nationals from public authorities, companies and other legal entities, entrepreneurs and citizens of the Republic of Serbia. Collection, processing and usage of personal data about foreign nationals shall be carried out in accordance with a special law regulating the protection of personal data.

5.6 Travel and identity documents for foreign nationals

The Law on Foreigners also specifies the types of travel documents for foreign nationals, such as:

1. travel documents for stateless persons, and
2. certificate of travel for a foreign national.

Travel documents for stateless persons, with a period of validity of up to two years, shall be issued by the competent authority, based on the domicile or place of residence of a stateless person, in accordance with the international agreement. A rulebook specifying and regulating conditions and the layout of the travel document form for stateless persons, has not yet been adopted.

The Law prescribes which institutions and under what conditions they shall issue a **certificate of travel for a foreign national** to a foreign national without a valid travel document.

A foreign national, who is a member of diplomatic or consular representative office of a foreign state or a member of another mission with a diplomatic status, shall be issued a **special identity card**.

An identity card for a foreign national, who has been granted permanent resident status, shall be issued with a period of validity of five years. An identity card for a foreign national, who has been granted temporary resident status, shall be issued with a validity period for which he has been granted temporary residence. A minor foreign national, who has been granted permanent residence, shall be issued an identity card with a validity period of two years.

5.7 Unlawful residence of foreign nationals

The Law on Foreigners defines the term of unlawful residence of a foreign national as a **residence in the territory of the Republic of Serbia without the visa, residence permit or other legal grounds**.

A foreign national who unlawfully resides in the Republic of Serbia or who does not leave the Republic of Serbia within the specified deadline, may be forcibly removed by the competent authority.

It is forbidden to forcibly remove a foreign national to a territory where there is a fear of his/her persecution on the grounds of race, gender, language, religion, nationality, membership in a particular social group or his/her political opinion. A foreign national may not be forcibly removed to a territory where there is a risk that he/she would be subjected to torture, inhuman or degrading treatment or punishment.

5.8 Detention of foreign nationals

The Law on Foreigners enables detention of foreign nationals, as well. Exceptionally, if so required for reasons of providing forced removal, a foreign national may be detained at the premises of the competent authority, but for the period not exceeding 24 hours, while for his/her detention, provisions of the **Law on Police**⁴⁰ shall be applied.

The Law on Foreigners acknowledges the category of **temporary holding facilities for foreign nationals**, where foreign nationals, who may not be immediately forcibly removed and foreign nationals, whose identity has not yet been established or do not have any travel document, are referred to, by means of a decision.

Foreign nationals shall stay at a temporary holding facility under intensified police supervision. **Accommodation at the temporary holding facility shall last until the forced removal of the foreign national, for a period not exceeding 90 days.** The foreign national may have his/her stay at the temporary holding facility extended if his/her identity has not yet been established, if he/she intentionally obstructs forced removal procedure, or if, during the forced removal procedure, he/she has submitted an asylum application, for the purpose of avoiding forced removal, whereupon the total period of stay at the temporary holding facility may not exceed 180 days.

The Law specifies that a minor foreign national shall be accommodated at the temporary holding facility with his/her parent, or other legal representative, unless the competent custodial authority evaluates that another accommodation might be more suitable for him/her. **The**

40 “Official Gazette of RS”, No. 101/05, 63/09– Decision of the Constitutional Court and 92/11.

minor foreign national may not return to his/her country of origin or a third country willing to admit him/her, until an adequate admission is provided. The Law on Foreigners also defines the methods of termination of stay at the temporary holding facility.

5.9 Penal policy

The Law on Foreigners also specifies the penal policy for misdemeanours, both of legal entities, as well as of natural persons. A legal entity shall be punished when:

- he/she admits a foreign national to the territory of the Republic of Serbia or refuses to send the foreign national back, contrary to the provisions of the Law;
- his/her omissions in organisation of tourist or business travels cause unlawful residence of a foreign national in the territory of the Republic of Serbia;
- contrary to the Law, he/she fails to submit to the competent authority, a certified guarantee by the place of residence of a foreign national;
- he/she fails to inform the competent authority about the residence of a foreign national within 24 hours from the time of providing accommodation services to the foreign national.

A natural person, who fails to inform the competent authority about the residence of a foreign national, within 24 hours from the time of arrival of a foreign national for visiting purposes, shall be punished by a pecuniary penalty.

For certain misdemeanours, according to the Law on Foreigners, a foreign national may be punished by a pecuniary penalty when:

- he/she unlawfully enters the Republic of Serbia;
- he/she fails to leave the Republic of Serbia within the specified deadline;

- he/she leaves a temporary holding facility without permission or fails to abide by the house and accommodation rules at the temporary holding facility;
- he/she fails to submit a request for extension of temporary residence within the specified deadline;
- he/she fails to submit a request for issuing an identity card for foreign nationals within the specified deadline;
- he/she fails to submit a request for the change of an identity card within the specified deadline;
- he/she fails to return an identity card in cases stipulated by the Law;
- he/she fails to report disappearance or loss of documents;
- he/she fails to inform about residence and change of address, within 24 hours from the time of arrival in the place of residence, that is from the day of the change of residence address;
- contrary to the Law; he/she wears foreign military, police or customs uniform during his/her residence.

Apart from the pecuniary penalty, a foreign national may be prescribed a protection measure of removal from the territory of the Republic of Serbia when:

- he/she moves or reside in particular area, contrary to the restriction or legal prohibition;
- he/she resides in the Republic of Serbia, contrary to reasons for which he/she has been issued the visa or granted residence;
- he/she unlawfully resides in the Republic of Serbia;
- he/she refuses to present an identity document to the police officer of the competent authority;
- he/she lends his/her identity document to another person or if he/she uses an invalid document or other person's document as his/her own.

Example

ILLEGAL IMMIGRANTS....FIVE AFRICANS ARRESTED, THE PRESS, 13 March 2011

Užice - The Užice Police Department has arrested five African nationals on the Bar-Belgrade train, trying to unlawfully enter the Republic of Serbia, while fleeing the war conflicts. The names of the arrested are: Hamid Kamila (32), Benzenga Mikhtar (33), Wanid Dridi (26) from Algeria, Arbaoui Tiufik (23) from Morocco and Zakariya Blu Amara (19) from Palestine.

A judge of the Užice Magistrates' Court has sentenced them to pecuniary penalties of 20,000 RSD, but since they had no money, their sentence has been replaced by the sentence of imprisonment of 20 days. They have been prescribed a protection measure of removal from the territory of the Republic of Serbia, for the duration period of one year. Before Serbia, they were arrested in Montenegro, where they were sentenced and after leaving the prison they went to Serbia. They were arrested on the train in Prijepolje travelling as passengers.

ANOTHER ARREST FOR TRAFFICKING IN HUMAN BEINGS, Jelena Stojković, The Južne Vesti Daily, 11 April 2011

Vranje- The police has brought Đorđe G. (1968) and Romeo G. (1961) from Novi Sad, before the investigating judge of the Primary Court of Vranje, for the well-founded suspicion of committing an illegal crossing of the state border and people smuggling. The police report states, an Afgan citizen made a deal on 8 April of the current year with Đorđe and Romeo, to use his personal vehicle, in order to transport a significant number of Afgan citizens from Preševo to Subotica. They have illegally crossed the state border between the Republic of Macedonia and the Republic of Serbia and the police has interrupted the further course of their journey. The investigating judge has issued a detention order of one month for Đorđe G. and Romeo G.

Foreign nationals have been brought before a judge of the Vranje Magistrates' Court, Bujanovac Division, with the request for initiation of the offence procedure for illegal crossing of the state border and unlawful residence in Serbia. After the hearing, the judge issued a caution to one group of suspects, while the other was punished by a pecuniary penalty of 11,000 RSD, and for all of them, the judge prescribed a protection measure of removal from the territory of the Republic of Serbia, for the duration period of 12 months.

6. Particularly Vulnerable Categories of Migrants in the Republic of Serbia

6.1 Refugees

Pursuant to Article 1/A/2 of the 1951 Convention relating to the Status of Refugees, a refugee is a person who: “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”

6.1.1 Specific protection and fundamental rights

Protection of refugees may be divided into three phases, such as:

1. providing assistance during the process of leaving the respective area and arriving in the territory of a foreign state-taking care of the injured, disarmament etc.
2. assistance during the temporary residence abroad-provision of accommodation, food and other needs, family reunification, employment, issuance of relevant documents etc.
3. assistance upon repatriation-provision of resources and conditions for repatriation, relief aid for the country of origin etc.

6.1.2 Cessation of refugee status

Pursuant to Article 1/C of the 1951 Convention relating to the Status of Refugees, the Convention shall cease to apply to any person who has gained refugee status in the following cases:

1. if he/she has voluntarily re-availed himself of the protection of the country of his nationality;
2. if, having lost his nationality, he/she has voluntarily re-acquired it;

3. he/she has acquired a new nationality, and enjoys the protection of the country of his/her new nationality;
4. he/she has voluntarily re-established himself/herself in the country which he/she left or outside which he/she remained owing to fear of persecution;
5. he/she can no longer, because the circumstances in connection with which he/she has been recognised as a refugee have ceased to exist, continue to refuse to avail himself/herself of the protection of the country of his/her nationality (provided that this paragraph shall not apply to a person who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself/herself of the protection of the country of nationality); and
6. being a person who has no nationality he/she is, because of the circumstances in connection with which he/she has been recognised as a refugee have ceased to exist, able to return to the country of his/her former habitual residence (provided that this paragraph shall not apply to a person who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his/her former habitual residence).

6.1.3 Refugees in the Republic of Serbia

The Law on Refugees was enacted in 1992⁴¹, while its specific feature is in specific definition of the term refugee and its restriction to persons who originally come from the territory of the Former Socialist Federative Republic of Yugoslavia.

41 Apart from this Law, several other by-laws have been enacted, such as: Regulation on Providing Care to Refugees ("Official Gazette of RS, No. 20/92, 70/93, 105/93, 8/94, 22/94, 34/95 and 36/04); Regulation on the Method of Providing Care to Displaced Persons ("Official Gazette of RS, No. 47/95); Regulation on Specified Conditions and Standards for Determination of the Order of Priority for Resolving the Housing Needs of Refugees ("Official Gazette of RS, No. 58/2011); Rulebook on the Record Keeping of Refugees ("Official Gazette of RS, No. 23/92); Rulebook on Refugee Identity Documents ("Official Gazette of RS, No. 23/92 and 139/04); Rulebook on the Refugee Record Form ("Official Gazette of RS, No. 23/92, 22/94 and 61/94).

After some time, when it became obvious that the issue of refugees is not temporary, but the large number of persons with refugee status, have decided to stay in Serbia, the need has arisen to amend this Law, in order to create a clearer legal framework for integration of persons who acquired the citizenship of the Republic of Serbia. Firstly, the Law on Asylum was enacted in 2007, by means of which the institution of asylum was harmonised with international obligations of Serbia, so that provisions of the Law on Asylum are applied to persons to whom it is not possible to apply provisions of the Law on Refugees. Also, the existing Law on Refugees from 1992, was amended in May 2010.

Even though the term refugee is still specifically defined for purposes of the Law on Refugees, the abovementioned amendments have broadened it, in comparison with the original text from 1992. Refugees are now defined as:

persons who have escaped or have been expelled from territories of former Yugoslav republics to the territory of the Republic of Serbia, due to events from 1991 to 1998 and consequences thereof, and who are unable or unwilling, owing to the fear of persecution or discrimination, to return to the territory they have fled, including persons who have chosen to be integrated.

A person who has chosen to be integrated shall be a person who has applied for the citizenship of the Republic of Serbia.

