International Organization for Migration
Medjunarodna organizacija za migracije

REVIEW OF LEGAL AND INSTITUTIONAL FRAMEWORK OF THE REPUBLIC OF SERBIA IN THE FIELD OF MIGRATION MANAGEMENT

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INTRODUCTION

In the second half of the 20th century, in the period without global war conflicts, the phenomenon of migration, which had always existed, gradually grew into a global phenomenon, whose importance has been recognised and more attention paid to it.

Some of the factors that had an impact on a constant increase in the number of migrants are rapid economic development of specific parts of the world like Western Europe and North America, in comparison to the countries with a lower economic growth rate, emergence and development of a European idea, the fall of the Berlin Wall, which was followed by the collapse of the socialist system and globalization, a phenomenon which marked the end of the 20th and beginning of the 21st century.

Proper management of migration flows may increase positive effects of migrations and reduce negative effects to the minimum. Migration management requires regulated systems consisting of a transparent migration policy and planned and organised management of migration flows, particularly management of entry into and stay of foreigners within the country's borders.

Development of the migration management policy is complex process due to the fact that this is a comprehensive phenomenon which consists of several elements out of which the most important ones are visa policy, border management, regulated entry into and stay of foreign citizens, development of successful integration mechanisms and mechanisms for the protection of country's own citizens working and residing abroad. One should not forget about the protection of human rights of migrants, or development of legislation pertaining to the protection of asylum seekers and refugees and prevention of illegal migrations, either caused by economic reasons or incurred as a result of operation of organized criminal groups dealing with human trafficking.

In the last two decades, the Republic of Serbia has been facing with all kinds of migrations: external (mostly emigration) and internal (from villages to towns); forced (refugees and internally displaced persons) and voluntary; legal and illegal, and labour migrations. Despite existing efforts of the state to keep migrations under control, there is a lack of clear policy about an integrated approach to this phenomenon. At first sight, it seems that migration flows in the past two decades have mostly had negative effects on the Serbian society, however, there have been some positive effects as well. Although the arrival of refugees from the territories of the former SFRY seemed like a huge blow to the already weak economy of the Republic of Serbia, one should not forget that the inflow of refugees in certain parts of the country reduced, even neutralized negative birthrate values. During the registration in 1996, 537,937 refugees and 79,791 war-affected persons were registered. At this moment, Republic of Serbia is providing support and assistance to 86,154 refugees. Over the years, more than 250,000 refugees have acquired the citizenship of the Republic of Serbia.[1]

[1] The data were taken from the *National Strategy for Resolving Issues Concerning Refugees and Internally Displaced Persons for the Period 2011 - 2014*

Chapter I

INSTITUTIONAL FRAMEWORK FOR MIGRATION MANAGEMENT IN THE REPUBLIC OF SERBIA

Since the field of migration management is by its nature multi-departmental, the competencies in this filed are, therefore, divided among several public authorities. An institutional framework in this area is defined in accordance with the competencies which certain public authorities have in the field of migration in accordance with provisions of Law on Ministries ("Official Gazette of the RS", No. 16/11), Law on Asylum ("Official Gazette of the RS", No. 109/07), Law on Foreigners ("Official Gazette of the RS", No. 97/08), Law on Refugees ("Official Gazette of RS", No. 18/92, "Official Journal of FRY", No. 42/02 - Decision of the Federal Constitutional Court and "Official Gazette of RS", No. 30/10), and various strategies of the Government of the Republic of Serbia.

The Ministry of Interior is competent for the following:

- Border security and control of border crossings and movement through and stay in the borderline area;
- Stay of foreigners;
- Citizenship matters;
- Permanent and temporary place of residence of citizens;
- Identity cards and travel documents;
- International assistance and other forms of international cooperation in the field of interior affairs, including readmission;
- Illegal migrations;
- Asylum;
- Administration decision in the second instance proceedings on the basis of regulations on refugees.

The Commissariat for Refugees is competent for following:

- Performing professional and other activities related to taking care, return and integration of persons who on the basis of the Law on Refugess gained the status of refugees;

- Determining the status of refugees and keeping records of refugees and internally displaced persons;
- Taking care of refugees;
- Coordination of assistance provided by other authorities and organisations in the country and abroad;
- Providing accommodation, i.e. allocation of refuges to the areas of local self-government units;

- Providing assistance to refugees in the process of return and reintegration of refugees;
- Resolving housing issues for refugees in accordance with the Law on Refugees;
- Providing accommodation to asylum seekers in the Asylum Center and managing the Asylum Center;
- Providing accommodation in adapted collective centers for returnees on the basis of readmission agreements;
- Taking care of and protecting the rights of internally displaced persons;
- Performing professional, operational, and administration and technical activities for the Coordination Body on Monitoring and Managing Migration.

The Ministry of Foreign Affairs is competent for the following:

- Protection of rights and interests of the Republic of Serbia and its citizens and legal entities abroad;
- Issuing visas through the diplomatic and consular network, with a prior approval of the Ministry of Interior;
- Maintaining an electronic form of a data base and records of issued visas, i.e. records of refused visa applications;
- Issuing free travel documents to Serbian citizens – victims of human trafficking saved abroad.

The Ministry of Human and Minority Rights, State Administration and Local Self-Government, which includes the Directorate for Human and Minority Rights, is competent for the following:

- Protection and enhancement of human and minority rights, including rights of vulnerable migration groups like refugees and displaced persons, returnees on the basis of readmission agreements, and asylum seekers;
- Monitoring, supervision and harmonisation of the state legal framework with international treaties and other international acts referring to human and minority rights;
- Harmonisation of work of public administration authorities in the field of human rights protection;
- Conducting activities related to anti-discrimination policy;
- Providing assistance to vulnerable migration groups, particularly in case of returnees who return to the country on the basis of readmission agreements.

The Ministry of Economy and Regional Development is competent for the following:

- Employment in the country and abroad and directing unemployed citizens to work abroad;
- Monitoring situations and trends on the labour market in the country and abroad;
- Employment records;
- Proposing and monitoring implementation of strategies related to migrations on the labour market;
- Participating in preparation, conclusion and implementation of international social security agreements;

- Concluding employment agreements with foreign employers and other employment-related agreements;
- Compliance with European legislation and standards in terms of employment and monitoring of the implementation of international conventions.

The Ministry of Religion and Diaspora is competent for the following:

- Position of citizens of the Republic of Serbia living outside the Republic of Serbia;
- Improving conditions for practicing the voting right by the citizens of the Republic of Serbia living abroad;
- Improving connections with emmigrants, citizens of the Republic of Serbia living abroad, and their organisations with the Republic of Serbia;
- Informing emmigrants, citizens of the Republic of Serbia living abroad, about the policy of the Republic of Serbia;
- Creating conditions for the inclusion of emmigrants, persons of Serbian origin and citizens of the Republic of Serbia living abroad in the political, economic and cultural life of the Republic of Serbia and conditions for their return to the Republic of Serbia.

The Ministry of Education and Science is competent for the following:

- Additional education of children of Serbian citizens living abroad;
- Validation of public documents obtained abroad.

The Ministry of Health is competent for the following:

- Participation in the preparation and implementation of international agreements on compulsory social security;
- Health care for foreigners.

The Ministry of Labour and Social Policy is competent for the following:

- Exercising employment rights of employees temporarily employed abroad;
- Protection of citizens working abroad;
- Conclusion of agreements on referring employees to work abroad and referring employees on temporary work abroad;
- Anti-discrimination policy;
- Social security system;
- Exercising rights and integration of refugees and displaced persons, returnees on the basis of readmission agreements, the Roma population and other socially vulnerable groups;
- Participating in the preparation, conclusion and implementation of international social security agreements.

The Ministry of Kosovo and Metohija is competent for the following**:**

- Cooperation with the Commissariat for Refugees in the section referring to internally displaced persons from Kosovo and Metohija;
- Sustainable return and survival of internally displaced persons on Kosovo and Metohija;
- Exercising and protecting the rights of returnees to Kosovo and Metohija.

Certaint bodies established by decisions of the Government of the Republic of Serbia have migration management competencies, the most important of them being the Council for the Integration of Returnees on the basis of Readmission Agreements, Council for the Combating Human Trafficking, Coordination Body on Monitoring and Managing Migration and Commission for monitoring the visa-free travel regime with the European Union.

According to the Decision on the establishment of the Council for the Integration of Returnees on the basis of Readmission Agreements ("Official Gazette of the RS", No. 107/07), the Council is competent for the following:

- Reviewing and proposing measures and activities for accepting, taking care and integration of returnees;
- Providing support in determining and implementation of measures at the local self-government level as assistance to returnees, in accordance with possibilities and needs of a local community;
- Proposing a framework for a dialogue between states on issues concerning protection and exercising of migration rights and issues concerning illegal migrations, in order to strengthen regional cooperation important for returnees.

According to the Decision on the establishment of the Council for the Combating Human Trafficking ("Official Gazette of the RS", No. 113/04), the Council is competent for the following:

- Coordinating a national and regional activity for the cobating human trafficking;
- Reviewing reports of relevant bodies of the international community concerning human trafficking;
- Providing opinion and proposing measures for the implementation of recommendations made by international bodies in terms of the fight against human trafficking.

According to the Decision on the establishment of the Coordination Body on Monitoring and Managing Migration ("Official Gazette of the RS", No. 13/09), the Coordination Body is competent for directing work of the ministries and special organisations for the purpose of defining objectives and priorities in the migration policy and migration monitoring and management.

According to the Decision on the establishment of the Commission for monitoring the visa-free travel regime with the European Union ("Official Gazette of the RS", No. 14/11), the Commission is competent for reviewing issues related to increasing number of false asylum seekers in the European Union arriving from the

territory of the Republic of Serbia and for proposing to the Government consideration and determination of decisions regarding the measures aimed at reducing the number of false asylum applications.

Chapter II

LEGAL FRAMEWORK FOR MIGRATION MANAGEMENT IN THE REPUBLIC OF SERBIA

CONSITUTION OF THE REPUBLIC OF SERBIA

The supreme legal act of the Republic of Serbia is the Constitution from 2006 ("Official Gazette of the RS", No. 98/2006). The Constitution is, in terms of the legal effect, followed by ratified international agreements (multilateral or bilateral), which should not be contrary to the Constitution, and then by the laws and general acts which should not be contrary to the Constitution, ratified international treaties and generally accepted rules of the international law.

The Constitution of the Republic of Serbia consists of several articles important for the field of migration management. Article 13 of the Constitution, which refers to the protection of citizens and Serbs abroad, prescribes that the Republic of Serbia should protect the rights and interests of its citizens abroad, and develop and promote relations of Serbs living abroad with their home country. Article 17 of the Constitution deals with the position of foreigners and prescribes that foreigners, in accordance with international treaties, have all rights in the Republic of Serbia guaranteed by the Constitution and Law, except for the right which, according to the Constitution and Law, have only the citizens of the Republic of Serbia (e.g. an active and passive election right).

The part of the Constitution dealing with human and minority rights and freedoms contains a list of provisions relevant for different categories of migrants. It prescribes direct exercise of constitutionally guaranteed human and minority rights (Article 18), and prohibits discrimination (Article 21) – before the Constitution and Law everyone is equal and everyone shall have the right to equal legal protection, without discrimination. It prohibits any form of discrimination, direct or indirect, on any grounds, particularly on the basis of race, gender, national origin, social origin, birth, religion, political or other belief, property status, culture, language, age, and mental or physical disability. It was pointed out that the anti-discrimination measures, which the Republic of Serbia may introduce into its operation to achieve full equality of persons or groups which are essentially in an unequal position in comparison to other citizens, shall not be treated as discrimination (so called, positive discrimination).

Specific human rights and freedoms guaranteed by the Constitution are of great importance migrant groups, and those are:

- The right to dignity and free development of personality (Article 23);
- The right to life (Article 24);
- The right to inviolability of physical and mental integrity, i.e. prohibition of torture (Article 25);
- Prohibition of slavery, position similar to slavery and forced labour (Article 26);
- The right to freedom and safety (Article 27);
- The obligation to humanely treatment of a person deprived of freedom (Article 28);
- The right to a fair trial (Article 32)
- The right to legal certainty in the criminal law – prohibition of retroactive penalty measures, presumption of innocence, "ne bis in idem", etc. (Article 34)
- The right to citizenship (Article 38)
- Freedom of movement (Article 39)
- Freedom of thought, conscience and religion (Article 43)
- Prohibition of inciting racial, national and religious hatred (Article 49)
- The right to asylum (Article 57)
- The right to health care (Article 68)
- The right to social security (Article 69)
- The right to education (Article 71)

The part of the Constitution dealing with economic regulation and public financing, in Article 85 prescribes that foreign natural persons and legal entities may acquire real estate property, in accordance with the Law or an international treaty, and that foreigners may gain the concessions over natural resources and goods of public interest, as well as other rights defined by the Law.

RATIFIED INTERNATIONAL TREATIES

Some of the ratified multilateral international documents relevant for this area which should be listed are as follows:

- International Covenant on Civil and Political Rights ("Official Journal of the SFRY", No. 7/71);
- International Covenant on Economic, Social and Cultural Rights ("Official Journal of the SFRY", No. 7/71)
- Convention Relating to the Status of Refugees with the final act of the United Nations Conference of Plenipotentiaries on the Status of Refugees ("Official Journal of the FPRY – International treaties and other agreements", No. 7/60)
- Protocol Relating to the Status of Refugees ("Official Journal of the SFRY - International treaties and other agreements", No. 15/67)
- Convention Relating to the Status of Stateless Persons ("Official Journal of the FPRY - International treaties and other agreements", No. 9/59)

- International Convention on the Elimination of All Forms of Racial Discrimination ("Official Journal of the SFRY", No. 31/67)
- Convention on the Elimination of All Forms of Discrimination against Women ("Official Journal of the SFRY" – International treaties, No. 11/81)
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment ("Official Journal of the SFRY – International treaties", No. 9/91)
- Convention on the Rights of the Child ("Official Journal of the SFRY – International treaties", No. 15/90 and "Official Journal of the FRY – International treaties", Nos. 4/96 and 2/97)
- Convention on the Rights of Persons with Disabilities ("Official Gazette of the RS - International treaties", No. 42/09)
- International Convention for the Protection of All Persons from Enforced Disappearance ("Official Gazette of the RS - International treaties", br. 1/11)
- European Convention for the Protection of Human Rights and Fundamental Freedoms ("Official Journal of Serbia and Montenegro - International treaties", No. 9/03)
- Convention of Council of Europe on Action against Trafficking in Human Beings ("Official Gazette of the RS - International treaties", No. 19/09)
- ILO Convention No. 97 – Migration for Employment Convention ("Official Journal of the SFRY - International treaties and other agreements", No. 5/68)
- Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers ("Official Journal of the SFRY - International treaties", No. 12/80)
- The United Nations Convention against Transnational Organized Crime, with additional Protocols - the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air ("Official Journal of the FRY – International treaties", No. 6/2001)

On 11 November 2001, the State Union of Serbia and Montenegro signed the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, however, this Convention still has not been ratified.

Beside these multilateral treaties, Republic of Serbia signed and ratified numerous bilateral agreements on social security and a number of bilateral readmission agreements.

STRATEGIC DOCUMENTS OF THE GOVERNMENT OF THE RS RELEVANT FOR MIGRATION MANAGEMENT

In view of the fact that in the last ten years the EU accession process has been a priority in the Republic of Serbia, the Government of the RS has developed a large number of departmental strategies and policies aimed at facilitating achievement of this objective, and harmonisation of domestic legislation with EU *acquis coomunautaire* has been initiated. One of the most important strategic documents of the Government is the National Programme for Integration of the Republic of Serbia into the European Union. In terms of the strategies of the Government of the Republic of Serbia pertaining to migration management, directly or indirectly, the following should be stated:

- Migration Management Strategy ("Official Gazette of the RS", No. 59/09);
- Strategy for the Fight against Illegal Migration in the Republic of Serbia for the Period 2009 – 2014 ("Official Gazette of the RS", No. 25/09);
- Strategy of Reintegration of Returnees on t he Basis of the Readmission Agreement ("Official Gazette of the RS", No. 15/09);
- National Strategy for Resolving Issues Concerning Refugees and Internally Displaced Persons for the Period 2011 – 2014 ("Official Gazette of the RS", No. 17/11);
- Strategy for Integrated Border Management in the Republic of Serbia ("Official Gazette of the RS", No. 11/06);
- Strategy for the Fight against Human Trafficking in the Republic of Serbia ("Official Gazette of the RS", No. 111/06);
- National Strategy for the Fight against Organised Crime ("Official Gazette of the RS", No. 23/09);
- Strategy for the Improvement of Roma Status in the Republic of Serbia ("Official Gazette of the RS", No. 27/09);
- Strategy for Sustainable Survival and Return to Kosovo and Metohija ("Official Gazette of the RS", No. 32/10) ;
- Public Health Strategy in the Republic of Serbia ("Official Gazette of the RS", No. 22/09);
- National Strategy for Sustainable Development ("Official Gazette of the RS", No. 57/08);
- National Strategy for the Young ("Official Gazette of the RS", No. 55/08);
- National Employment Strategy for the Period 2011 – 2020 ("Official Gazette of the RS", No. 37/11);
- Strategy for Sustaining and Strengthening Relations between the Home Country and Diaspora and between the Home Country and Serbs in the Region ("Official Gazette of the RS", Nos. 4/11 and 14/11).

AMENDED NATIONAL PROGRAMME FOR INTEGRATION OF THE REPUBLIC OF SERBIA INTO THE EUROPEAN UNION

Amended National Programme for Integration of the Republic of Serbia into the European Union (NPI) adopted by the Government of the RS in December 2009, in Chapter 3.24.2."Migration Management", is listing following short-term priorities:

- Adoption of the Law on Migration Management;
- Adoption of the Action Plan for the Implementation of the Migration Management Strategy for the Period 2010 – 2011;
- Creating a migration profile of the Republic of Serbia;
- Strengthening capacities of the Coordination Body on Monitoring and Managing Migration, Commissariat for Refugees and competent officials in ministries;
- Concluding Protocols on the implementation of the Readmission Agreement on the basis of responsibilities resulting from the Uniform Readmission Agreement, at the initiative of one of the parties;
- Strengthening capacities of institutions at all levels for the purpose of more efficient integration of returnees and prevention of secondary migrations;
- Ensuring inclusion of returnees in the social, health and educational system;

A defined mid-term priority is provision of funds for financing projects facilitating integration of returnees through housing plans and employment projects.

On 21st April 2011 Second Amended National Programme for Integration of the Republic of Serbia into the European Union was adopted. These amendments did non change the text of the NPI, but the following table with regulations has been supplemented.

MIGRATION MANAGEMENT STRATEGY AND COORDINATION BODY ON MONITORING AND MANAGING MIGRATION

In February 2009, by a decision the Government formed the Coordination Body on Monitoring and Managing Migration (in further text: Coordination Body) which consist of the Vice President of the Government, Mr. Jovan Krkobabić, who is in charge for social policy and social activities, and who manages the work of the Coordination Body and 8 ministers competent for individual aspects of migrations within their ministry. The Commissioner for refugees participates in the work of the Coordination Body. The Coordination Body should ensure a uniform policy with its work, as well as harmonisation of activities of competent ministries in filed of migration management by directing the operation of ministries and special organisations. Professional, operational, administrative and technical activities are performed by the Commissariat for Refugees on behalf of the Coordination Body.

The most important result of the operation of the Cooperation Body was adoption of the Migration Management Strategy by the Government in July 2009. The general objective of the Strategy is migration management in a comprehensive manner, which will facilitate achievement of departmental objectives and state's priorities in the field of migrations. Three strategic objectives of the Strategy are as follows:

- Establishing and applying mechanisms of comprehensive and consistent monitoring of migration flows in the Republic of Serbia – application of measures prescribed by the Strategy should ensure institutionalisation of competencies for the collection and analysis of data about the scope and flows of migrations; defining a migration profile of the Republic of Serbia and its updating.
- Completing the strategic, legal and institutional framework of a uniform migration management – this strategic objective should be achieved through the strengthening of capacities of the Coordination Body on Managing and Monitoring Migration; ensuring implementation of a clear migration management policy and finishing normative presumptions for comprehensive and efficient migration management in line with the EU standards.
- Protecting migrants' rights, creating conditions for integration and social inclusion by raising awareness about the importance of migrations.