6.1.3.1 Recognition and cessation of refugee status

Pursuant to the Law on Refugees, the Commissariat for Refugees has been established as a separate organisation in charge of professional and other duties pertaining to provision of care, return and integration of refugees. The Commissariat for Refugees shall decide in the first instance on recognition and cessation of refugee status, as well as on the right to provision of care, its decrease and cessation. A dissatisfied party may file a complaint against the decision of the Commissariat, within 15 days from the day of delivery. The Ministry of Interior shall decide on the complaint against decision of the Commissariat on recognition and cessation of refugee status. The Commission for Resolving Housing Needs of Refugees shall decide on the complaint against

decision on provision of care, decrease and cessation of the right to provision of care.

The procedure of the cessation of refugee status may be initiated ex officio or at the justified refugee's request. The Commissariat shall adopt a decision ex officio on the cessation of refugee status:

- 1) if a person has acquired the citizenship of the Republic of Serbia and initiated the procedure of domicile registration;
- 2) if a person has voluntarily returned to reside in the former Yugoslav republic he/she fled;
- 3) if a person has moved to a third country, and
- 4) in case of beneficiaries of the housing programme in the process of integration.

The Commissariat shall communicate to the Ministry of Interior the Decision on Cessation of Refugee Status and the Ministry shall seize the refugee identity document from the refugee whose status has ceased.

6.1.3.2 Rights of refugees

The Law also defines that provision of care to refugees includes an organised reception, temporary accommodation, food aid, material and other assistance, as well as the right to health care and social assistance, employment and education, in accordance with the Law. Refugees are subject to employment obligations under the same conditions as citizens of the Republic of Serbia. Refugees shall exercise abovementioned rights, according to their residence in the Republic of Serbia.

On the basis of Amendments to the Law on Refugees, a legal framework has been established for resolving housing needs of refugees. Housing needs of refugees and former refugees who have acquired the citizenship of the Republic of Serbia and initiated the procedure of domicile registration, may be resolved by:

- 1) granting state-owned immovable property for temporary use;
- 2) temporary leasing of state-owned immovable property with a possibility of purchase;

- 3) allocation of resources for improvement of housing conditions;
- 4) acquisition of construction materials for the initiated construction of immovable property; or
- 5) purchasing a country house with a croft.

The first instance procedure shall be conducted and decision taken by a Commissariat Commission. Complaints against decisions of this Commission may be filed to the Government Commission for Resolving Housing Needs of Refugees, within 15 days from the day of receipt of the first instance decision.

6.2 Internally displaced persons

“Internally displaced persons” is a term used for persons who have remained within the territory of the state they reside in, but for some reason, they have been forced, against their will, to change their domicile. **Therefore, the difference between refugees and internally displaced persons is that displaced persons do not cross an internationally recognised state border.**

Since they are the citizens of one country, at the international level, there has been no initiative to adopt a convention, which would regulate their status. It was considered that their status had already been adequately defined by the existing legal framework and that such persons enjoyed all the rights as other citizens of the respective country. However, exceptionally difficult position of those persons, for whom countries usually are not able or not willing to provide special protection, as well as the increase in their number during the last two decades, have resulted in adoption of the international document in this field. Therefore, in 1999, a Special Representative of the UN Secretary-General on Internally Displaced Persons, Settlement and Reintegration published the **Guiding Principles on Internal Displacement**.

The document defines displaced persons as:

“those persons or groups of persons who have been forced or obliged to flee, or to leave their homes or places of habitual residence,

in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised state border”.

6.2.1 International standards

During the displacement process, the following principles shall be applied:

1. **every human being has the inherent right to life;**
2. every human being has the right to dignity, physical, mental and moral integrity;
3. **every human being has the right to liberty and security of person;**
4. **in no circumstances shall displaced children be recruited nor be required or permitted to take part in hostilities;**
5. every internally displaced person **has the right to liberty of movement and freedom to choose his or her residence;**
6. internally displaced persons have the right to **seek safety in another part of the country, to leave their country, to seek asylum in another country and to be protected against forcible return or resettlement;**
7. all internally displaced persons **have the right to know the fate and whereabouts of missing relatives;**
8. every human being **has the right to respect of his or her family life**, that is the right not to be separated from and to be reunited with the family, as quickly as possible.
9. all internally displaced persons **have the right to an adequate standard of living;**
10. all wounded or sick internally displaced persons, as well as those with disabilities, shall receive **the medical care they require**, including the access to psychological and social services;
11. every human being has the right **to recognition everywhere as a person before the law**, means that the authorities concerned shall issue to them all documents necessary for the

enjoyment and exercise of their legal rights (such as passports, personal identification documents, birth, marriage and death certificates);

12. every human being has **the right to property**, while property and possessions of internally displaced persons should be protected against destruction and arbitrary and illegal appropriation, occupation or use;
13. internally displaced persons **shall not be discriminated against; and**
14. every human being **has the right to education.**

In case of return, resettlement and reintegration, the following principles shall be applied:

1. **competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means** which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration;
2. internally displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country, shall not be discriminated against, as a result of their having been displaced and they shall be **enabled equal access to public services**. Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation; as well as
3. all authorities concerned shall grant or facilitate for international humanitarian organisations and other appropriate actors, in the exercise of their respective mandates, rapid and unimpeded access to internally displaced persons, to assist in their return or resettlement and reintegration.

6.2.2 Status of displaced persons in Serbia

After the NATO (*North Atlantic Treaty Organisation*) intervention in 1999 and arrival of KFOR (*Kosovo Force*), a significant number of the non-Albanian population left Kosovo and Metohija and settled in other parts of the country. According to the data of the Commissariat for Refugees, until 2010, 210,146 of internally displaced persons were registered, mainly in Central and South Serbia. Majority of them live in private accommodation, while 3,358 persons, predominantly old and sick, are accommodated in 54 collective centres.

The National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons, adopted in 2002, established the framework for creation of conditions for sustainable return and local integration. Taking into consideration new circumstances in which displaced persons have found themselves, regarding the changed demographic features, living conditions and prospects, a new National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons for the Period 2011-2014 was adopted in 2011. This Strategy defines two basic courses of strategic action, such as:

1. full support to sustainable return to Kosovo and Metohija;
2. acceptance of reality of the long-term displacement and need to find the solution.

The Strategy for Sustainable Return and Survival in Kosovo, adopted in 2010, advocates sustainable return of internally displaced persons and socio-economic development of the Serbian and other non-Albanian population in the Province.

The number of persons who have returned to Kosovo and Metohija is very small, as well as the number of displaced persons who have found some other long-term solution. The main reasons for such a low rate of refugee return probably lie in the lack of security in Kosovo, restricted freedom of movement, limited access to public services and schools for children, lack of economic perspective for returnees and difficulties they face in restitution of their own property.

In the recent years, several restrictive programmes have been initiated aimed at empowerment of displaced persons and improvement of their status in the local community. Since 2008, solving of the issue of internally displaced persons has also been stimulated through adop-

tion and financial support to local action plans. By the end of 2010, local action plans (LAPs) for refugees and internally displaced persons were adopted in 102 municipalities in Serbia. Various programmes, funded by EU, UN agencies, the Government of the Republic of Serbia and foreign governments are being implemented. Those programmes are based on:

1. provision of materials for completion of construction commencement or adaptation of uninhabitable houses, that is allocation of prefabricated houses;
2. purchase of country and suburban houses with crofts;
3. connection of families of internally displaced persons and domicile elderly households without support;
4. provision of apartments from the social housing programmes;
5. facilitating and guaranteeing safe visits to Kosovo;
6. financial assistance for families leaving collective centres and starting independent lives;
7. vocational training, retraining and additional training; and
8. donations as a support to income-generating activities, that is economic empowerment by means of commodity packages.

Various analysis of the status of internally displaced persons indicate that their major problems concern housing, access to information and employment, due to a long period of inactivity and lack of required qualifications and contacts, as well as a lack of basic documents which enable exercise of other rights.

6.3 Asylum seekers

The first international document recognising the right to asylum is the Universal Declaration of Human Rights, which in Article 14 stipulates that “everyone has the right to seek and to enjoy in other countries asylum from persecution”. As it is obvious from the statement itself, the right to asylum refer to person’s right to seek protection, but not his/her right to receive such protection.

This right may not be invoked by a person in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations. Therefore, the asylum may not be granted to a person suspected of committing crimes against peace, war crimes or crimes against humanity.

6.3.1 Asylum seekers and the Republic of Serbia

The Constitution of the Republic of Serbia guarantees the right to refuge in the Republic of Serbia to a foreign national who has a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular group or political opinion (Article 57, Paragraph 1 of the Constitution) and stipulates that the procedure of providing refuge shall be established.

The Law on Asylum was enacted in 2007, but became applicable on 1 April 2008⁴². The Law on Asylum stipulates principles, conditions and procedure for granting and terminating asylum, as well as status, rights and obligations of asylum seekers and persons entitled to asylum

42 Accompanying regulations of the Law are as follows:

Rulebook on House Rules in the Asylum Centre ("Official Gazette of RS", No. 31/2008);

Rulebook on Conditions for Accommodation and Provision of Basic Living Conditions in the Asylum Centre ("Official Gazette of RS", No. 31/2008);

Rulebook on the Method of Record Keeping and Contents of Registry of Persons Accommodated at the Asylum Centre ("Official Gazette of RS", No. 31/2008);

Rulebook on Social Assistance for Asylum Seekers or Persons who Have Been Granted Asylum ("Official Gazette of RS", No. 44/2008);

Rulebook on Contents and Layout of Asylum Application Form and Documents which May Be Issued to Asylum Seekers and Persons who Have Been Granted Asylum or Temporary Protection ("Official Gazette of RS", No. 53/2008);

Rulebook on Medical Examinations of Asylum Seekers during the Admission to the Asylum Centre ("Official Gazette of RS", No. 93/2008);

Decision on Establishing the Asylum Centre ("Official Gazette of RS", No. 112/2008), establishing the Asylum Centre in Banja Koviljača;

Decision on Establishing a List of Safe Countries of Origin and Safe Third Countries ("Official Gazette of RS", No. 67/2009); and

Decision on Establishing the Asylum Centre ("Official Gazette of RS", No. 34/2011), establishing the Asylum Centre in Bogovađa.

in the Republic of Serbia. This Law shall not apply to persons who have gained refugee status under the Law on Refugees of the Republic of Serbia. Article 2 of the Law on Asylum sets out the meaning of basic terms used in this legal regulation.

6.3.2 Definitions of terms

Asylum is defined as the right of residence and protection accorded to a foreign national to whom, on the basis of a decision of the competent authority, deciding on his/her application for asylum in the Republic of Serbia, refuge or another form of protection provided by this Law, was granted.

Refuge is the right of residence and protection granted to a refugee in the territory of the Republic of Serbia, with respect to whom the competent authority has determined that his/her fear of persecution in his/her country of origin is well-founded.

Refugee is a person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular group or political opinion, is outside the country of his/her nationality and is unable or, owing to such fear, is unwilling to avail himself/herself of the protection of that country; or who, not having a nationality and being outside the country of his/her former habitual residence, as a result of such events, is unable or, owing to such fear, is unwilling to return to it”.

Subsidiary protection is a form of protection which the Republic of Serbia grants to a foreign national who, in case of his/her return to the country of origin, would be subjected to torture, inhuman or degrading treatment, or where his/her life, safety or freedom would be threatened by generalised violence, caused by external aggression or internal armed conflicts or massive violation of human rights.

Temporary protection is a form of protection introduced in the case of a massive influx of people, when it is not possible to conduct an individual procedure for granting the right to asylum.