STRATEGY FOR THE FIGHT AGAINST ILLEGAL MIGRATIONS IN THE REPUBLIC OF SERBIA FOR THE PERIOD 2009 – 2014

As Serbia borders with three EU member states, and having in mind EU accession process of other countries in the region, in the Republic of Serbia necessity was recognize of adopting the Strategy for the Fight against Illegal Migrations by the implementation of standards in the stated area, which are compatible with decisions adopted in the region and by the European Union. Considering the above, in March 2009, the Government of RS adopted the Strategy for the Fight against Illegal Migrations in the Republic of Serbia for the Period 2009 – 2014.. The general objective of the Strategy is to improve efficiency in the fight against illegal migrations. The Strategy aims to achieve the following:

- Develop capacities and abilities of the entities creating and developing the Strategy;
- Develop cooperation with partners and other interested parties;
- Develop the methodology of the fight against illegal migrations (based on the current legislation in Serbia, the best law enforcement practices of Serbia and the EU and on the Schengen catalog of measures, which comprised four phases in combating illegal migration);
- Develop a system of measures according to different categories of illegal migrants;
- Establish a national concept of the fight against illegal migrations.

The priority tasks of the strategy were set: fulfilling the criteria for the liberalization of the visa regime for Serbian citizens, accelerating the process of stabilization and association, strengthen security capacities and potentials of Serbia and the implementation of the concept of integrated border management.

For purpose of implementation of the Strategy, on 12 November 2009, a n Agreement on the establishment of the Council for the Fight against Illegal Migrations was signed among the Ministry of Interior, Ministry of Foreign Affairs, Ministry of

Finance, Ministry of Labour and Social Policy, Ministry of Defence, Ministry of Justice, Ministry of Economy and Regional Development and Commissariat for Refugees. In accordance with this, the Council for the Fight against Illegal Migrations was formed as a common, inter-departmental, professional body consisting of experts in specific fields and the Coordinator for the Fight against Illegal Migrations, who coordinates all activities and manages operation of the Council, was appointed. The Council has a task to coordinate the entities implementing the Strategy, report to the Government on its implementation and on possible issues related to this, and propose measures to the Government for Strategy revision.

STRATEGY FOR REINTEGRATION OF RETURNEES ON THE BASIS OF THE READMISSION AGREEMENT

In February 2009, the Government adopted the Strategy for Reintegration of Returnees on the Basis of the Readmission Agreement. The Strategy defined as a general objective sustainable integration of returnees into the community with full respect for social and cultural diversity. The Republic of Serbia occupies the first position on the list of countries of origin of asylum seekers in the Western Europe. Such a situation shall, on the basis of the Readmission Agreement, open the possibility for returning of more than 100,000 persons. Acceptance of these persons requires an urgent review of issues related to the method of provision of efficient and good quality protection of returnees. The major problem in planning of the reintegration of returnees ` is the lack of precise data about the number and structure of returnees. The Ministry of Interior keeps records only of the process of returning of persons whose return had previously been announced by foreign authorities. In this Strategy, great attention has been paid to the issue of returning of the Roma, who make the greatest number of returnees.

The first generation of readmission agreements started to be concluded in the first half of the 80s, in which the contracting countries mostly obliged themselves to accept their own citizens. Since in the 90s, the migration and asylum policy in the European Union became more restrictive, the so called second generation of readmission agreements were concluded, which started to prescribe and in which the contracting countries also started to accept stateless persons of any of the contacting countries who through the territory of the contracting country entered the territory of the other contracting country. Therefore, in addition to the citizenship, which is one of the reasons for returning, the place of the last permanent or temporary residence, or the territory of the country from which a person legally or illegally enters the territory of another country have also been taken into consideration.

After a series of bilateral readmission agreements with EU member states, on 18 September 2007, the Republic of Serbia and the European Community signed the Agreement on the Readmission of Persons with Illegal Residence.

This Strategy elaborates on the aspects of issues which returnees have to face with on the basis of readmission agreements, one of which is the phenomenon of secondary migrations. A successful integration is one of the most important links in the process of migration management.

This document also identifies difficulties in obtaining and the lack of personal documents as one of the most important causes of problems in exercising the rights of migrants. If a person has not got an appropriate address, he/she cannot obtain adequate

documents, and, consequently, he/she cannot obtain basic health care, education, social assistance and legal employment.

NATIONAL STRATEGY FOR RESOLVING ISSUES OF REFUGEES AND INTERNALLY DISPLACED PERSONS FOR THE PERIOD 2011 - 2014

In March 2011, the Government of the RS adopted the National Strategy for Resolving Issues of Refugees and Internally Displaced Persons for the Period 2011 - 2014, which superseded the National Strategy for 2002. The Strategy refers to two specific target groups which are at the same time two largest migration groups in the Republic of Serbia, and they are:

1) Refugees who gained the status in accordance with the provisions of the Law on Refugees and

2) Internally displaced persons from the territory of Kosovo and Metohija who reside in the Republic of Serbia outside the territory of Kosovo and Metohija.

In terms of refugees, the Strategy represents two main parallel courses of actions – returning or integration, whereupon refugees choose for themselves which permanent solution they prefer. In terms of internally displaced persons, the basic commitment of the Republic of Serbia is to provide them full support in sustainable return to Kosovo and Metohija. However, considering the long period of displacement, the Strategy also deals with a need to find appropriate solutions for the improvement of living conditions of IDPs during their displacement.

The Strategy has the following three strategic objectives:

1) Improvement of conditions necessary for safe and dignified return of refugees to Croatia, Bosnia and Herzegovina, and institutional mechanisms for full and timely exercise of vested rights in the countries of origin;
2) Creating necessary conditions for the refugees who decided to live in the Republic of Serbia (particularly the most vulnerable categories), required for resolving their own basic problems related to living on an equal footing with all other citizens, as well as conditions for the integration in the local community;
3) Improvement of the living conditions of the most vulnerable categories of internally displaced persons, individuals and families, required for obtaining access to rights, services and resources, in accordance with the Law, in the same manner this is done by other citizens, as well as conditions for resolving their own basic questions related to living.

STRATEGY FOR INTEGRATED BORDER MANAGEMENT IN THE REPUBLIC OF SERBIA

In January 2006, the Government adopted the Strategy for Integrated Border Management in the Republic of Serbia. The concept of integrated EU border management implies that borders should be open for trade and movement of people, and, at the same time, closed for criminal and other activities which jeopardise the stability and security of the region. The basic prerequisite for the application of the concept of integrated border management in practice is efficient cooperation and coordination of

operation of all border services, and their cooperation with other public authorities, institutions and international entities.

The Strategy defines that the Border Police, Customs Administration and Veterinary and Phytosanitary Inspection, as four border services, should with their joint work provide basic prerequisites for an efficient border control and monitoring system. Harmonisation of operation of these public authorities and establishment of mechanisms of their cooperation is relevant for the implementation of the integrated border management concept. The objective of the Strategy was to define the framework of the system which will ensure establishing and long-term maintenance of borders open for the movement of people and goods, but protected from and closed for all types of cross-border criminal activities and all other activities jeopardising the security and stability of the region.

STRATEGY FOR THE FIGHT AGAINST HUMAN TRAFFICKING IN THE REPUBLIC OF SERBIA

The Strategy for the Fight against Human Trafficking in the Republic of Serbia was adopted in December 2006, and consists of a series of measures and activities to be taken in order to achieve timely and comprehensive response to the human trafficking issue in the country, with a special emphasis on the protection of human rights of victims.

The Government adopted a national mechanism for the coordination of activities and development of the policy for the fight against human trafficking and it consists of two levels - central-strategic, and operational. The central level for implementation consists of the Council for the Fight against Human Trafficking, Coordinator for the Fight against Human Trafficking, Republic Team for the Fight against Human Trafficking and Advisory Body of Republican Team for the Fight against Human Trafficking, whereas the operational level consists of judicial authorities, police and Office for Coordination of Protection of Victims of Human Trafficking.

The Government adopted a national mechanism for the identification, assistance and protection of victims and it is used for the identification of all participants who may get in contact with victims or potential victims of human trafficking, as well as the system for necessary assistance which includes medical, psychological and social, and legal assistance. The Ministry of Interior formed special police teams for the fight against human trafficking and specialised units within the Criminal Police Directorate and Border Police Directorate.

The first important part of national mechanism for the identification, assistance and protection of victims is the Office for Coordination of Protection of Victims of Human Trafficking**,** formed in the Institute for Education of Children and Youth in Belgrade. This Office is fully integrated into the social security system, with a primary role in protecting the human rights of victims during identification and during the process of providing assistance and protection. In its daily work, the Office cooperats with the police and judicial bodies, specialized NGOs and other organizations active in the fight against human trafficking.

Second important part is the Republic Team for the Fight against Human Trafficking, multidisciplinary body, composed of representatives of state institutions, NGOs and international organizations. The Republican Team is a forum where long-

term, coordinated, multisectoral and coordinated policy of fight agains human trafficking is being agreed. The Republican Team provides possibility for faster exchange of information regarding the activities undertaken in the field of human trafficking, as well as feedback on the results of these activities. Members of the Republican Team, in accordance with its mandate, are undertaking activities in four working groups, in the areas of prevention, protection of victims and criminal prosecution of perpetrators.

A particular form of fight agains human trafficking, is provided within criminal legislation and punishing of human trafficking in all its basic forms.

NATIONAL STRATEGY FOR THE FIGHT AGAINST ORGANISED CRIME

The National Strategy for the Fight against Organised Crime was adopted by the Government of the Republic of Serbia in March 2009. The Strategy is in a firm conceptual and functional connection with specific strategies in the Republic of Serbia, some of which are relevant for migration management, like the Strategy for the Fight against Human Trafficking, Strategy for Integrated Border Management and Strategy for the Fight against Illegal Migrations.

This Strategy recognises human trafficking as one of the forms of organised crime in the Republic of Serbia. In recent years, Serbia has, in addition to being a transit or destination country, more often appeared to be the country of origin of victims of human trafficking mostly for purpose of sexual and labour exploitation. Serbia is located in the center of transit routes for legal and illegal trade in goods and people. For years, the "Balkan Route" towards the EU countries included smuggling of citizens of Afro-Asian countries, as well as persons of Albanian and Turkish nationality.

STRATEGY FOR THE IMPROVEMENT OF ROMA STATUS IN THE REPUBLIC OF SERBIA

The Government of the Republic of Serbia adopted the Strategy for the Improvement of Roma Status in the Republic of Serbia in April 2009. The Strategy is important for migration management, primarily because members of the Roma national minority represent the majority of returnees on the basis of readmission agreements. At least 65 % [2] of the total number of returned people on the basis of these agreements are members of the Roma national minority.

The objective of the Strategy is to improve the position of the Roma in the Republic of Serbia, which should result in reduction of differences which currently exist between the positions of the Roma population and other citizens. The Strategy promotes an affirmative action, especially in the field of education, health, employment and housing.

The Strategy is extremely comprehensive about issues related to the Roma national minority and, among others, about issues faced by internally displaced persons and returnees on t he basis of readmission agreements. Their housing situation is extremely difficult, and most of the Roma are not part of the employment system, and they are not legally economically active, and most of them are registered as unemployed and live on the verge of existence. In view of the above mentioned situation, if additional

[2] Data were taken from the *Migration Management Strategy*.

efforts were not made and a realistic programme for economic strengthening of the Roma developed, new illegal migrations could be expected to take place in the EU countries.

Internally displaced persons, members of the Roma national minority, as well as returnees on the basis of readmission agreements, may often face the difficulties in obtaining identity documents. The lack of identity documents hampers exercise of some of basic human rights of these people, such as the right to education, health care, employment, etc.

The Strategy comprehensively describes issues faced by returnees on the basis of readmission agreements. Tens of thousands of the Roma has left Serbia in the last twenty years, seeking refuge in the countries of Western Europe, where majority of them submitted an application for asylum. Most of them obtained temporary protection, but these people are returned to Serbia either by force (deportation), or as part of so-called mandated return which is considered to be a voluntary return or return to which a person or family agrees.

The Council of Europe estimated in 2003 that from 50,000 to 100,000 citizens from the Republic of Serbia would be returned from Western European countries. Pubic authorities of the Republic of Serbia do not dispose with data on the exact number of persons who returned or will be returned from the Western Europe.

The Government of the RS formed the Council for the Integration of Returnees on the basis of the Readmission Agreement (Decision on forming the Council for the Integration of Returnees on the basis of the Readmission Agreement, Official Gazette of the RS No. 107/2007).

STRATEGY FOR SUSTAINABLE SURVIVAL AND RETURN TO KOSOVO AND METOHIJA

In April 2010, the Government of the RS adopted the Strategy for Sustainable Survival and Return to Kosovo and Metohija. The Strategy was adopted for the period 2010 – 2015, and defines guidelines for sustainable survival of Serbs and members of national minorities and return of internally displaced persons to Kosovo and Metohija. The Strategy is focused on activating all development potentials in Kosovo and Metohija in order to reduce poverty and promote a social and economic status of population, to overcome underdevelopment and promote employment. The main objective of the Strategy is sustainable survival and return to Kosovo and Metohija, and for this objective to be achieved it is necessary to achieve projected general objectives, one of which is returning of internally displaced persons and refugees.

PUBLIC HEALTH STRATEGY IN THE REPUBLIC OF SERBIA

In March 2009, the Government adopted the Public Health Strategy in the Republic of Serbia in which promotion, development and support of actions for the improvement of the health status of socially vulnerable groups of the population are defined as one of general objectives of the Strategy. Some migrant groups, like refugees and internally displaced persons, certainly belong to socially vulnerable groups. The Action Plan, adopted for the period 2009 – 2013, prescribes activities which increase accessibility and availability of the health service to socially vulnerable groups of

citizens, and development of activities focused on socially vulnerable groups for overcoming barriers (cultural, language, material and physical) for obtaining medical and other types of assistance.

NATIONAL STRATEGY FOR SUSTAINABLE DEVELOPMENT

The National Strategy for Sustainable Development, adopted in 2008, defines sustainable development as a target-oriented, long-term, continuous, comprehensive and synergetic process which affects all aspects of life (economic, social, ecological and institutional), at all levels. Sustainable development implies development of models which in a qualitative manner meet social and economical needs and interests of the citizens and, at the same time, eliminate or significantly reduce impacts threatening or harming the environment and natural resources. A long-term concept of sustainable development implies a constant economic growth which, in addition to economic efficiency, technological progress, more pure technologies, innovation of the entire society and socially responsible operation, ensures poverty reduction, improved long-term utilisation of resources, improvement of health conditions and good quality of life and reduction of pollution to the level acceptable for the environment, prevents new pollution and preserves biodiversity. One of the most important objectives of sustainable development is opening of new work positions and reducing an unemployment rate, as well as reducing gender and social inequality of marginalised groups, encouraging employment of young people and persons with disabilities, and people from other vulnerable groups.

One of the basic principles of the Strategy is involvement in social processes. The Strategy promotes full integration of citizens in the society and promotes equal opportunities for everyone. The fight against all forms of discrimination is, among others, achieved by introducing affirmative measures for marginalised groups which include some major migration groups like refugees and internally displaced persons.

Considering that implementation of such a comprehensive strategy requires participation of a large number of public authorities, the Office for Sustainable Development shall conduct coordination of inter-departmental cooperation in Strategy implementation. The Government is tasked with establishment of the Office for Sustainable Development, and the Office is reporting to the Government.

In order to coordinate activities related to the Strategy, Council for Sustainable Development, inter-ministerial body which consists of ministers responsible for environmental protection, economy and regional development, finance, labor and social policy, telecommunications, information society and science, and other ministers of the relevant ministries of Serbia, has been established. Council for Sustainable Development is an expert and advisory body of the Government of the Republic of Serbia, whose task, in addition to coordination, is promoting and monitoring of implementation of the National Strategy for Sustainable Development, especially in terms of the inclusion of sustainability into departmental development strategies and priority investment programs.

NATIONAL YOUTH STRATEGY

The National Youth Strategy was adopted in May 2008. It prescribes a series of measures which could affect migration flows of the young, and also recognises categories

of the young living in exile or displaced, young returnees in the readmission process and states their specific issues. Encouraging and stimulating all forms of employment, self-employment and entrepreneurship would reduce negative effects to the economy of the Republic of Serbia, which are the consequence of young population living and working abroad.

NATIONAL EMPLOYMENT STRATEGY FOR THE PERIOD 2011 – 2020

National Employment Strategy for the period 2011- 2020 was adopted in May 2011. In the period of appliance of the first National Employment Strategy (2005 – 2010) employment was in decline and the level of unemployment has risen. Now the unemployment rate in Serbia is much higher than the unemployment rate for 27 European Union Member Statets. This strategy deals with the analysis of the situation and perspectives of development and basic challenges facing the Republic of Serbia are identified, such as demographic challenge (population reduction as a result of reduced birth rates and economic emigration), Labour Migration (Republic of Serbia is facing the danger of increased level of departure of educated professionals and skilled workers especially in the EU countries), the institutional challenge, etc.

One of the priorities of the strategy is stimulation of employment in the less developed regions and the development of regional and local employment policy. Given that Serbia faces demographic and educational challenges, some of the necessary new solutions may include encouring of immigration of younger and more educated workers, primarily from neighboring countries.

Part of the strategy is devoted to the enhancment of institutions and development of labour market. A need to harmonize legislation with the EU *acquis* has been recognized, and in order to achive that, new law is being prepared, which will regulate the employment of foreign nationals in a modern and comprehensive way. Adoption of this law is planned by the end of 2011. Within the National Employment Service Fund for youth employment has been established. which aims to help in employment for young people who need special support, such as the returnees in the process of readmission and refugees and displaced persons. Migration Centers have been established within the National Employment Service. Network of the Centers should be expanded in order to provide information, advice and guidelines to migrants and potential migrants, which would lead to a reduction in the risk of illegal migration.

Previous National Employment Strategy for the period of 2005 - 2010, defined the category of sensitive, e.g. vulnerable groups, including, among others, Roma and refugees and internally displaced persons. New Strategy is including victims of human trafficking in the category of vulnerable groups and also identifies the category of returnees under the readmission agreement.

STRATEGY FOR SUSTAINING AND STREGTHENING OF RELATIONS BETWEEN THE HOME COUNTRY AND DIASPORA AND BETWEEN THE HOME COUNTRY AND SERBS IN THE REGION

In January 2011, the Government of the Republic of Serbia adopted the Strategy for Sustaining and Strengthening of Relations between the Home Country and Diaspora

and between the Home Country and Serbs in the Region. The Strategy recognised that migration of highly educated citizens of the Republic of Serbia due to low employment opportunities is one of the largest concerns. Some of more important status issues which the Strategy deals with are obtaining the citizenship of the home country and dual citizenship.

The Strategy points out to the need to create data bases about persons with university or college degrees who moved from the country and to the need to use migration population and their resources to reduce the unemployment rate and poverty in the Republic of Serbia.

It is envisaged that the Government of the Republic of Serbia every two years adopts an action plan for the implementation of the Strategy. The Action Plan for the period 2011 – 2012 should be adopted by the Government within 90 days from the day of entry into force of the Strategy.

LAWS AND BY-LAWS OF THE REPUBLIC OF SERBIA PERTAINING TO MIGRATION MANAGEMENT

There are several laws and by-laws that are relevant to the field of migration management. It is worth noting the following laws:

- **The Law on Foreigners** ("Official Gazette of the RS", No. 97/2008);
- **The Law on Protection of the State Border** ("Official Gazette of the RS", No. 97/2008);
- **The Law on Refugees** ("Official Gazette of RS", No. 18/92, "Official Journal of FRY", No. 42/2002 - Decision of the Federal Constitutional Court and "Official Gazette of RS", No. 30/2010);
- **The Law on Asylum** ("Official Gazette of RS", No. 109/2007);
- **The Law on Conditions for Establishing a Labour Relation with Foreign Citizens** ("Official Journal of the SFRY", Nos. 11/78 and 64/89, "Official Journal of the FRY", Nos. 42/92, 24/94 and 28/96 and "Official Gazette of the RS", No. 101/2005);
- **The Law on Employment and Insurance in Case of Unemployment** ("Official Gazette of the RS", Nos. 36/2009 and 88/2010);
- **The Law on Protection of Citizens of the Federal Republic of Yugoslavia employed abroad** ("Official Journal of the FRY", No. 24/98 and "Official Gazette of the RS", No. 101/2005 – amended by another law and 36/2009 – amended by another law);
- **The Law on Health Care** ("Official Gazette of the RS", Nos. 107/2005 and 72/2009 – amended by other law);
- **The Law on Health Insurance** ("Official Gazette of the RS", Nos. 107/2005 and 109/2005 - amended);
- **The Law on Citizenship of the Republic of Serbia** ("Official Gazette of the RS", No. 135/2004 and 90/2007);
- **The Law on Personal Identity Card** ("Official Gazette of the RS", No. 62/2006);