6.3.3 Asylum granting procedure

As regards asylum application and cessation of this right, the Law provides for the possibility to for **the first instance asylum procedure** to be conducted and all decisions made by the competent organisati-

onal unit of the Ministry of Interior- namely *the Asylum Office*. Since office of this kind has not yet been established, all duties falling within its scope of competence shall be performed by the Asylum Section within the Department for Foreigners of the Border Police Administration (BPA).

The Asylum Commission shall decide **in the second instance** on complaints against decisions taken by the Asylum Office. The Asylum Commission is independent in its work and passes decisions by a majority vote of the total number of its members, while the Ministry of Interior performs administrative tasks for the Commission.

Until final decision on their asylum application, asylum seekers shall be provided with accommodation and basic living conditions in the **Asylum Centre**, established within the Commissariat for Refugees. Funds required for operations of the Asylum Centre shall be provided from the Budget of the Republic of Serbia. In case the Centre has reached its full capacity, it is not obliged to admit and accommodate the person referred by the Commissariat for Refugees.

The asylum granting procedure shall be conducted in several phases:

1. foreign national may express, verbally or in writing, his/her intention to seek asylum to an authorised police officer of the Ministry of Interior, during a border control, while entering the Republic of Serbia, or inside its territory;
2. the authorised police officer of the Ministry of Interior, to whom the foreign national has expressed his/her intention to seek asylum, shall **enter him/her into records** and refer him/her to the Asylum Office or Asylum Centre, which the foreign national should contact within 72 hours;
3. the authorised officer of the Asylum Office **registers** the foreign national and his/her family members. Upon the completion of his/her registration, the foreign national is issued an identity card for asylum seekers;
4. **asylum granting procedure** is initiated by applying for asylum to the authorised officer of the Asylum Office using the prescribed application form, within 15 days from the day of regi-

stration. At the foreign national's request and in justified cases, this deadline may be extended by the Asylum Office; and

5. the authorised officer of the Asylum Office shall personally **interview the asylum seeker** as soon as possible. The interview may be attended by the asylum seeker's legal representative and UNHCR representative (*United Nations High Commissioner for Refugees*), unless the asylum seeker objects it.

After the conducted procedure, the Asylum Office passes a **first instance decision**. The Office may determine that the person in question is legally eligible and accept the asylum application and recognise the right to refuge or grant subsidiary protection. The Office may also establish that the application is unfounded or other statutory reasons for refusing the asylum application, when it decides on refusal of application. In that case, the Office shall order the foreign national to leave the territory of Serbia within the specified deadline, unless there are some other grounds for residence. Reasons for refusal of the status should be justified. The Law also defines reasons due to which the Asylum Office may **reject** an asylum application, without examining the eligibility of an asylum seeker for grant of asylum (for instance, if the asylum seeker has arrived from the safe third country or if he/she has deliberately destroyed a travel document or identification documents). The first instance procedure may be suspended ex-officio, for instance, if a person withdraws an asylum application or leaves the Republic of Serbia without the approval of the Asylum Office.

Second instance decision - it is possible to file a complaint against the first instance decision rendered in the asylum procedure, within 15 days from the day of receipt of the first instance decision. The Asylum Commission shall decide on the complaint.

Repeated asylum application – a foreign national whose asylum application was refused in the past, in the Republic of Serbia, may file a new application if he/she provides evidence that the circumstances, relevant for the recognition of the right to refuge or for granting subsidiary protection, have substantially changed in the meantime. Otherwise, the application will be rejected.

6.3.4 Documents

Pursuant to the Law on Asylum and Rulebook on Contents and Layout of Asylum Application Form and Documents which May Be Issued to Asylum Seekers and Persons who Have Been Granted Asylum or Temporary Protection, the Ministry of Interior shall issue:

- *a certificate for a person who has expressed an intention to seek asylum;*
- *an identity card for an asylum seeker;*
- *an identity card for a person granted asylum;*
- *an identity card for a person granted temporary protection;*
- *a travel document for refugees.*

6.3.5 Cessation of the right to refuge

There might be two reasons for termination of asylum:

1. reasons leading to *cancellation of the asylum granting decision;*
2. reasons leading to *revocation of the asylum granting decision;*

The right to refuge ceases when the Asylum Office cancels the asylum granting decision ex officio due to the following reasons:

1. if a person has voluntarily re-availed himself/herself of the protection of his/her country of origin;
2. if a person has voluntarily regained a citizenship he/she has previously lost;
3. if a person has acquired new citizenship and thus enjoys the protection of the country of his/her new citizenship;
4. if a person has voluntarily returned to the country he/she left or outside which he/she has remained owing to fear of persecution or ill-treatment, and
5. if a person may not longer refuse the protection of his/her country of origin, because the circumstances that led to his/her being granted protection, have ceased to exist.

The right to refuge ceases when the Asylum Office revokes the asylum granting decision ex officio due to the following reasons:

1. when the asylum granting decision has been rendered on the basis of deceitfully presented facts or concealment of facts by an asylum seeker and that, due to the abovementioned reason, at the time of the submission of the asylum application, he/she was not eligible for the grant of asylum; and
2. when there are statutory reasons for which he/she would have been denied the right to refuge, had these reasons been known at the time of the submission of the asylum application.

6.3.6 Removal measure of a foreign national

A foreign national whose application has been refused or rejected, or it has been decided to suspend the procedure and who does not reside in the country on other grounds, is obliged to leave the Republic of Serbia within the deadline stipulated in the decision. The deadline during which the foreign national is obliged to leave the Republic of Serbia, may not exceed 15 days from the day of the receipt of the final decision. If the foreign national does not voluntarily leave the Republic of Serbia, he/she will be forcibly removed, in accordance with provisions of the law regulating movement and residence of foreign nationals.

Until his/her removal from the Republic of Serbia, the foreign national may be accommodated at the **temporary holding facility for foreign nationals**.

6.4 Returnees under the readmission agreements

Readmission refers to the process of safe return of persons who are not or who are no longer eligible for entry, residence or settlement in the territory of respective state.

The Republic of Serbia applies several readmission agreements. After a number of bilateral treaties and agreements on readmission with EU member countries, on 18 September 2007, the Republic of

Serbia and European Community signed the Treaty on Readmission of Persons Residing Unlawfully in the Territory of European Community.

Major problem in planning of reintegration of returnees in the Republic of Serbia is the lack of accurate data on the number and structure of returnees. The Ministry of Interior only keeps records of the process of returning persons whose return has been previously announced by the foreign authorities. According to the 2010 Report of the Commissariat for Refugees of the Republic of Serbia and the Office for Readmission, out of 1164 persons, who were returned through the Belgrade Airport “Nikola Tesla”, 632 persons were persons of the Roma nationality.⁴³ These trends continued in 2011, while the Roma population most frequently decide to leave the country due to the problems which they face on a daily basis, such as poverty, low level of education, lack of documents, exposure to discrimination, as well as many others.

6.4.1 Treaty with the European Community

This Treaty defines obligations of the Republic of Serbia and European Community with respect to circle of persons subject to readmission, either as regards readmission of their own nationals or readmission of third country nationals and stateless persons. The term “third-country national” refers to a person who is not a citizen of either the Republic of Serbia or European Union.

A) Obligations of the Republic of Serbia

Serbia has pledged to accept, at the request of EU member state, without additional formalities, other than those stipulated by this Treaty, any person who does not meet or no longer meets conditions in force for entry, temporary or permanent residence in the territory of a member state which has submitted an readmission application, provided that it is has been proved or it may be validly assumed, on the basis of *prima facie* evidence furnished, that the said person is the citizen of Serbia. The Treaty also specifies cases in which Serbia is obliged to accept readmission of a third-country national or stateless person (for instance, if that person is in possession of a valid visa or residence permit, issued by the Republic of Serbia, or if he/she directly and unlawfully entered the territory of the European Union, after having resided

43 *Access to Rights and Integration of Returnees on the Basis of the Readmission Agreement, Analysis of Main Problems and Obstacles, Praxis, August 2011, Belgrade.*

in or transited through the territory of the Republic of Serbia). Serbia shall also readmit nationals of the Former Socialist Federative Republic of Yugoslavia who have acquired no other citizenship and whose place of birth and domicile, on 27th April 1992, was in the territory of Serbia.

B) Obligations of the European Community

The EU member state shall readmit, at the request of Serbia, without additional formalities, other than those stipulated by this Treaty, any person who does not meet or no longer meets conditions in force for entry, temporary or permanent residence in the territory of Serbia, provided that it has been proved or it may be validly assumed, on the basis of *prima facie* evidence furnished, that the said person is the citizen of the respective member state

6.4.2. Rights of returnees and their most common problems

The returnees holding the Republic of Serbia citizenship are entitled to the same rights and duties as the other Serbian nationals. Therefore, there is no particular law regulating their status.

However, due to difficult position in which these persons are found, which is usually related to insufficient language skills, isolation, difficult financial situation or similar circumstances, the existing laws should be consistently applied to these categories of persons. It has already been mentioned that Romas, who have left the country due to difficult situation in which they were found, account for the greatest percentage of this population.

What constitutes the problem with returnees is the fact that there is no basic assessment of their vulnerability, both at the state and local level, which renders any planning and application of social protection measures impossible. The first steps in the process of reintegration of returnees were made upon the adoption of the Strategy for Reintegration of Returnees under the Readmission Agreement from 2009, which envisages setting up of the institutional framework for reintegration of returnees and creation of conditions for their initial admission and capacity building of local communities for their reintegration. Strategy for Reintegration of Returnees under the Readmission Agreement from 2009 referred to the following fields as the source of greatest difficulties facing the population of returnees: access to personal docu-

ments, registration of domicile and residence, education, employment, health care and social welfare and resolving of housing issues.⁴⁴

In order to exercise any rights envisaged by relevant laws, returnees have to possess valid documents. A certificate of travel is first issued to returnees with the validity period of three months at least from the date of issue. The certificate of travel shall have the force of public document and constitute the main identification document to be used before public authorities. By means of this document it shall be further possible to receive emergency medical care, address social work centres and start the process of children enrollment in primary and secondary schools. Returnees shall be obliged to start the identity card application process before the expiry date of the certificate of travel. In order to obtain the identity card, it is necessary to submit a birth certificate, a citizenship certificate as well as a certificate of registered domicile. This may cause difficulties for returnees who have not lived in Serbia for a long time and do not know which registry offices they should address and in what manner. In addition, should the persons be born abroad, they have to obtain the birth certificates issued by a foreign authority on an appropriate form. If the certificate is not provided on the appropriate form, it has to be certified by a relevant diplomatic or consular representation office of the country in which the document was issued, as well as apostilled by the Ministry of Interior of the Republic of Serbia thereupon. Such document is finally to be translated into the Serbian language by the court interpreter, which further complicates the procedure of registration into vital records registries. Finally, it may be that the entered information is incorrect or incomplete so that the returnee has to initiate adequate administrative or judicial proceedings before foreign authorities in order to have that information corrected or amended.

The social work centre frequently assists returnees by providing them with one-time financial support for obtainment of documents. Due to the fact that they often do not possess any personal documents, these persons may not receive any other type of assistance, above all the financial family assistance (FFA). Some returnees who hold relevant documents, according to the statements of the Social Work Centre staff, have been referred to the Disability Committee for the review in order to exercise their right to disability care benefits.

44 Ibidem.

6.4.3 Interventional care mechanism

With a view to establishing the mechanisms for provision of interventional care to returnees by converting the sections of collective centres and adapting them, the interventional admission centres have been set up in Obrenovac, Bela Planka, Zaječar and Šabac.