- **The Law on Travel Documents** ("Official Gazette the RS", No. 90/2007, 116/2008, 104/2009 and 76/2010);
- **The Law on Registers** ("Official Gazette of the RS", No. 20/2009);
- **The Law on Domicile and Residence of Citizens** ("Official Gazette of the SRS", No. 42/77 – revised text, 24/85, 6/89 and 25/89 and "Official Gazette of the RS", No. 53/93, 67/93, 48/94 i 101/2005 – amended by another law);
- **The Law on Pension and Disability Insurance** ("Official Gazette of the RS", No. 34/2003, 64/2004 – decision of the Constitutional Court of the RS, 84/2004 – amended by another law, 85/2005, 101/2005 – amended by another law, 63/2006 - decision of the Constitutional Court of the RS, 5/2009, 107/2009 and 101/2010);
- **The Law on Diaspora and Serbs in the Region** ("Official Gazette of the RS", No. 88/2009);
- **The Law on the Fundamentals of the Education System** ("Official Gazette of the RS", No. 72/2009);
- **The Law on Primary School** ("Official Gazette of the RS", No. 50/92, 53/93, 67/93, 48/94, 66/94 – decision of the Constitutional Court of the RS, 22/2002, 62/2003 – amended by another law, 64/2003 – amended by another law, 101/2005 – amended by another law 72/2009 – amended by another law);
- **The Law on Secondary School** ("Official Gazette of the RS", No. 50/92, 53/93, 67/93, 48/94, 24/96, 23/2002, 25/2002 - rev., 62/2003 – amended by another law, 64/2003 – amended by another law, 101/2005 – amended by another law and 72/2009 – amended by another law);
- **The Law on Higher Education** ("Official Gazette of the RS", No. 76/2005, 100/2007 – original interpretation, 97/2008 and 44/2010);
- **The Law on Social Protection** ("Official Gazette of the RS", No. 24/2011);
- **The Law on Social Housing ("Official Gazette of the RS", No. 72/2009);**
- **Penal Code of the Republic of Serbia ("Official Gazette of the RS", No. 85/2005, 88/2005 - rev., 107/2005 - rev., 72/2009 and 111/2009) and**
- **Bilateral readmission agreements applied by the Republic of Serbia.**

ENTRY, MOVEMENTS AND STAY OF FOREINGERS

Conditions of entry, movement and stay of foreigners in the Republic of Serbia are regulated by the Law on Foreigners and by-laws passed on the bases of this law. The Law does not apply to the foreigners who filed an asylum application or who have been granted the asylum in the Republic of Serbia, who enjoy privileges and immunities, according to the international law, or to foreigners who have been granted the status of a refugee under the Law on Refugees.

Following by-laws were adopted on the bases of the Law on Foreigners:

- Regulation 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 method of keeping registers and contents of registers kept by the Ministry of Interior under 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 ("Official Gazette of the RS", No. 59/09);

- Rulebook on the layout, contents and procedure for entering permissions for temporary residence into a foreign travel document ("Official Gazette of the RS", No. 59/09);

- Rulebook on more specific conditions, form of application and procedure for extension of visa validity ("Official Gazette of the RS", No. 59/09);

- Rulebook on the form and contents of a foreigner's laissez-passer ("Official Gazette of the RS", No. 59/09);

- Rulebook on the method of entering cancellation of the permission to stay and prohibition of entry into a foreign travel document ("Official Gazette of the RS", No. 59/09);

- Rulebook on the method of registration of temporary and permanent residence, change of address and termination of foreigner's permanent residence ("Official Gazette of the RS", No. 59/09);

- Rulebook on the fulfilment of conditions for approving temporary residence of a foreigner for family reunification ("Official Gazette of the RS", No. 59/09);

- Rulebook on the fulfilment of health insurance related conditions for approving temporary residence of a foreigner ("Official Gazette of the RS", No. 59/09);

- Rulebook on the fulfilment of conditions for approving temporary residence of a foreigner for enrolling a school, university or advanced education course, scientific and research work, practical training, participation in the programmes of international exchange of pupils or students or other scientific and educational activities ("Official Gazette of the RS", No. 59/09);

- Rulebook on more specific conditions for approving permanent residence, and on the layout, contents and procedure of entry of approval for permanent residence into a foreign travel document and identity card, and form of renunciation from the right of permanent residence ("Official Gazette of the RS", No. 59/09);

- Rulebook on the form, contents and procedure of issuing a foreigner identity card ("Official Gazette of the RS", No. 66/09);

- Rulebook on the method of entry of mandatory stay into a travel document and on the form of a temporary identity card ("Official Gazette of the RS", No. 66/09) and

- Rulebook on Visas ("Official Gazette of the RS", No. 27/10);

The provisions of the Law on Foreigners prescribe that a foreigner may enter and stay in the Republic of Serbia, under conditions stipulated by the Law, using a valid travel document containing a visa or a permission to stay, unless otherwise defined by the Law or an international treaty. When entering the territory of the Republic of Serbia, foreigners are required to undergo a border control conducted in accordance with the Law on Protection of the State Border. The Law permits both entry into and exit from the territory of the Republic of Serbia on the basis of a collective travel document and defines what is considered to be an illegal entry into the Republic of Serbia.

Article 11 of the Law on Foreigners defines reasons for denial of entry of a foreigner into the territory of the Republic of Serbia including, among others, the following:

- Lack of a valid travel document or a visa, if required;
- Lack of sufficient means of subsistence (Regulation on More Specific Conditions for Refusal of Entry of a Foreigner into the Republic of Serbia precisely prescribes 50 EUR/day during the stay);
- Transit through Serbia if a foreigner does not meet conditions of entry into the third country;
- Lack of a certificate of vaccination or other proof of good health, if a foreigner is arriving from areas affected by epidemic of infectious diseases;
- If a foreigner is registered as an international felon in relevant records, etc.

VISAS – TYPES OF VISAS AND PROCEDURE OF ISSUING

An international treaty or decision of the Government may permit entry of the citizens from specific countries into the Republic of Serbia without a visa, they may even permit entry of the citizens from specific countries on the basis of a valid identity card or another document which may be used for determining identity and citizenship. These categories of foreigners are allowed to stay in the country for the period of 90 days in the period of 6 months from the date of first entry.

The Law on Foreigners prescribes 4 types of visas such as an airport transit visa (visa A), transit visa (visa B), short stay visa (visa C) and temporary residence visa (visa D). A visa is obtained before a foreigner enters the Republic of Serbia and, as a rule, issued by the diplomatic or consular office of the Republic of Serbia. Exceptionally, when there are serious humanitarian reasons or this is in the interest of the Republic of

Serbia, the border police may, with the consent of the Ministry of Interior, issue a transit visa (visa B) for one transit or a short stay visa (visa C) for one entry with a validity period of 15 days, if a foreigner had not had the chance to apply for the visa in the diplomatic or consular office of the Republic of Serbia, provided that he/she submits appropriate evidence about the urgency of the trip for which he/she needs a visa, in accordance with the Rulebook on more specific conditions and procedure for issuing visas at the border crossing.

The Rulebook on Visas prescribes that a visa application should be, as a rule, submitted personally to the diplomatic or consular office in the country of origin of the foreigner or in the country of permanent residence or regulated temporary residence of the foreigner, however, the Rulebook also defines situations in which personal application for a visa is not mandatory (e.g. in case of issuance of a collective visa; in case of persons with disabilities; if the home country of a visa applicant has no diplomatic or consular office of the Republic of Serbia and personal arrival would cause great financial costs, etc). A diplomatic and consular office electronically submits a visa application to the Ministry of Foreign Affairs for further processing, for the purpose of obtaining an appropriate approval of the Ministry of Interior and entering data in the register of issued visas or register of refused visa applications. Upon approval of the Ministry of Interior, visas are issued by diplomatic and consular offices. In exceptional cases, an approval of the visa type A, B or C may be decide upon by the head of a diplomatic and consular office (e.g. holders of diplomatic or official passports, members of foreign state and economic delegations, due to serious humanitarian reasons, etc.), whose decision must be reported to the Ministry of Foreign Affairs, which shall enter the data in its register of issued visas or register of refused visa applications and inform the Ministry of Interior about this. Visas issued in this manner are filled in by hand and issued without a photo of the holder of a foreign travel document. Registers of issued visas and registers of refused visa applications are kept electronically in the Ministry of Foreign Affairs, in the form of a data base.

A transit visa (type B) shall be issued for a single or multiple transits through the Republic of Serbia, with the term of validity of up to 6 months, and the duration of stay in the country per one transit shall not exceed 5 days. A transit visa may be issued to a foreigner who is in possession of the visa for entry into the destination country, or the country through which he/she is transiting, except if his/her obligation to have that visa is not abolished by an international treaty.

A short-stay visa (type C) shall be issued for the purpose of tourism, business and other travelling for a single or multiple entries. The duration of an uninterrupted stay or the total duration of successive visits may not exceed 90 days within a period of 6 months which started on the day of the first entry.

A temporary residence visa (type D) shall imply permission for entry into and temporary residence of a foreigner in the Republic of Serbia. This type of visa shall be issued under conditions and with the term of validity prescribed by the Law on Foreigners for the purpose of obtaining permission for temporary residence. If a foreigner intends to stay in the Republic of Serbia for more than 90 days, he/she shall be obliged to

obtain a visa for temporary residence or to obtain the permission for temporary residence from the competent authority during his/her stay in the Republic of Serbia.

Validity of visa generally may not be extended, except for humanitarian, professional or personal reasons, or due to force majeure, in accordance with the provisions of the Rulebook on more specific conditions, form of application and procedure for extension of visa validity. Visa application is submitted by a foreigner to the organisational unit of the Ministry of Interior competent for foreign affairs, according to the permanent place of residence of the foreigner. The application should be submitted before visa's expiry date and term of validity may be extended for the period of maximum 90 days.

THE STAY OF FOREGINERS

The Law on Foreigners prescribes three types of stay of foreigners – stay of up to 90 days, temporary residence and permanent residence.

Temporary residence may be approved to a foreigner who intends to stay in the Republic of Serbia for more than 90 days due to work, education, family reunification or other justified reasons in accordance with the Law or an international treaty. A foreigner with approved temporary residence shall be obliged to stay in the Republic of Serbia in accordance with the purpose for which the stay was approved.

A foreigner who is already a resident in the Republic of Serbia on other grounds may apply for temporary residence. An application for the extension of a temporary residence period should be submitted at least 30 days prior to the expiry of the approved temporary residence. An application should be supported by evidence about means of subsistence, evidence that he/she has health insurance and evidence that reasons for temporary residence are justified and in compliance with the purpose of temporary residence. In accordance with the Rulebook on the fulfilment of health insurance related conditions for approving temporary residence of a foreigner, the evidence for this is an international health insurance policy; a form or other document issued in compliance with concluded bilateral social insurance agreements which is relevant for determining the status of the insured person; voluntary health insurance policy issued in the Republic of Serbia or a health insurance document issued in the Republic of Serbia in accordance with health insurance regulations. If there is no such evidence, it is necessary that a foreigner proves that he/she has sufficient funds to cover medical expenses which may occur on the territory of the Republic of Serbia until a decision is made on his/her application, as well as during his/her temporary residence.

The Law on Foreigners also prescribes a possibility of approving temporary residence to a foreigner who is a victim of human trafficking, if this is in the interest of criminal proceedings. This category of persons shall not be obliged to submit evidence about means of subsistence, or other required evidence. If such persons do not have sufficient means of subsistence, they shall be provided with appropriate accommodation, meals and basic living conditions. The victims are being sheltered in the Centres for the Protection of Victims of Human Trafficking (shelters can be under government's

jurisdiction, as well as under the jurisdiction of non-governmental organizations), or at some other hidden location in case that victim who is a foreign citizen does not want to be in the shelter for the whole duration of her/his stay in the Republic of Serbia.

Temporary residence may be approved for a period of one year and may be extended for the same period. The victim of human trafficking shall be approved with temporary residence for the period necessary for his/her participation in criminal proceedings. Permission for temporary residence is also recorded in a foreigner's travel document in accordance with the Rulebook on the layout, contents and procedure for entering permissions for temporary residence into a foreign travel document.

Temporary residence required for work, employment, performance of an economic or other professional activity may be approved to a foreigner who was granted with the right to work, or his/her temporary residence represents a precondition for exercising that right, in accordance with regulations governing the work of foreigners in the Republic of Serbia, or who intends to stay in the Republic of Serbia for more than 90 days, if he/she meets other conditions prescribed by the Law on Foreigners, and he/she does not need a work permit in terms of regulations governing the work of foreigners in the Republic of Serbia. The Law on the Conditions for Establishing a Labour Relation with Foreigners prescribes that it is not necessary for a foreigner to obtain a permission for establishing a labour relation, if he/she has a permission for temporary or permanent residence and if a labour relation is established for the purpose of conducting professional activities determined by the agreement on business and technical cooperation, on long-term production cooperation, on the transfer of technology and on foreign investments. In such a case, permission for temporary residence is granted before the expiry of work engagement in the Republic of Serbia.

Permission for temporary residence may be granted for the purpose of enrolling a school, university or advanced education course, scientific and technical work, practical training, participation in the programmes of international exchange of pupils or students or other scientific and educational activities. A foreigner applying for temporary residence on this grounds shall be obliged, in accordance with the Rulebook on the fulfilment of conditions for approving temporary residence of a foreigner for enrolling a school, university or advanced education course, scientific and research work, practical training, participation in the programmes of international exchange of pupils or students or other scientific and educational activities, to submit evidence on fulfilment of conditions for the approval of temporary residence. This type of temporary residence may be extended the longest for the period of up to two years upon the expiry of the period prescribed for schooling, studies, advanced education or practical training.

Temporary residence may also be approved for family reunification, in which case an application should be submitted by a foreigner – member of the close family of a citizen of the Republic of Serbia or a foreigner holding permission for permanent or temporary residence. In terms of the Law on Foreigners, the close family implies the following: spouses, their underage children born in or out of marriage, underage adopted children or underage step children. In exceptional cases, the member of close family can be the next of kin, if particularly important personal or humanitarian reasons for family

reunification in the Republic of Serbia exist. Rulebook on the fulfilment of conditions for approving temporary residence of a foreigner for family reunification defines the next of kin can be the relative in the straight line who is in a direct relationship with the guarantee provider, or his spouse, who is dependant on them and does not have adequate family care in the country of origin. It can also be the adult child of the guarantee provider or his spouse, who is not married and who is not able to fulfil his/her own needs due to the state of his/her health. This Rulebook prescribes that alongside the request, the proofs confirming the kinship or the capacity of close family member are enclosed as well. In accordance with the Rulebook on the fulfilment of conditions for approving temporary residence of a foreigner for family reunification, an application should be supported by the evidence on kinship or the role of the member of the close family. This type of temporary residence may be extended for the period up to three years, or until conditions for approval of permanent residence have been fulfilled.

Cancellation of the permission to stay of up to 90 days and permission for temporary residence may occur in case of an obstacle which represents a reason for denying an entry into the Republic of Serbia (Article 11 of the Law on Foreigners), or in case this obstacle is detected at a later stage. Upon cancellation of the permission to say, a foreigner is left with a deadline of maximum 30 days to leave the country, and with the period during which he/she shall be prohibited from re-entering into the Republic of Serbia. The cancellation of the permission to stay and prohibition of entry is entered in a foreign travel document in accordance with the provisions of the Rulebook on the method of entering cancellation of the permission to stay and prohibition of entry into the foreign travel document.

The stay of a foreigner may be terminated with the expiry of the permission for stay, with the cancellation of the permission to stay and if the protective measure of removal or the security measure of banishment is imposed on him/her.

The Law on Foreigners also defines conditions for the approval of permanent residence of a foreigner. Permanent residence may be approved to the foreigner:

1) Who stayed with no interruptions in the Republic of Serbia for at least five years on the basis of the permission for temporary residence before applying for permanent residence;

2) Who is married to the citizen of the Republic of Serbia, or a foreigner with permanent residence, for at least three years;

3) Who is an underage person with temporary residence in the Republic of Serbia if one of his/her parents is the citizen of the Republic of Serbia or a foreigner with the permission for permanent residence, subject to the consent of the other parent;

4) Who has ancestral links to the territory of the Republic of Serbia.

Exceptionally, permanent residence may be approved to other foreigners with the permission for temporary residence, if required by humanitarian reasons or if this is in the

interest of the Republic of Serbia. A foreigner who has the permission for permanent residence shall be equal in rights and responsibilities to the citizens of the Republic of Serbia, except in terms of the rights and responsibilities which he/she is exempted from on the basis of the Constitution and the Law.

Rulebook on more specific conditions for approving permanent residence, and on the layout, contents and procedure of entry of approval for permanent residence into a foreign travel document and identity card, and form of renunciation from the right of permanent residence defines more specific conditions for the approval of permanent residence, and evidence required to be enclosed to the application for permanent residence. An application should be submitted personally, to the organisational unit of the Ministry of Interior competent for foreign affairs, according to the place of residence of a foreigner. If a foreigner obtains permission for permanent residence, his/her travel document shall be awarded with a sticker defined by the aforementioned Rulebook, and his/her identity card shall in the section "Resides in the Republic of Serbia as..." contain "a foreigner with permanent residence".

The Ministry decides about the application for permanent residence, and the Government decides about the appeal against the decision refusing an application. The Law on Foreigners defines reasons for refusal of an application for permanent residence. In addition to unfulfilment of required conditions, an application may also be refused to a foreigner convicted of a criminal offence for which the perpetrator is prosecuted ex officio or in case that proceedings have been initiated for such an offence; to a foreigner who does not any means of subsistence, health insurance, place of residence or for reasons of safeguarding public order or security of the Republic of Serbia and its citizens.

The Law on Foreigners defines cases of cancellation of permanent residence to a foreigner holding the permission for permanent residence in the Republic of Serbia. Among others, residence shall be cancelled if a foreigner has no means of subsistence, health insurance or place of residence, if a foreigner is sentenced to unconditional imprisonment for more than 6 months for a criminal offence for which he/she is prosecuted ex officio, or in case he/she provided false data about his/her identity. Upon cancellation of the permission to stay, a foreigner is left with a deadline of maximum 30 days to leave the country, and with the period during which he/she shall be prohibited from re-entering into the Republic of Serbia. Exceptionally, out of humanitarian reasons, the period in which a foreigner is obliged to leave the Republic of Serbia, may be extended for up to six months. Cancellation of the permission to stay and prohibition from entry is recorded in a foreign travel document in accordance with the provisions of the Rulebook on the method of entering cancellation of the permission to stay and prohibition of entry into a foreign travel document.

The right to permanent residence shall cease to exist in case:

- It has been determined that a foreigner had moved out of the Republic of Serbia or that he/she has stayed abroad in continuity for more than one year, and has failed to notify the competent authority about this;

- His/her stay has been cancelled;

- He/she has renounced the right to permanent residence.

The Law on Foreigners defines the term of illegal stay of a foreigner as stay on the territory of the Republic of Serbia without a visa, permission for temporary residence or other legal grounds. A foreigner who illegally stays in the Republic of Serbia is obliged to leave the territory immediately or within the period of time determined by the competent authority. The period in which a foreigner who illegally resides in the Republic of Serbia shall be determined with a decision adopted by the competent authority, and the stated period may not exceed 30 days from the day of adoption of the decision.

A foreigner who illegally resides in the Republic of Serbia or does not leave the Republic of Serbia within the defined period shall be forcibly removed by the competent authority. A foreigner on whom a protective measure of removal or a security measure of banishment has been imposed, and a foreigner who is to be repatriated pursuant to an international treaty, shall be forcibly removed immediately. A foreigner may not be forcibly removed to a territory where he/she would be under threat of prosecution due to his/her race, sex, religion, nationality, citizenship, membership of a particular social group or political views. A foreigner may not be forcibly removed to a territory on which he/she would be under threat of torture, inhuman or degrading treatment or punishment.

The Law on Foreigners also permits detainment of foreigners. Exceptionally, if required for reasons of security of forced removal, a foreigner may be detained in the premises of the competent authority, but not longer than 24 hours, and his/her detention undergoes the provisions of the Law on Police.