Returnees are accommodated in the Interventional Admission Centre on the basis of the referral issued by the Commissariat for Refugees, which shall be signed by both parties. This is where the families who state that they do not have possibility of temporary accommodation or any close relatives or friends are accommodated. These centres provide basic living conditions, however the accommodation itself may not exceed 14 days. The families who are not willing to be accommodated in the Centre shall be obliged to sign the statement confirming that they do not need this kind of accommodation. Upon the expiry of 14 days, returnees shall be referred to the place in which their domicile was registered prior to going abroad, the previous place of residence or to other place where they are planning to settle on temporary or permanent basis, that is, the place to which they have been referred. Should they have no funds to buy a ticket, they shall address social work centres, which provide a one-way ticket.

The Commissariat for Refugees shall undertake to:

- provide basic living conditions within the envisaged period of emergency care;
- cooperate with the competent institutions, authorities and organisations so as to establish all facts pertaining to socio-economic status of returnees, also including legal, family, health, educational and financial status, with a view to exercising the rights of returnees;
- inform returnees about their rights, responsibilities and possibilities with the aim of successful reintegration;

- inform competent services about the persons belonging to the category of particularly vulnerable groups in order to undertake measures within their remit;
- provide assistance in order to start the process of obtaining the lacking documents for the persons who would like to do so in this period;
- establish the contact with self-government units and inform them about the arrival of returnees from the centres; and
- provide the transport of returnees after 14 days, to the receiving areas in which returnees will start the process of reintegration.

Example

S.H. (aged 33) is a woman with three children that are seven, eleven and thirteen years old respectively. After their return from Germany she was given a one-time financial assistance on several occasions, in addition to the permanent monthly support of twelve thousand dinars.

She lives in Karaburma, in the settlement of Mali Leskovac, in the plastered house, without running water. There is a cold-water fountain in the backyard. The woman is of good health; she spends a day at home, while children every day scavenge waste wheelie bins looking for things and food as well. They find copper wires and other stuff that may be sold for two to three hundred dinars a piece. The woman says: „We have to, we're helpless, children must eat something and they eat what they find in the bin, I can't do anything about it...” The youngest child has just been discharged from hospital since he had a severe viral pneumonia. The mother is occasionally visited by a man who is also a father to one of those children. She claims that she does not know his whereabouts and that he “comes and goes at his will”. Now she has „a boyfriend” who collects cardboard and occasionally helps her financially.

When he comes, he is staying with her and other children in the same room. They have one bed and sponge mattresses on which they sleep.

Although being young and capable for work, S.H. has never worked nor looked for a job since, she is explaining: “Where can I work, who will give me a job?”

She does not have problem with the fact that her children are scavenging waste bins and not her. There are many people in the settlement who scavenge waste bins and no one thinks it is a bad thing that children are doing the same thing as well. They say: “This is the way it is, everybody does it.”

Taken from: *Palilula – Our Home*, the results of the survey on returnees from Western Europe conducted in the Municipality of Palilula, Group 484, 2008, p 11.

6.5. Victims of human trafficking

Today all international instruments in the field of human rights protection forbid slavery and forced labour and the first specialized convention providing the definition of the human trafficking was only adopted in 2000. In that year the United Nations General Assembly adopted a package of instruments against different forms of organised crime, among others, the UN Convention Against Transnational Organised Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons (Palermo Protocol). Article 3 Paragraph a) of the said Protocol sets out all the activities to be considered trafficking in persons, providing a broad definition as follows:

“Trafficking in persons shall mean any recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, the abuse of power or a position of vulnerability or by giving or receiving payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

6.5.1 Distinction between the act of trafficking in persons and smuggling

In order to understand the term of trafficking, it is necessary to make distinction between this phenomenon and smuggling where there is an organised assistance to illegal immigrants to cross the border for the purpose of gaining economic benefits. Smuggling is carried out in order to obtain direct or indirect financial or any other material benefit, as a result of illegal entry of a person into the territory of the state of which the person is not a national or a permanent resident.

Hence, there are certain distinctions between these two institutes which include as follows:

1. Although smuggling of people is often carried out in dangerous and degrading conditions, migrants have consented to undertaken actions. On the other hand, trafficking in people always precludes either the absence of consent or initial consent which has been rendered meaningless by using coercive, deceptive or abusive actions;
2. Smuggling ends with migrants' arrival at their final destination, whereas trafficking in persons involves continuing exploitation of victims in order to generate profit for the traffickers. This means that trafficking victims are in particularly vulnerable position which implies that they have a greater need for protection, especially against the other forms of exploitation; and
3. Smuggling is always at transnational level, whereas it is not necessarily the case with trafficking.

6.5.2 Trafficking in people in Serbia

Trafficking in people has become a problem in the region with the rise of economic crises and breakup of Yugoslavia toward the end of the eighties in the last century.

Today this act has been incriminated under Article 388 of the Penal Code of the Republic of Serbia and belongs to the group of criminal acts against the humanity and other assets protected under the international law. This act shall impose three to twelve years of the sentence of imprisonment.

Trafficking in people has been broadly defined and shall mean *recruitment, transportation, transfer, hand over, sale, purchase, mediation in sale, harbouring* or holding other persons, by use of force or threat, practicing or maintaining deception, abusing powers, trust, position of a depending person or person in difficult position, retaining personal documents or giving or receiving payments or other benefits, for the purposes of exploitation of their labour, forced labour, commitment of criminal acts, prostitution or other forms of sexual exploitation, beggary, use for pornography purposes, slavery or similar practices, removal of organs or parts of the body or for the involvement in armed conflicts.

6.5.3 Institutional framework for combating the trafficking in human beings in Serbia

Palermo Protocol was ratified in Serbia in 2001⁴⁵, after which the first institutions to prevent trafficking in people were established.

First, ***the Republic Team for Combating Trafficking in Human Beings*** was set up and the first national coordinator for combating trafficking in human beings was nominated (Deputy Head of the Border Police Administration). He ensures implementation of the set strategic goals, implementing his activities through four working groups whose scope of action covers the following fields:

45 Law on Ratification of the UN Convention against Transnational Organised Crime and Additional Protocols, "Official Gazette of the FRY – International Agreement", no. 6/2001.

- prevention and education (coordinator NGO *Astra*);
- protection of victims (coordinator the Ministry of Labour and Social Policy);
- prevention of child trafficking (coordinator NGO *Beosupport*);
- criminal prosecution of human traffickers (coordinator the Ministry of Justice).

Coordinator for combating trafficking in human beings was appointed under the Decision of the Minister of Interior in December 2001. He is responsible to coordinate the work between the ministries, non-governmental organisations (NGO) and international organisations, see to international and regional cooperation, monitor the current situation and initiate activities in the field of combating the trafficking in human beings as well as submit relevant reports to the Council for Combating the Trafficking in Human Beings.

Toward the end of 2004 the ***Council for Combating Trafficking in Human Beings*** of the Government of the Republic of Serbia was established comprising the ministers of the relevant ministries and being responsible for coordination of national and regional activities aimed at combating this phenomenon.

In February 2004 the ***Advisory Body of the Republic Team for Combating Trafficking in Human Beings*** was established. It includes a national coordinator and his assistants, the Republic team group leaders and representatives of international organisations of IOM, OSCE (*Organisation for Security and Co-operation*) and UNICEF (*United Nations Children's Fund*). The principal task of this body is to assist and support the national coordinator in coordination and implementation of measures and activities in preventing trafficking in human beings.

In addition to these strategic authorities, there are also operational authorities including as follows: judicial authorities, police and the Agency for Coordination of Protection to Victims of Trafficking in Human Beings.

In 2004 the ***Agency for Coordination of Protection to Victims of Trafficking in Human Beings*** was established within the Institute for

Upbringing of Children and Youth in Belgrade. The main task of this Agency is to coordinate the process of provision and organisation of all forms of assistance to the victims of trafficking in human beings. However, only two persons responsible for the entire territory of Serbia work for this Agency, which makes the work of this Agency more difficult. In the end 2009 the Cooperation Agreement was signed between the Ministry of Interior, Ministry of Finance, Ministry of Health, Ministry of Education and Ministry of Labour and Social Policy in the field of combating trafficking in human beings.

With a view to preventing and suppressing trafficking in human beings, it is necessary to establish network and joint coordination among all existing authorities, along with mandatory cooperation with international and non-governmental organisations.

6.5.4 Protection of victims of trafficking in human beings in criminal proceedings

Any appearance of the victim in the capacity of the damaged party is another traumatic experience. Therefore, witnessing of the victim requires serious support by means of ensuring their protection, both in terms of their preparation for witnessing as well as during the very act of witnessing in order to avoid their revictimisation. Our laws stipulate a number of measures for the protection of victims of human trafficking.

In cases where a minor is a victim, the hearing will be closed to the public and other parties involved in the proceedings. There is also a possibility to carry out the hearing of minors by means of video broadcasting equipment. When it comes to a person of full age, the witness may be interviewed under special protection measures, with his/her identity hidden if it is the case of protected witness.⁴⁶ Special protection measures shall comprise exclusion of the public from the main hearing, concealing of the witness's appearance and giving witness from the special room with the modification of the witness's voice and face image by means of audio and video broadcasting equipment.

⁴⁶ See the Law on the *Protection Programme for Participants in Criminal Proceedings*, "Official Gazette of the RS", no. 85/2005.

6.5.5 Temporary residence of victims of trafficking in human beings

Article 28 of the Law on Foreigners from 2008 stipulates that temporary residence shall be granted to:

the foreigner who is a victim of trafficking in human beings should that be in the interest of criminal proceedings conducted for the act of trafficking in human beings and unless the following conditions are fulfilled: there are sufficient subsistence funds, health insurance and justified request for temporary residence,

except

if the denial is requested by the reasons of protection of public order and security of the Republic of Serbia and its nationals or there is a reasonable doubt that the person will not use the said residence for the aforementioned purposes.

The victim of trafficking in human beings who was granted temporary residence throughout the period of the said residence shall be provided with appropriate accommodation, food and adequate conditions of living unless he/she has insufficient subsistence funds. Granting of temporary residence of the victim of trafficking in human beings shall enable freedom of movement and commencement of employment. Temporary residence shall take as long as it is necessary to provide participation of this person in criminal proceedings.

V

The Migrant Rights in the Republic of Serbia

From the moment the foreign national enters the territory of the Republic of Serbia until the moment they leave the territory of the Republic of Serbia, all public authorities shall be obliged to treat them in accordance with international standards in the sphere of human rights protection. Foreign nationals shall be entitled to almost all rights in the sphere of human rights protection that are guaranteed by the Constitution, and their vulnerability requires special care by the officials who decide on their rights.

1. Prohibition of Discrimination

The first and foremost responsibility of every government is to take a series of measures in order to prevent discrimination against various minority groups in its territory which may frequently be exposed to racial, religious and other intolerance.

The Law on the Prohibition of Discrimination from 2009 forms the basis for creation of effective and comprehensive system of protection against discrimination in the Republic of Serbia.⁴⁷ The law shall regulate general prohibition of discrimination, forms and cases of discrimination and set out means of legal protection against it. This law shall establish the Institution of the Commissioner for the Protection of Equality.

Pursuant to this law, discrimination shall designate any:

47 “Official Gazette of the RS”, no. 22/09

any unwarranted discrimination or unequal treatment, that is to say, omission (exclusion, limitation or preferential treatment) in relation to individuals or groups, as well as members of their families or persons close to them, be it overt or covert, on the grounds of race, skin colour, ancestors, citizenship, national affiliation or ethnic origin, language, religious or political beliefs, gender, gender identity, sexual orientation, financial position, birth, genetic characteristics, health, disability, marital and family status, previous convictions, age, appearance, membership in political, trade union and other organisations and other real or presumed personal characteristics.

Discrimination before public administration authorities shall be particularly forbidden so as to clearly emphasise that it is the entity which may not exercise any discrimination.

2. Field of Employment

In the Republic of Serbia the law in this field was adopted as early as 1978 and the new law is currently being drafted. It is the **Law on Conditions for the Employment of Foreign Nationals** which regulates the employment of foreign nationals in the Republic of Serbia.⁴⁸ This Law stipulates that foreign nationals and stateless persons may enter employment if they meet general and specific conditions.

General conditions shall include the conditions which are prescribed by the Labour Law and shall refer to the restriction on the employment before turning the age of 15 as well as conditions stipulated by the collective agreement and general act on performance of duties required by the specific job.

Specific conditions shall include the following conditions under which the foreign national may enter into employment contract:

48 The Instruction on Issuing and Granting an Approval for Employment of Foreign National ("Official Journal of the SFRY", no. 51/81 and "Official Gazette of SAM", no. 1/2003 – Constitutional Charter) and Rulebook on Conditions and Manner of Issuing the Work Permit to Foreigners or Stateless Persons ("Official Gazette of the RS", no. 22/2010).

1. should he/she have the permanent residence permit, that is, the temporary residence permit (the permit shall not be required if the contract of employment is entered for the performance of professional duties stipulated by the business and technical cooperation agreement, long-term cooperation agreement, technology transfer agreement and foreign investment agreement), and
2. should he/she be granted the permit to enter into an employment contract.

The Rulebook on Conditions and Manner of Issuing the Work Permit to Foreigners and Stateless Persons is the recent legislation adopted in 2010, which more closely defines conditions and manner of issuing the work permit to foreigners and stateless persons, as well as the role of the National Employment Service in that process. The Rulebook stipulates that the National Employment Service, in accordance with the law, shall issue the work permit to the foreigners who were granted the permanent residence permit or the temporary residence permit.

The foreigner's work permit application may be declined by **the Branch Office of the National Employment Service** if there are nationals of the Republic of Serbia registered as unemployed in the Branch Office, who are eligible for performance of jobs specified in the application for issuing the work permit to foreigners.

Article 85 of the Law on Employment and Insurance Against Unemployment stipulates that the foreign national or the stateless person may be registered as an unemployed person in the National Employment Service should he/she hold a permanent or temporary residence permit and a valid work permit.

If the foreign national was insured against the unemployment in the territory of the Republic of Serbia and if, upon the expiry of insurance, was registered in the National Employment Service, he/shall shall be entitled to the unemployment benefit in the manner and under the same conditions as the nationals of the Republic of Serbia.

3. Education of Foreigners

Education shall be guaranteed to everyone since the future status of an individual within a community is subject to completion of education. The right to education in Serbia shall be regulated by the system law, the **Law on the Bases of the System of Education and Upbringing**,⁴⁹ whereas different education levels shall be regulated by the **Law on Primary Schools**,⁵⁰ **Law on Secondary Schools**,⁵¹ **Law on Higher Education**.⁵² These laws shall also regulate the issue of education of foreign nationals and stateless persons in the Republic of Serbia, as well as the matters pertaining to recognition of foreign school certificates.

The Law on the Bases of the System of Education and Upbringing stipulates that foreign nationals and stateless persons shall enroll in the preschool institutions, primary schools, secondary schools and shall exercise the right to education *under the same conditions and manner* which are prescribed by the law for the nationals of the Republic of Serbia. For children and students who are foreign nationals and stateless persons, as well as for the expelled and displaced persons who do not know the language in which educational work or specific curricular activities significant for continuation of education are performed, the school shall organise language lessons, that is, preparatory and remedial classes, in accordance with the special guidelines, pursuant to the regulation adopted by the Minister of Education. Children and students who are foreign nationals of any of the European countries, during their stay in the Republic of Serbia, shall be entitled to attend the native language and culture classes free of charge, under the reciprocity condition or at the parents' expense, in the premises of the institution to be decided by the local self-government unit.

49 "Official Gazette of the RS", no. 72/2009 and 52/2011.

50 "Official Gazette of the RS", no. 50/92, 53/93, 67/93, 48/94, 66/94 – Decision of the Constitutional Court of the Republic of Serbia, 22/2002, 62/2003 – other law, 64/2003 – other law revised, 101/2005-other law, and 72/2009 – other law.

51 "Official Gazette of the RS", no. 50/92, 53/93, 67/93, 48/94, 24/96, 23/2002, 25/2002– revised., 62/2003 – other law, 64/2003 – other law revised, 101/2005 – other law and 72/2009 – other law.

52 "Official Gazette of the RS", no. 76/2005, 100/2007 – authentic interpretation, 97/2008i 44/2010

The procedure for validation of a foreign school certificate is of great importance for migrants, which is thereby completely equalised with the relevant national school certificate in terms of rights to which its holder shall be entitled in order to continue his/her education and exercise his/her rights to employment.

4. Health Care of Foreigners

Health care enjoyed by foreign nationals in the Republic of Serbia shall be regulated by the **Law on Health Care**,⁵³ **Law on Health Insurance**,⁵⁴ and bilateral social security agreements.⁵⁵

Article 3 of the Law on Health Care stipulates that the national of the Republic of Serbia, as well as the other person with the domicile or residence in the Republic of Serbia, shall be entitled to the health care, pursuant to this law.⁵⁶ **The right to health care of foreigners shall be regulated by Articles 238 and 242.** They further stipulate that:

foreign nationals, stateless persons and persons who were either granted the refugee status or asylum in accordance with the international and national legislation, persons with permanent or temporary residence in Serbia, or persons who transit the territory of the Republic of Serbia, shall be entitled to health care, in accordance with the said law, unless the international agreement stipulates otherwise (i.e. the bilateral social security agreement concluded by the Republic of Serbia).

53 “Official Gazette of the RS”, no. 107/205 and 72/2009 – other law

54 “Official Gazette of the RS”, no. 107/205 and 109/1005 – rev.

55 Social security agreements have been concluded with Austria, Belgium, Bulgaria, Czech Republic, Slovakia – Social security Convention between FPRY and the Czech Republic, as well as Slovakia, Denmark, France, Italy, Luxembourg, Hungary, the Netherlands, Norway, Poland, Germany, Sweden, United Kingdom and the Republic of Ireland, Romania, Slovenia, Switzerland, Macedonia, Croatia, Bosnia and Herzegovina and Montenegro. Social security cooperation agreements who cover only the issues pertaining to the pension and disability insurance have been concluded with Libya, Panama and Cyprus.

56 “Official Gazette of the RS”, no. 107/205 and 72/2009 and other law, 88/2010, 99/2010.

The funds for this type of health care shall be provided in the republic budget.

Should there be a ratified social security agreement, the nationals of the country with which the agreement was concluded shall exercise the rights from the compulsory health insurance in accordance with that agreement. Since the agreements are governed by the principle of equal treatment, the foreigners, that is, the nationals of the countries with which the agreement was concluded, shall exercise the right to health care within the same scope as the nationals of the Republic of Serbia. Should foreigners be eligible to acquire the status of the health insurer under the Law on Health Insurance, they shall exercise the right to health care in accordance with regulations governing the field of compulsory health insurance.

The Law on Health Insurance stipulates that compulsory health insurance shall be organised in accordance with the principles of solidarity and reciprocity and shall cover the insurance in cases of illness and injury outside of work as well as insurance in cases of injury at work or professional illness.⁵⁷

Compulsory health insurance shall be provided by obligatory contribution payments by employees and employers, as well as other contribution payers in accordance with the law, which shall be a prerequisite for exercise of rights arising from the compulsory health insurance.

Insured persons shall comprise insurers and members of their family, including as follows:

- employed persons;
- foreign nationals and stateless persons who are, in the territory of the Republic of Serbia, employed by foreign legal or natural entities, unless it is stipulated otherwise by the international agreement, or by international organisations and institutions and foreign diplomatic and consular missions, if such form of insurance is envisaged by the international agreement;

57 Ibidem.

- persons who shall be entitled to the unemployment benefit in accordance with employment regulations;
- persons who are founders, members, that is, shareholders of business entities who are not employed by them, but perform specific tasks there;
- foreign nationals who are employed by national organisations, that is, private employers in the territory of the Republic of Serbia, on the basis of special expert exchange contracts or international technical cooperation agreements; and
- foreign nationals during education or professional training in the territory of the Republic of Serbia.

Article 23 of the said law shall enable persons not compulsory insured to take out the compulsory health insurance by paying the contributions so as to be able to exercise the rights arising from the compulsory health insurance.⁵⁸

Unless the foreign national is neither a compulsory insured person, nor has he/she taken out the compulsory health insurance on voluntary basis, or unless he/she is a national of the country with which the international social security agreement is concluded, **he/she shall still be entitled to emergency medical care in accordance with Article 240 of the Law on Health Care**. Foreigners shall bear any expenses for provided medical care, unless it shall be stipulated otherwise under the law or international agreement. However, unless the foreigner has necessary funds, the compensation to health care institutions and private health care providers shall be disbursed from the budget of the Republic of Serbia (Art. 242).

Article 241 of the Law stipulates that health care providers shall be compensated for their expenses from the budget for the medical services provided to:

58 The Rulebook on Manner and Procedure of Taking Out Compulsory Health Insurance of Persons Who Are Not Compulsory Insured (“Official Gazette of the RS, no. 24/2006, 68/2006 – other Rulebook, 95/2007 and 23/2009).

- 1) the foreigners who have been provided with free health care pursuant to the international social security agreement, unless it is stipulated otherwise by the said agreement;
- 2) the foreigners who are staying in Serbia upon the invitation by the public authorities – during their stay, in accordance with the principles of reciprocity, and are not eligible to acquire the status of the compulsory insured person under the law regulating the field of the compulsory health insurance;
- 3) the foreigners who were granted asylum status in Serbia, should they be financially unprovided for;
- 4) the foreigners suffering from smallpox, plague, cholera, viral haemorrhagic fever (except for haemorrhagic fever with renal syndrome), malaria or yellow fever, as well as other communicable diseases;
- 5) the foreigners – the crew members of foreign ships or vessels, suffering from venereal diseases; and
- 6) foreigners who are the victims of human trafficking.

Example

The six-month Marvina and her mother were returned to Serbia from Sweden on the basis of the Readmission Agreement. When Marvina got sick, she was refused admission and medical examination by the medical staff of the Health Centre “Palilula” since she did not have her health insurance card. The mother was not able to obtain the child’s health insurance card since the child did not have a personal identity number (JMBG). The police authority with jurisdiction over the mother’s domicile refused to determine Marvina’s personal identification number (JMBG) since the fact of her birth was not entered into the register of births in Serbia. Namely, Marvina was born in Sweden, and her birth was not registered in the Consular Mission of the Republic of Serbia.

In order to make the entry into the register of births in Serbia, it is first necessary to make a correction in the register of births in Sweden in which the child's surname and name as well as the mother's place of birth were incorrectly entered. Since it was obvious that the procedure may last for months, *Praxis* addressed the Republic Institute for Health Insurance (RIHI) – Division of Health Insurance and Legal Affairs. Following the interview with officers and the head of the Palilula Branch Office, the child eventually obtained the health insurance card. The child's certificate of travel was attached to the application, whereas the Palilula Branch Office determined the temporary personal identification number. Due to temporary personal identification number, Marvina's mother has to pay for her medicines which otherwise may be obtained at the expense of the RIHI since the operating system in pharmacies does not accept thus determined personal identification number. Nevertheless, issuing of the health insurance card was of great importance for Marvina since it enabled her admission to and treatment in health care institutions free of charge.