The Law on Foreigners recognises the category of the Immigration Detention Center, where foreigners who cannot be forcefully removed are immediately sent by a decision, as well as foreigners whose identity has not been determined or who do not possess a travel document. Foreigners shall stay in the Detention Center under close police surveillance. Foreigners shall stay in the Detention Center until the time of his/her forced removal, but not longer than 90 days. Upon the expiry of the period, the stay of a foreigner in the Detention Center may be extended if his/her identity has not been determined, if a foreigner intentionally obstructs forced removal, or if a foreigner has filed an application for asylum during the forced removal procedure, to avoid forced removal, whereupon the total duration of residence in the Detention Center shall not exceed 180 days. A foreigner is obliged to observe the house rules and procedures of stay in the Detention Center, which he/she may not leave without permission. The Rulebook on house rules and rules of stay in the Detention Center, signed by the Minister of Interior on 14 October 2009, is a strictly confidential document. The Law determines that an underage foreigner shall be placed in the Detention Center together with a parent or other legal representative, unless the competent authority estimates that another type of accommodation is more suitable for the minor. An underage foreigner may not be returned to the country of origin or to a third country willing to receive him/her, until

appropriate reception has been ensured. The Law on Foreigners also defines methods of termination of stay in the Detention Center.

The competent authority may adopt a decision on imposing a travel restriction order requiring the stay in a particular place on a foreigner whose identity is known, who has residence and means of subsistence, and who cannot be forcibly removed immediately. A foreigner subject to a travel restriction order is obliged to remain at a particular address and to regularly report to the nearest competent authority, and he/she may temporarily leave the place specified by the travel restriction order, only on condition that he/she is allowed to do so by the decision of the competent authority. Duration of a travel restriction order may not exceed 180 days. A travel restriction order shall be entered into the foreigner's travel document, in accordance with the Rulebook on the method of entry of mandatory stay into a travel document and on the form of a temporary identity card. A foreigner who does not possess a travel document shall be issued with a temporary identity card. The Law on Foreigner also defines methods of termination of a travel restriction order.

For purpose of ensuring enforcement of the protective measure of removal, the foreigner's travel or other documents and travel tickets may be temporarily confiscated, with the issuance of a certificate of confiscation of the stated documents and tickets.

FOREGINER TRAVEL AND IDENTITY DOCUMENTS

The Law on Foreigners also defines foreigner travel documents, refugee travel documents, stateless person's travel documents and a foreigner's laissez-passer.

A refugee travel document shall be issued in accordance with the applicable special law (Law on asylum) and international treaty (Convention on Refugee Status from 1951). The Law on Asylum in its Articles 58 and 62 mentions the travel documents for refugees. On the basis of Article 58, Law on the Asylum, the Rulebook on the contents and layout of the template of the Request for asylum and documents that can be issued to the asylum seekers and persons that were granted asylum or temporary protection has been issued. In the Article 17 of the mentioned Rulebook, it is envisaged that the travel document template for refugees will be prescribed by a separate Rulebook. The Rulebook that prescribes the layout and conditions of travel document issuance for refugees will be prescribed by a separate Rulebook. The Rulebook that prescribes the layout and conditions of travel document issuance for refugees has not been passed yet.

A stateless person's travel document, with the term of validity of up to two years, shall be issued by the competent authority according to the place of permanent or temporary residence of the concerned stateless person, in accordance with an international treaty. The Law prescribes which institutions and under what conditions a foreigner's laissez-passer shall be issued to a foreigner who does not possess a valid travel document. The form and contents of a foreigner's laissez-passer are prescribed by the Rulebook on the form and contents of a foreigner's laissez-passer.

The Law also stipulates reasons for which a foreigner shall not be issued with a foreigner's laissez-passer, i.e. on the basis of which already issued laissez-passer may be temporarily confiscated.

A foreigner shall provide his/her identity in the Republic of Serbia by means of a foreigner travel document, foreigner identity card, special identity card and other public document containing a photograph. A foreigner shall be obliged to produce an identity document at the request of a police officer.

A foreigner identity card shall be issued to a foreigner holding the permission for permanent residence or to a foreigner holding the permission for temporary residence, and does not possess a valid travel document, in accordance with the Rulebook on the form, contents and procedure of issuing a foreigner identity card.

A foreigner identity card shall also be issued to a foreigner holding the permission for temporary residence, and who possesses a valid travel document, at his/her own request, or at the request of a diplomatic or consular office of the country whereof he/she is a citizen.

A special identity card shall be issued to a foreigner who is a member of a diplomatic or consular office of a foreign country or of another mission holding a diplomatic status.

A foreigner holding the permission for permanent residence or a holding the permission for temporary residence, without a valid travel document, who turned 16 years of age, is obliged to file an application for issuing a foreigner identity card within 30 days of arrival to the place of permanent or temporary residence, or within 15 days from the day he/she turns 16 years of age. At the parent's request, a foreigner identity card may also be issued to an underage foreigner who turned ten years of age, and who holds the permission for permanent residence.

The term of validity of a foreigner identity card issued to a foreigner who has been granted with permanent residence shall be five years. The term of validity of a foreigner identity card issued to a foreigner who has been granted with temporary residence shall be equal to the granted term of temporary residence. The validity period of a foreigner identity card issued to an underage foreigner who has been granted with permanent residence shall be two years.

A foreigner is obliged to return the foreigner identity card to the competent authority if he/she obtained the citizenship of the Republic of Serbia, if he/she is moving out of the Republic of Serbia, or his/her temporary or permanent residence permit has been revoked.

FOREIGNER'S PERMANENT AND TEMPORARY RESIDEINCE

The terms of permanent and temporary residence were defined for the purposes of the Law on Foreigners. Temporary residence, for the purposes of the Law, means a place

in which a foreigner holding the permission to stay in the Republic of Serbia indents to stay for longer than 24 hours, whereas permanent residence means a place in which a foreigner holding the permission for permanent residence intends to live permanently at a specific address.

The Law on Foreigners prescribes the responsibility of legal entities and natural persons providing accommodation services to foreigners for a fee, as well as persons receiving visits whom foreigners, to notify the competent authority of the foreigners' stay within 24 hours. A foreigner holding the permission for permanent residence is obliged to register in the place of permanent residence or to register a change of address in the place of permanent residence within eight days of arrival to the place of permanent residence, or of the day of change of address. Registration of a foreigner's stay may also be performed via e-mail. A foreigner is obliged to register termination of permanent residence prior to the day of leaving the place of permanent residence. The method of registration of temporary residence, permanent residence, change of address and termination of permanent residence for foreigners shall be regulated more specifically by the Rulebook on the method of registration of temporary residence, permanent residence and change of address and termination of foreigner's permanent residence.

COLLECITNG FOREIGNERS' PERSONAL DATA AND KEEPING RECORDS OF FOREGINERS

The Law on Foreigners prescribes the possibility for the competent authority to collect personal data on foreigners from public administration bodies, companies and other legal entities, sole traders and citizens of the Republic of Serbia, as well as from the foreigner himself/herself when this is provided for in a law or international treaty, when this is in the foreigner's interest, and he/she does not object to it, or when this is necessary for the purposes of safeguarding public order and security of the Republic of Serbia. Personal data on foreigners shall be collected, processed and used in conformity with a special law governing personal data protection.

The Law on Foreigners also prescribes which type of records are kept by the Ministry of Interior and Ministry of Foreign Affairs.

The Ministry of Interior keeps records about the following:

1) Foreigners holding the permission for permanent residence;

2) International felons prohibited from entering the Republic of Serbia;

3) Foreigners holding the permission for temporary residence;

4) Foreigners whose temporary residence has been revoked;

5) Prohibition of foreigners' entry into and exit from the country;

6) Foreigners in respect of whom a protective measure of removal or security measure of banishment is in force;

7) Foreigner travel documents and identity cards issued;

8) Foreigner travel and other documents reported lost and found, in accordance with the Law on Foreigners;

9) Travel documents temporarily confiscated;

10) Registrations of foreigners' stays;

11) Registrations of foreigners' permanent residence, terminations of permanent residence and changes of address;

12) Carriers and tour operators in respect of a protective measure of prohibition from engagement in the international transfer of passengers by air, road, water or rail or a protective measure of prohibition from organizing international tourist or business trips;

13) Legal entities and sole traders in respect of a protective measure of prohibition from performing activities related to the provision of accommodation services to foreigners;

14) Foreigner travel documents used for the entry into and exit from the Republic of Serbia;

15) Foreigners in transit through the territory of the Republic of Serbia;

16) Visas issued at border crossings and refused visa applications at border crossings.

These records are kept in accordance with the Rulebook on keeping records and contents of records kept by the Ministry of Interior on the basis of the Law on Foreigners.

The Ministry of Foreign Affairs keeps records of the following:

1) Issued special identity cards;

2) Issued visas;

3) Refused visa applications;

4) Issued foreigner's laissez-passers;

5) Foreigner travel and other documents reported lost and found, in accordance with the Law on Foreigners.

The Rulebook on Visas prescribes the method of keeping records and contents of records about issued visas and refused visa applications.

The Law on Foreigners prescribes a central data base in which data from the above stated records are entered. The data base should be maintained by the Ministry of Interior, and it could also be used by authorized police officers of the Ministry of Interior and competent authority, authorized civil servants of the Ministry of Foreign Affairs and diplomatic and consular offices of the Republic of Serbia, for the purposes of conducting activities in accordance with the competencies stipulated by the Law on Foreigners.

Subject to approval of the minister competent for interior affairs, the data from the central data base may also be used by other public authorities when this is required for the purposes of conducting activates falling within their respective spheres of competence.

The method of collection, entry and use of data from the central data base shall be regulated in more detail by a regulation issued by the minister competent for interior affairs with the approval of the minister competent for foreign affairs. That by-law has not been passed yet, given that the central data base relating to foreign citizens that can be used by other state administration organs with an aim to perform duties belonging to their jurisdiction has not yet been established.

PENALTY POLICY FOR MISDEMEANOR

The Law on Foreigners also defines the penalty policy for misdemeanour both in terms of misdemeanour of legal entities or sole traders, dealing with international passenger transportation by air, road, water or rail, organizing international tourist or business trips and providing accommodation services to foreigners, and in terms of misdemeanour of natural persons who fail to register a foreigner's stay with the competent authority within 24 hours from the moment of foreigner's arrival for a visit. A foreigner may also be punished for specific violations on the basis of the Law on Foreigners, for some violations only with a fine, and for some violations both with a fine and a protective measure of a foreigner's removal from the territory of the Republic of Serbia.