5. Social Security of Foreigners

The new Law on Social Welfare of the Republic of Serbia defines social welfare as an organised social activity in the public interest aimed at provision of assistance and empowerment of an individual and a family for independent life within society as well as prevention of occurrence and elimination of effects of social exclusion.⁵⁹

The new law specifies that social welfare beneficiaries shall be the nationals of the Republic of Serbia, but that they could also be foreign nationals and stateless persons pursuant to the law and international agreements.

59 "Official Gazette of the Republic of Serbia" no. 24/2011.

Pursuant to the Law on Pension and Disability Insurance, the employed person shall be considered both the foreign national and the stateless person who are employed in the territory of the Republic of Serbia by foreign legal or natural entities, unless it is stipulated otherwise by the international agreement as well as by international organisations and institutions and foreign diplomatic and consular missions should such insurance be envisaged by the international agreement.⁶⁰ Should there be a ratified international agreement on social security and should this agreement also encompass the rights arising from the pension and disability insurance, that agreement shall be applicable to the nationals of the countries with which it was concluded with regard to exercising the rights from the pension and disability insurance.

6. Housing

The Law on Social Housing of the Republic of Serbia by which the foundations for legal regulation of the social housing were laid bears particular significance for the poor as well as the specific categories of migrants.⁶¹

The law stipulates that the persons belonging to vulnerable social groups, such as refugees, internally displaced persons, as representatives of the most numerous migratory groups in the Republic of Serbia, shall be given advantage in inclusion in social housing programme.

The law envisages adoption of the National Social Housing Strategy, which should be adopted for the period of ten years at least, and the Action Plan on Strategy Implementation which should extend to the period of at least five years. Furthermore, it also envisages establishment of the Republic Housing Agency as well as enactment of a number of by-laws within a year from the date the law came into force, which would, regulate the field of social housing in more detail and

60 “Official Gazette of the Republic of Serbia” no. 34/2003, 64/2004 – Decision of the Constitutional Court of the RS, 84/2004 – other law 85/2005, 101/2005 – other law, 63/2006 – Decision of the Constitutional Court of the RS, 5/2009, 107/2009 and 101/2010.

61 “Official Gazette of the Republic of Serbia” no. 72/2009

which, among other things, would more closely prescribe conditions and criteria for establishing the order of precedence in resolving housing needs of the persons without housing, that is, the persons without housing of an adequate standard and who are not able to provide the housing from their own income at market prices.

VI

Local Level and Migrant Protection

The status of the local self-government has been defined by the *Law on Local Self-Government*.⁶² Pursuant to Article 2 of this law, the local self-government shall mean:

1. the right of citizens to administer public affairs of direct, common and general interest to the local population, directly and through freely elected representatives, as well as
2. the right and capacity of the local self-government bodies, within the limits of the law, to regulate and administer public affairs within their competence and of interest to the local population.

1. Competencies of the Local Self-Government Units

The local self-government units shall be responsible for affairs of direct, common and general interest to the local population. Local self-government may perform original and delegated responsibilities, when the Republic of Serbia delegates the tasks from their scope of competence and provides funds for their implementation.

In accordance with the Constitution, the original scope of responsibilities of the local self-government shall, among other things, include fulfillment of citizens' needs in the fields of *education, culture, health care and social welfare, child protection, sports and physical culture*.

62 "Official Gazette of the RS", no. 129/07

The municipality shall also *ensure exercise, protection and enhancement of human and minority rights, as well as public information* in the municipality. The municipality shall autonomously manage the municipal property in accordance with the law and prescribe the offences resulting from the violation of municipal regulations.

2. Local Level and Protection of Migrants

Although republic authorities are mainly responsible for ensuring migrant rights, it is necessary to link and encourage actors at national and local level to coordinate their activities so as to facilitate optimum integration and reintegration of migrants by means of coordinated action. There are many fields falling within the competence of the local self-government which are significant for exercising migrant rights and in order to observe these rights, it is necessary to establish continuous cooperation between national and local authorities. Migrants have to be sufficiently and adequately informed and actively involved in the process of integration and reintegration as well as in promotion of their own rights in the Republic of Serbia. The great number of migrants has remained isolated from the local community due to several reasons: the lack of information, depression and passivity, the lack of language skills, the lack of interest of local authorities to assist specific migrant categories, or even animosity of the local population which is prejudiced against these groups by seeing them as unwanted competition for a small number of jobs. There were also examples where the local population objected the construction of social housing for refugees since they believed that the construction of these facilities would spoil the appearance of the settlement or reduce the value of their real estate. There are also tensions among the majority population concerning the assistance provided for refugees, displaced persons and returnees in accordance with the Readmission Agreement, which also consider themselves as equally vulnerable category of population. For all these reasons, the activities aimed at supporting the local integration of refugees and displaced persons, as well as reintegration of returnees should be carefully designed and integrated into the relevant local action plans and during that process the vulnerable local population should by no means be neglected.

The following example illustrates the lack of cooperation and awareness of responsibility for the function performed at the local level.

Example

Representatives of the municipal authorities in Lajkovac believe that the arrival of the greater group of asylum seekers will disturb the peaceful life of this well-known place in the western Serbia as well as threaten tourism in the Municipality of Lajkovac.

No person has informed municipal authorities about the intentions to convert the resting facility in Bogovađa into the new asylum centre. “We have not received any official information about the arrival and accommodation of asylum seekers in Bogovađa, but I think that the municipal authorities, which has not been neither informed nor consulted about the issue, should take an official position before these people come to our place”, said the member of the Municipal Council of Lajkovac, Dušan Žujović. He said that he does not mind Serbia helping those people, but thinks that it is not appropriate for those people to stay in this facility which is located in the vicinity of the military establishment, primary school and medieval monastery.

“Personally, I don’t feel comfortable with the fact that I live only a few kilometers from the facility in which the asylum seekers are accommodated” – said Žujović.

3. Trustees for refugees

A network of **trustees for refugees** has been established on the local level. In consultation with the Commissariat for Refugees, competent authorities within the autonomous province and the self-government units appoint a staff member for liaising with the Commissariat and dealing with particular issues on behalf of the Commissariat. The scope of work of the trustees for refugees varies from municipality to municipality, but their work is very significant and mostly comprises:

- Cooperation with competent authorities on resolving issues related to provision of shelter and accommodation of elementary needs of refugees and internally displaced persons and returnees under the Readmission Agreements, cooperation with competent authorities on ensuring conditions for accommodation and sustenance of refugees and internally displaced persons, and cooperation with schools in their municipality on ensuring conditions for education of expellees and refugees, as well as returnees
- Assistance in obtaining social security and health care entitlements
- Duties related to establishing the legal status of refugee and expellee
- Record keeping as stipulated by the Law on Refugees
- Record keeping on returnees under the Readmission Agreements
- Registration of refugees and expellees
- Equal and timely distribution of humanitarian aid provided by other national and international agencies and organisations
- Working on creating favourable conditions for the return of refugees and expellees to the areas they had fled and other areas determined by the Commissariat
- Preparing documentation and writing proposals for decisions on granting the status of refugee or expellee for newborn children, as well as proposals for decisions on abolishment of the refugee or expellee status– Granting consent on requests for change of place of residence
- Verification of movable and immovable property inventory lists in the return process of these persons to their previous place of residence or to another location, in accordance with the provisions of the Law on Refugees, and
- Performing other duties aimed at improvement and protection of refugees and displaced persons, as well as returnees.

4. Local Migration Councils

Local **migration councils** are formed on the local self-government level, comprising relevant partners from local institutions, for supporting integration, or reintegration, and improvement of living conditions for refugees, displaced persons and returnees under the Re-admission Agreements⁶³.

Their task is to draft and adopt **local action plans for improving the position of refugees and internally displaced persons (LAP)**, as outcomes of corresponding activity planning. These documents contain objectives, or envisaged changes to be effected by the local self-government in their local setting within a projected timeframe. The main purpose of local action plans is to identify priority target groups among the refugee and displaced persons and returnees, and identify their needs (most often related to housing problems and economic empowerment). In this way, local communities feel “ownership” over the issues of integration/reintegration and improvement of living conditions, and assume responsibility for providing support for this population, opportunities for improving their economic and social position and dignified living in a community. Local action plans are part of the local policy, a link between the central and local policies and a precondition for funding eligibility.

This process is based on pinpointing all social stakeholders in a community and involving them to their fullest capacity, both in planning as well as in the implementation of the projected plan. However, in order for the action plan to be applicable and to achieve the desired outcomes, municipal authorities must first collect data on the numbers of refugees and displaced persons as well as returnees under the Re-admission Agreements, but also on their situation. To make such an analysis is an important step in preparing and implementing the LAP. These data may be obtained in various ways: by polling the refugee, displaced and returnee population, from social welfare centres, the National Employment Service, the Commissariat for Refugees, the Red Cross, health centres, old age homes, local non-government organisations etc. It is only after a thorough situation assessment has been made that a local action plan can be developed and later implemented.

63 In 2011 and 2012, the Commissariat and IOM have worked within the CBMM project on revising local councils' action plans, in order to include beneficiaries from the returnee population.

Local action plans are planning documents, the implementation of which is the responsibility on local migration council. Accordingly, a LAP as a rule contains a description of the council's tasks:

- Provide necessary data on the position of refugees and displaced persons and returnees under the Readmission Agreements on its municipality's territory
- Share information and take part in meetings important for the planning process
- Define objectives and development trends and foster cooperation with various relevant national and local partners
- Plan the monitoring and evaluation of the implementation of the local action plan
- Work on composing the final document
- Initiate public debate on the draft document, and
- Make effort to have the final version of the action plan brought before the municipal assembly for adoption

Local communities possess various capacities for dealing with issues related to improvement of refugees and displaced persons and returnees, such as human resources, development documents and strategic approaches in municipality development, institutionalized units within the organisation of the municipal administration (e.g. Agency for Development) and various mechanisms for fostering development (local funds, public calls for proposals, etc). All these mechanisms must coordinate and cooperate between themselves, in order to achieve the set objective of improving the position of these categories of the population, particularly bearing in mind that refugees, displaced persons and returnees are a fairly heterogeneous group with different needs. The graveness of problems facing the refugee, displaced persons and returnee population calls for a planned and gradual approach in solving them, especially when it comes to the housing issue, which requires substantial resources. This is why the programmatic and financial aspects have to be fully harmonized in the plan, along with utilization of local resources and envisaged ways of collecting additional funding in forms of participation in projects, or attracting donor projects and loan projects.

Most local action plans contain projected objectives in the areas of employment and finding housing solutions, which is understandable considering (earlier) achievements in improved living conditions of refugees and displaced persons. However, it should be re-emphasized that local action plans can and should be channels for other types of support as well, especially that which implies involvement of several institutions simultaneously (social entrepreneurship, integrated provision of local services, etc). One of the popular models is provision of social protection through projects, engaging beneficiaries from the population of refugees, internally displaced persons and returnees (assistance in house chores, field visits, etc).

Local action plans should continue to be modified according to the needs of local communities in the future as well, in order to be able to include other vulnerable categories of migrants who are currently still not perceived as a problem.

5. Employment

Economic empowerment of refugees, displaced persons and returnees is a first step in achieving their equality with the domicile population. Although here reference is made predominantly to activities aimed at finding permanent housing solutions, the employment issues are also very significant.

In the Republic of Serbia, the unemployment rate is very high, that also being one of the main causes of immigration from the country⁶⁴. Currently registered as unemployed with the National Employment Service there are: 1,562 internally displaced persons, 555 refugees and 36 returnees under the Readmission Agreements, who applied to be registered in the records of unemployed persons. The National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons, as well as the National Poverty Reduction Strategy, place great emphasis on employment of refugees as one of the mechanisms for their integration. According to the data of the National Employment Service, in 2010 and the first six months of 2011, active policy measures included refugees and internally displaced persons, as well as returnees under the readmission agreements. The basic mea-

64 According to the Statistical Office of the Republic of Serbia, the unemployment rate as of April 2011 reaches 22%.

asures which included the categories mentioned were: mediation and employment counselling, active job seeking, additional education and training programmes, employment subsidies, public works and fostering entrepreneurship.

In order to be legally employed, refugees and displaced persons are required to have a refugee, or displaced person identification card, working booklet and data on registered pensionable time. Local authorities should undertake a series of activities in order to improve the conditions for employment of these categories of people. However, in practice there have been individual cases of these persons facing additional difficulties in seeking employment, ranging from requests to submit meaningless information which is difficult for them to obtain, to auxiliary record keeping on refugees and displaced persons on local levels, instead of having unified records of unemployed persons.

Municipalities should implement specific programmes aimed at fostering independent economic activities by refugees, displaced persons and returnees who do not have sufficient means to start up their own business, in form of micro-credits, loans and vocational and additional education (programmes of re-training and supplemental training). In other words, support can be provided in form of implementing agricultural development programmes in the fields of vegetable, crop or cattle growing, and starting family businesses in these fields. Secondly, programmes of re-training and supplemental training should be introduced in order to increase employment opportunities. For instance, these measures have been projected in the local action plan of the Srbobran municipality. Also, measures should be implemented to allow tax reliefs for employers who employ them, as well as public construction works involving refugees, displaced persons and returnees.

Finally, it should be borne in mind that some refugees and displaced persons are not in the possession of a working booklet, without which they are unable to sort out their retirement, get another job or apply for unemployment subsidy. A large number of people, especially amongst the Roma population, work in the grey economy zone or in the low income jobs, in inadequate working conditions and without social protection subsidies. This is why it is necessary to encourage formation of local employment councils, to deal on the local levels with issues such as these and to be able to identify individuals with decreased chances to find employment and for whom additional supportive measures to that effect are required. It needs to be reminded that local migration councils also include representatives of the National

Employment Service (who are also members in local employment councils), and who could by virtue of their function represent the rights and needs of migrant groups in the employment councils, thus building a link between several local bodies, foster their cooperation, and also save time and resources.

On the other hand, special attention should be paid to returnees, who have for been recognised as an economically vulnerable group for the first time in the National Employment Strategy for the period 2011 – 2020. The Strategy emphasizes the necessity of creating specific programmes and active policy measures for employment of returnees.

One of the measures stated is fostering self-employment, social entrepreneurship and cooperative entrepreneurship. It should be borne in mind that the majority of the returnee population are Roma, who sometimes do not speak the Serbian language well, have low levels of education and require particular economic empowerment, by means of introducing measures which would be tailored to their specific situation. Often they do not possess working booklets as they also do not possess other necessary documents, and if they have arrived from Kosovo and Metohija, they have difficulties in obtaining working booklets since such requests must be submitted to general administration departments in municipalities according to place of residence or place of employment. In practice, some municipalities issue working booklets to individuals who have registered temporary residence on their territory, which is the right way of resolving this problem, therefore this example should be followed by competent authorities in other municipalities in Serbia as well.

6. Resolution of housing issues

In 1996, there were approximately 700 collective centres in the Republic of Serbia. In the previous three years, the number of collective centres has been reduced by a third, and the number of persons accommodated in these centres has been reduced by a half. According to the data of the Commissariat for Refugees, there are still 2,993 persons accommodated in 29 collective centres (data excluding Kosovo and Metohija, where 13 collective centres are located accommodating 525 persons). Accommodation in collective centres has been in place since 1991, while implementation of the programme for permanent resolution for refugees was started later. Owing to international donors,

housing programmes for refugees have existed in Serbia since 1997, and permanent housing solutions have been sought for persons still living in collective centres through implementation of projects supported by international and bilateral donors.

Since 2002, the following programmes have been implemented, based on the National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons:

- Complete construction of housing units, partial construction and self-help construction
- Purchase of houses with gardens in villages
- Allocation of prefabricated houses
- Assistance in form of construction materials for completing already started construction of a house, and
- Construction of buildings for social housing in protected

The National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons envisages:

1. Affordable construction of housing, providing for a possibility of its purchase
2. Construction of housing with favourable loans
3. Social housing, referring to state-owned apartments for the extremely vulnerable, and accommodation in social welfare institutions or specialized health care institutions
4. Purchase of old houses with gardens and assistance in their reconstruction
5. Assistance in construction of houses that the owners began building but interrupted due to lack of funds, and
6. Facilitation of acquisition of ownership over housing space, gardens and agricultural land, through contracts on life sustenance with elderly families.

7. Education

Numerous data show that schooling of refugee and displaced families is jeopardized due to financial reasons. This is most obvious in higher education levels, with many talented children not enrolling universities because of lack financial resources. To overcome this problem, municipalities should award scholarships to talented students or to secure loans for the continuation of their schooling.

One of the most vulnerable migration groups who do not enjoy the right to education, or enjoy it only to a limit, are surely Roma, particularly internally displaced or returnees. Roma have been identified as a vulnerable group, and in the Roma Inclusion Decade 2005 – 2015 Serbia has made a commitment to apply various measures in order to improve the quality of education for Roma children, decrease numbers of these children being sent to special schools, provide support to Roma families and pedagogical support to children in order for them to attend regular schools, strengthen the role of teachers, introduce measures for suppression of discrimination, etc.

In addition to a series of measures aimed at achieving full inclusion of children from vulnerable groups, the Law on the Foundation of the Education System also introduces the possibility of enrolment of these children even without possessing complete documentation (birth certificate and/or registration of permanent or temporary residence on the territory of the municipality where the respective school is located). However, in practice there have been cases of schools refusing to proceed according to this legal provision, therefore the Ministry of Education and competent local authorities should have to take appropriate measures in order to resolve this issue.

The Municipality of Srbobran has adopted The Local Plan for Roma Education for the period 2010 – 2013, while the Working group for developing the Local Plan was composed of representatives of elementary schools, kindergartens, the Social Care Centre, Roma non-government organisations and local self-governments. The general aim of this document is improvement of the education status of Roma in this municipality by 2013. In order to ensure achievement of the objectives envisaged by the

Local Plan, a situation analysis was conducted before the adoption of the document – the position of Roma in the municipality of Srbobran, based on the data collected from several sources:

1. Questionnaires
2. Focus groups with representatives of state institutions and non-government organisations
3. Focus groups with representatives of Roma associations, and
4. Focus groups with Roma children and parents.

Based on the data collected, the number of Roma children attending all levels of education was established. The problems Roma children face in their education process are overcome in the following ways: individual work with children, supplementary lessons, increased corrective and counselling work with pupils and parents, as well as career counselling and motivating Roma children to continue with their education.

The municipality also takes individual measures aimed at improving the quality of education received by Roma children, consisting of: covering travel expenses for Roma high-school students, provision of scholarships for Roma university students, organisation of pilot programmes for children of pre-school age aimed at preventing their early social and educational neglect, as well as ensuring their adequate preparation for elementary education.

Inclusion of these children into pre-school education as early as possible is crucial, because of poor financial, social and educational levels of their parents, which has a negative impact on the cognitive stimulation of children in their early development, resulting in them falling behind the children from the general population. In order to achieve this objective, the municipality envisaged various activities – ranging from bearing kindergarten costs for Roma children (food, didactic materials, hygiene packs), awareness raising among parents on the importance and the obligation of kindergarten education, to increased efforts in introducing Roma assistants in the municipality of Srbobran, awareness raising and additional education of kindergarten

teachers for working with Roma children, etc. In elementary education, measures are taken to introduce assistants for supporting Roma children in their education, support to introducing extended stay in schools for Roma children, assistance in learning, implementation of special support programmes in education of Roma girls, preparations for enrolment into high-schools, etc. In programmes targeting high-schools, activities are envisaged such as development and implementation of a special programme for preparing Roma children for high-school enrolment, information on scholarships and other opportunities for financial support, raising awareness of parents on the importance of education, etc.

A particular problem arises with returnee children, who sometimes have to undergo a lengthy procedure of obtaining school documentation as proof of completed classes, which is often expensive for this population because it requires payment of fees to the Ministry of Foreign Affairs for the procurement of documents, to the Ministry of Education for the diploma validation procedure and eventually to the court interpreter for the translation of the document. However, a much greater problem that children from the returnee population face is not speaking the language, therefore it would be necessary to introduce appropriate programmes in schools and in local communities which would enable these children to keep pace with the teaching and prevent sending them into special schools.

8. Social and health care

Social rights, as the right to health care and social protection, as well as education, are fundamental for the social integration of individuals. In general, migrants do have access to enjoyment of these rights, provided they possess relevant document. Migrants are not well informed and are not aware of their entitled rights, and complex requirements related to documentation and registration pose a serious hindrance in their access to health care services and social rights.

The Roma population finds itself in the most unfavourable position by far in comparison to other groups, since most of them do not possess documents or information on the services of social and health

care, and the problem is further aggravated by language and cultural barriers in communication with social and health care workers.

In any town where returnees may currently reside, the local centre for social welfare can only provide them with advice, information and, exceptionally, mediation in obtaining documents, provision of a free one-way ticket to the place of future domicile or temporary residence, a lump sum assistance and temporary accommodation in a shelter. To exercise any other right related to social protection, returnees must have a registered domicile. This particularly poses a problem for the Roma population, who inhabit informal settlements where they do not have elementary living conditions. Another existing problem is that of returnees displaced from Kosovo who have not renewed their entries in register books, as well as that of their children born abroad who have not been entered into the birth register. Also, the majority of social welfare centres do not obtain evidence *ex officio*, instead they only forward a list of necessary documentation to the client, who is often poorly educated and does not understand the Serbian language well.

Concerning health care, returnees only have access to emergency medical service, provided they produce a certificate of travel valid until the insured person's status is resolved, i.e. until the expiration of the certificate of travel. If returnees are not given an ID card or a birth certificate for their child before the expiration of the certificate of travel, they remain out of the health care system. Only in exceptional cases do some branches of the Republic Fund of Health Insurance issue health insurance cards to individuals who do not possess personal documents, in which instances they also allocate a temporary personal ID number to them. Problems also arise with returnees who previously received corresponding medical treatment abroad but cannot continue receiving it further, especially if they are not able to obtain adequate documentation on the medical treatment received. Other migrant groups do have access to basic health services, however, problems in enjoyment of their rights arise in cases when they need to be hospitalized or examined by a medical specialist. Such cases happen not only due to prolonged waiting for access to medical treatment, but also because in some parts of Serbia, especially eastern and south Serbia, there do not exist all medical specialist services and transfer of patients to other parts of Serbia poses an economic burden. These are issues that demand the attention of local self-governments.

Especially important is provision of health care to victims of human trafficking, since they often undergo multiple forms of maltreatment: sexual exploitation, rape, physical and mental abuse and intimidation. Consequently, they suffer psychological traumas, face sexually transmitted diseases, physical injuries and other forms of health negligence, and they also suffer from major depression. Although shelters provide some forms of medical care, that is not sufficient enough, and the state budget allotments for this purpose are small. The largest share of support is provided by Astra non-government organisation, in form of psychological help and emergency medical care funded by foreign donations. This is yet another domain where wider involvement of local self-governments should be pursued.

* * *

Based on the presented considerations, it is safe to conclude that local self-governments undertake fairly many activities related to integration of refugees and displaced persons, but also that returnee population still does not have their full attention. Returnees find themselves in extremely difficult financial circumstances upon return to the country, often not having immovable property or jobs to provide for their family's basic needs. Many of them struggle with language and cultural barriers, especially in cases of children born in the country whence they returned. Furthermore, a significant number of these persons face problems of a legal nature in their reintegration process, most of which are related to them not possessing particular documents – that is an obstacle for their access to their status, acquired and property rights. Local self-governments should first conduct evaluations of the situation, number and structure of returnee population in their jurisdictions, and then accordingly define priority goals and activities for their achievement. In order to do that, capacity building of local self-governments is needed, as they should feel motivated to include returnees in their activities and not view them as a burden.

Returnees undoubtedly require support in the area of inclusion into the domestic labour market, through training or support programmes for starting their own businesses. Also important is psychological support, which could be implemented through activities such as: organising courses of the Serbian language, history and culture, assistance in understanding and learning the training contents in schools, becoming

acquainted with the local community, health prevention, individual work on overcoming trauma, prevention of human trafficking, etc.

Also important is access to the right to free legal aid, provided by legal assistance services within local self-government units but which could also be provided by non-government organisations which could specialize for providing assistance to specific categories of migrants (e.g. Praxis, Astra, Serbian Democratic Forum). Such legal aid consists of obtaining documents within the country and abroad, recognition of diplomas and validation of certificates, facilitating the exercise of the right to social protection and health care, education and employment, etc. Non-government organisations would have to act as partners in the implementation of other programmes and activities as well, together with state agencies and other relevant stakeholders, as protection of various migrant groups in Serbia, as well as improvement of their position and rights, can only be achieved through a continuous and systematic approach.

9. The role of non-government organisations

Non-government organisations are a specific form of citizens organising themselves and often volunteering their work for the promotion of common interests. These interests can vary, but are most often related to accomplishing human dignity and improving the level of protection of human rights.

The victims of violations of basic human rights are often among the poorest and least educated segments of the population, knowing very little about protection mechanisms at their disposal, either on the national or on the international level. Since countries, as a rule, cover up or relativise human rights violations for which they are accountable, dedicated individuals started joining together, both nationally and internationally, to fight for the respect and promotion of human rights in certain countries.

The methods employed by NGOs differ depending on different factors, such as the amount of funding at their disposal, priority categories of people they focus on, etc. These are decisive factors on whether an NGO will venture only to write a report on the human rights situation in a particular country, or start protective procedures before international bodies by utilizing legal means at their disposal, or enga-

ge in a wide international lobbying campaign for the adoption of some key instrument in the area of human rights protection.

Non-government organisations have been heavily involved in the work of intergovernmental organisations. Thus, Amnesty International, one of the most reputed NGOs, focuses on monitoring and indirectly influencing the work of the UN Human Rights Committee, established under the Covenant on Civil and Political Rights, by submitting ample information to the Committee members on human rights violations in individual countries. Amnesty International was also one of the main initiators in the adoption of the UN Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1975), which served as a basis to the UN Commission on Human Rights to develop it further and submit to the General Assembly a proposal to adopt the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), the Code of Conduct for Law Enforcement Officials (1979), the Principles of Medical Ethics (1982), the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (1989), etc.

Some of the most prominent NGOs were granted various forms of advisory status in many intergovernmental organisations such as UN, Council of Europe, UNESCO, etc. Non-government organisations also have a major role in providing assistance to individuals who have been injured in preparing and submitting complaints, charges and grievances to different international judiciary or para-judiciary bodies such as the European Court of Human Rights, Inter-American Court of Human Rights, UN Committee on Human Rights, etc. To be fair, national NGOs do that more often than reputable international non-governmental organisations. Still, international NGOs have a thoroughly developed practice of observing certain political trials in individual countries, as well as in ad hoc international tribunals for war crimes.

Domestic non-government organisations contribute to the democratic development of the society and implementation of various legal, economic and social reforms. They conduct a wide variety of activities, such as organisation of summer schools, workshops, seminars and conferences for discussing on acute social problems and mobilizing and encouraging the professional public to find solutions for

them. Conferences usually serve as forums for exchange of thoughts between different stakeholders, shedding light on the human rights situation and proposing measures to be taken in order to ensure consistent observation of international standards in this area.

One way to inform the public about the human rights situation is to continually publish various manuals, brochures and bulletins, offering information to the public about the work of non-government organisations, providing analyses and status reports and pointing at necessary reforms in particular areas. The task of non-government organisations is to encourage the state to make the necessary reforms and improve the human rights situation. To that effect, NGOs also write so-called “alternative reports” (shadow reports) and submit them to contracting parties when they review and discuss reports submitted by the state. As a rule, these reports are written by coalitions of non-government organisations, their task being to provide a real picture of the situation in the respective society – considering that all states tend to present it better than it truly is in reality. Based on these reports, committee members (of the contracting parties) are able to have a more substantial dialogue with government representatives, as well as provide more adequate and useful recommendations.

There is a whole range of other activities that NGOs can do (campaigns, trial monitoring, etc), however it is important to mention that in all developed societies these associations are sincere and permanent partners of the state, which is often formalized by signing memoranda on mutual cooperation and support in areas for which the state does not possess sufficient capacities and resources to deal with them.

In the area of protecting the rights of migrants in the Republic of Serbia, several non-government organisations have stood out in their engagement with various migrant groups, some of them being *Group 484*, *Praxis*, *Astra*, *Atina*, as well as *The Asylum Protection Center*.

VII

Migrations and development

1. Diaspora and development

Serbia, as well as the whole of former Yugoslavia, has traditionally been a country of origin for many generations and populations of migrants. The Serbian Diaspora, from both historical and current perspective, is one of the large ones in the world. According to the Law on Diaspora and Serbs in the Region, the term “diaspora” includes: “Citizens of the Republic of Serbia living abroad, members of the Serbian people and immigrants from the Republic of Serbia and from the region and their descendants (Art. 2 Par. 1). Diaspora therefore includes all members of the Serbian people and persons of Serbian origin, regardless of their place of birth and length of their stay abroad⁶⁵.

The main flows of the Serbian Diaspora have existed for more than a century, i.e. starting from the decades preceding the First World War, then between the First and Second World War (mainly overseas, to the USA and South America, Argentina, Chile, Venezuela, Brazil), while after the Second World War migration flows have redirected to European destinations (Germany, France, Switzerland, Austria, England, Scandinavia, Belgium, Denmark, etc). However, the past decade will remain remembered for the extensive so-called brain drain migration trend (young, highly educated professionals leaving the country and going to the West, both men and increasingly women), which was intensified due to the disintegration of the former common state and the collapse of socialism, and which unfortunately did not stop even after the political changes of October 5th 2000 and is ongoing still.

65 The Law takes special care of the “Serbs in the Region” due to their specific minority position in the states formed in the disintegration of the Socialist Federal Republic of Yugoslavia.

In connection to the Serbian Diaspora, it should be noted that:

- Today, approximately four million Serbs live outside Serbia
- They are organised in over 1,000 Serbian organisations
- The majority of them live in the region, the former Yugoslav republics and in the neighbouring countries
- Outside the region, the majority of Serbs live in Western Europe, followed by North America, Australia and New Zealand, South America, Africa and in Asia.

2. Remittances

The Serbian Diaspora provides tremendous support to its homeland through remittances (approximately 4.5 – 5 billion dollars per year), meaning that each citizen of Serbia receives an average of approximately 700 dollars per year, on these grounds.

It should also be noted that:

- Remittances coming from Diaspora in 2008 amounted to 5.1 billion dollars (estimates of the World Bank)
- Remittances in 2009 amounted to 5.5 billion dollars (estimates of the World Bank)
- Between 2005 – 2010, the average share of remittances in Serbia's GDP amounted to 15.3%
- Each citizen of Serbia, statistically speaking, had annual income from remittances amounting to 700 dollars.

3. Investments in Serbia by the Diaspora

The following data is significant:

- Since 2000, investments coming from Diaspora to Serbia reached approximately 550 million dollars
- Over 1,000 small and medium-sized enterprises were found by the capital coming from the Diaspora
- They employ 22,000 workers

- Attracting foreign investment (4 – 5 billion dollars) has been set as a priority objective in the economic policy by the government of the Republic of Serbia
- In order to start a new cycle of economic growth (at 5–8% per year), foreign investment must grow at a rate of at least 10% with each year.

4. Engagement of the Diaspora at the local level

In collaboration with regional chambers of commerce, former Ministry of Religion and Diaspora has opened sixteen Centres for the Diaspora, and another sixteen offices for the Diaspora have also been opened in local self-governments (cities and municipalities), with a trend of further expansion. These offices are funded from local sources. Their main objective is economic cooperation between the homeland and the Diaspora and investment.

It is also important to point out that:

- Former Ministry of Diaspora issued the first multi-media catalogue with concrete investment projects
- It contains 193 investment projects in 68 municipalities and cities in Serbia
- It is intended for all investors with special emphasis on the Diaspora investors
- This investment catalogue has been prepared in cooperation with local self-governments, the Serbian Chamber of Commerce and the Centres for the Diaspora attached to regional chambers of commerce
- Most of the projects, 40.6%, are related to investment opportunities in existing or new capacities for tourism, 20.3% to opportunities of investment in industrial zones, 18.7% in infrastructure, 9.3% are related to environmental protection, 8.6% are projects in the area of agriculture and health food production, and 2.3% are other projects.

Proposals for certain measures in connection with engaging the Diaspora resources in local development are:

- 1) **Update databases on the Serbian Diaspora**
- 2) **Create a network of Diaspora organisation in the European Union** and facilitate unification of their representation in host countries
- 3) **Effect continuous efforts on improving the “image” of Serbia** as a post-conflict, democratic society
- 4) **Organise political representation of the Diaspora both on the national and on the local levels**, in order to facilitate lobbying for implementation of certain initiatives and projects (Diaspora as an electoral unit, representation in the National Assembly);
- 5) **Work on the expansion and networking of offices for the Diaspora attached to local self-governments**, which would cooperate closely with centres for the Diaspora attached to regional chambers of commerce
- 6) Regarding local communities, individuals and groups, a comprehensive evaluation is required of development needs and priorities in cities and municipalities from which people in the Diaspora originate or in which they are interested (***homeland associations and projects***);
- 7) Conduct ***fundraising*** – find funding for local community projects
- 8) Facilitate ***targeting projects in local communities*** at the youth population as a priority

Example

MIDWEB Project – “Temporary and virtual return. Migration and socio economic development in the Western Balkans project has been implemented by IOM’s office in the Hague (Holland) and funded by the European Commission, starting from 2009 and ending in November 2012. The project’s purpose is reconstruction and development of Albania, Bosnia and Herzegovina, FYR of Macedonia, Montenegro, Serbia and Kosovo. It has been implemented through temporary employment of highly educated professionals originating from these areas and currently living in Austria, Germany, Italy, Holland, Switzerland and the United Kingdom. It is the result of concrete needs of local communities, with emphasis placed on capacity building of local organisations in particular sectors. Candidates send their CVs and applications to IOM, stating which country they would like to go to and for how long, the professional field in which they are willing to share their knowledge as well as other relevant information. The institution in the kin state selects the candidates in consultation with IOM. Candidates are deployed in state and private organisations.



Ministry of Foreign Affairs
of the Czech Republic

The project is funded by the European Union through the Delegation of the European Union to the Republic of Serbia