STATE BORDER PROTECTION

The Law on Protection of the State Border envisages more modern state border management system, demilitarised border was demilitarised and enables free flow of people and goods.

The Law defines protection of the state border as control of crossing of the state border and guarding the state border for the purpose of:

1) Securing immunity of the state border;

2) Preventing and detecting criminals and criminal actions;

3) Protecting people's lives, health and environment;

4) Preventing illegal migration.

The Law on Protection of the State Border defines specific terms like a state border, border crossing and temporary border crossing, integrated border management and border police. The activities of state border control and protection of the border are conducted by the Ministry of Interior and other public administration authorities (e.g. customs authorities), and border police is defined as an organisational unit of the Ministry of Interior which directly performs state border control activities. The Law defines authorities of members of the border police, which, among others, include inspection of travel and other documents, determining a person's identity, possibility of taking fingerprints if there is a doubt about a person's identity or validity of a travel or other document, inspection and searching of a person, inspection of a vehicle and use of police dogs.

The Law prescribes that the state border is crossed at a border crossing. Exceptionally, there is for a possibility to cross out of a border crossing in case of a force majeure or if this is prescribed by an international treaty. If a person due to the force majeure crosses the state border out of a border crossing, he/she shall be obliged to notify the border police about this immediately.

The Law is also familiar with the concept of a border licence which is, in accordance with the competent customs and upon approval of competent authorities of a neighbouring country, issued to a group of people or an individual, at their request, for crossing the border out of a border crossing.

Border crossings can be opened for international traffic (they are used by the citizens of the RS and all foreign citizens) or for regional traffic (used only by the citizens of the neighbouring countries of the RS for the crossing from a certain territory of the RS and stay in a certain zone of a neighbouring country and vice versa).

The Law also defines the term of a temporary border crossing which may be opened temporary (up to three months during one year) for the purpose of conducting several short-term activities (e.g. cultural, scientific, sports, religious, agricultural activities, etc.) or for the purpose of re-directing the traffic going through the state border. Temporary border crossing is determined by Decision of the Minister of Interior, issued with the approval of ministers responsible for finance and foreign affairs, and the competent authorities of neighboring country. In December 2009, the Government adopted the Regulation on Conditions and Procedure for Adoption of a Decision on Determining a Temporary Border Crossing ("Official Gazette of the RS", No. 111/2009).

Border control is defined as control of persons and travelling documents, control of a vehicle and control of items, performed in the border crossing area connected to intended crossing of the state border, or immediately after the state border has been

crossed, and other control of traffic of persons, goods, services, means of transportation, animals and plants over the state border determined by the Law. A person crossing or having crossed the state border is obliged to present to a police officer, during a border control, a document required for the crossing of the border, and ensure an undisturbed control. In case of a slowdown or unacceptably long waiting time to cross the border, specific border control activities may be temporarily omitted, however, the border police shall be obliged to apply a minimal level of control which means proving identity and a reliable control of validity of travel documents of persons crossing the border.

The border police is authorised to collect personal data from persons on whom the authorisation applies, and to enter and process the data in records. In addition, the border police shall be obliged to keep records of the persons:

- Who have been subjected to the border control;

- Who are prohibited from crossing the state border;

- Who are subjected to the procedure of identification;

- Who are issued with a border licence, permits for the movement across and stay in the border crossing area and permits for the movement across and stay in the area of a populated place in which the border crossing is located;

- To whom licence applications have been refused or their licence has been taken away due to the reasons resulting from criminal or misdemeanour proceedings, prevention of spread of contagious diseases or due to security reasons;

- Members of foreign security services who are granted with a permit for entry into the Republic of Serbia, or whose entry into the Republic of Serbia is announced;

- Persons with an identity card that allows movement through and stay in the border crossing area;

- Persons who committed a violation of the state border;

- Persons who announced hunting or fishing along the borderline;

- Persons with an issued permit for importing, transfer and exporting of the firearm and ammunition, etc.

The Law prescribes that the contents, manner of keeping records and period of storing data in these records are more closely regulated by the minister competent for interior affairs. By-law that would more closely regulate this issue is not yet adopted.

Personal data from these records may be provided to other authorities in accordance with the Law (The Law on Protection of Personal Data), and to the authorities

of foreign countries under conditions regulated by an international treaty, e.g. readmission agreement.

In June 2011, Government of the Republic of Serbia adopted the Regulation on the Closer Determination of Ways of Exercising Police Authorities of Police Officers of Border Police and Duties of Persons Crossing the State Border ("Official Gazette of the RS", No. 39/2011), which stipulates that in order to protect the interests of the Republic of Serbia and its citizens and to prevent abuse of the visa-free regime of the European Union to the Republic of Serbia, when it comes to travel to EU member states, the border police officer may ask a citizen of the Republic of Serbia, to show him documents, besides the travel or other documents proscribed for crossing the border, such as:

1) other appropriate documents proving the purpose of travel in the EU Member States (confirmation of hotel bookings, a certificate or voucher from a travel agency or tour operator accredited by Member States of the European Union, invitation or letter of guarantee, travel insurance, an official document issued by the competent authority of the Member States of the European Union, a return ticket, etc.);

2) proof of sufficient funds for living expenses during their stay in the Member States of the European Union (money, credit cards, checks, etc.), in accordance with the purpose of the journey;

3) other evidence, invitation or confirmation regarding the purpose of the journey, envisaged by legislation of the European Union and its Member States.

This Regulation could be applied accordingly also to the travel of citizens of the Republic of Serbia in other countries that are not members of the European Union.

THE LAW ON REFUGEES

The specific feature of the Law on Refugees is that term “refugee” under this Law is restricted to persons who originally come from the territory of the Former Socialist Federative Republic of Yugoslavia. By means of enactment of the Law on Asylum in 2007, all legal regulations within this field were encompassed, since the intitution of asylum has been harmonised with international obligations of Serbia and European standards, while provisions of the Law on Asylum have been applied to persons to whom it is not possible to apply provisions of the Law on Refugees. Nevertheless, this has also caused certain ambiguities, above all, with respect to terminology used in both of these legal regulations.

At the time when the Law on Refugees was adopted in 1992, the purpose was primarily creation of legal framework for provision of humanitarian care to persons who have fled to the territory of the Republic of Serbia, due to military conflicts in the

territories of the Former SFRY. After some time, when it became obvious that refugees are not a short-term issue, 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 legal framework for integration of persons who acquired citizenship of the Republic of Serbia. This process began in May 2010, by the adoption of the Law on Amendments to the Law on Refugees ("Official Gazette of the RS", No. 30/10).

Eventhough the term "refugee" is still specifically defined for purposes of the Law on Refugees, the abovementioned amendments have broaden 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 is a person who has applied for the citizenship of the Republic of Serbia. A new definition of the term "refugee" also includes persons who have decided to be integrated and in accordance with that, refugees are now also provided with asistance in the integration process, apart from provision of care for the purpose of meeting basic subsistence needs.

Pursuant to the Law on Refugees, 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 Expelled Persons ("Official Gazette of RS", No. 47/95);
- 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 139/2004);
- Rulebook on the Refugee Record Form ("Official Gazette of RS", No. 23/92, 22/94 and 61/94).

Amendments to the Law on Refugees, adopted in May 2010, stipulate that the Government should enact by-laws which would further define conditions and criteria for decreasing or cessation of rights to provision of care and conditions and criteria for determination of the order of priority for resolving the housing needs of refugees. These by-laws are still in the process of preparation.

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

Under the Regulation on Providing Care to Refugees these terms are more clearly defined, as well as the term "trustees for refugees" and their duties within the system of refugee protection, at the local level. Legal regulations stipulate that refugees may be provided with accommodation and food at collective accommodation facilities (collective centres), and in case this collective accomodation does not suit a person, due to his/her psycho-physical condition (old or disabled persons, children etc.), the Commissariat for Refugees shall provide such person with accommodation within social protection facilities, upon the decision of the social work centre.

It is also stipulated that refugees are temporarily provided with material assistance in the form of food, clothing, footwear, personal hygiene products, and in exceptional cases, cash or cash vouchers.

The Regulation on Providing Care to Refugees specifies that health care of refugees shall include:

1) preventive measures and actions, including measures of sanitary and epidemiological protection;

2) emergency medical treatment within a medical institution, at home or other residential facility;

3) complete health care for women during pregnancy and labour;

4) medical examinations and other services at health centres, including dental health care and rehabilitation;

5) specialist medical examinations and other specialised services upon the doctor’s order of the health centre;

6) medications, which have been designated as essential by the list of medications adopted by the Republic Health Insurance Organisation, medical supplies and consumables for medication application;

7) prevention and treatmnet of oral and dental diseases;

8) hospital treatment in critical and urgent cases;

9) examinations and other services within institutes for health protection;

10) specialised rehabilitation within rehabilitation institutes and orthopedic and prosthetic devices and appliances for children and adolescents up to 18 years of age and students up to 26 years of age, as well as other persons after suffering serious illnesses, traumas or injuries.

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. At the local level, there is a network of trustees for refugees, which are created when competent authorities in the autonomous province and local self-government units, after obtaining the opinion of the Commissariat for Refugees, appoint a person in charge of maintaining communication with the Commissariat and performing specific duties for purposes of the Commissariat. The Law stipulates that the Commissariat shall perform duties pertaining to:

- recognition and cessation of refugee status;
- provision of care to refugees;
- registration of refugees;
- coordination of provision of care to refugees by other authorities and organisations in the country and abroad and ensuring balanced and timely provision of care;
- provisions of accommodation, e.g.placement of refugees to territories of local self-government units;
- undertaking measures for refugees' return;
- resolving housing needs in accordance with the Law on Refugees;
- record keeping falling within its competence and setting up of data bases.

Records shall be kept in accordance with the Rulebook on the Record Keeping 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. Against the decision of Commissariat dissatisfied Party can file a complaint 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.

For refugees, whose status has been recognize on the basis of the Decision, the Ministry of Interior shall issue a refugee identity document, which represents public document proving the identity and the basis for the refugees to exercise their rights under the law. A refugee identity document contains data included in an ID card, and for its issuance, holding and replacement, the regulations pertaining to ID cards shall be applied accordingly.

The refugee identity document form and method of record keeping of issued refugee identity documents and change of refugees' place of residence is prescribed by the Rulebook on Refugee Identity Documents. The Ministry of Interior shall keep records of issued refugee identity documents and changes of refugees'place of residence.

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 residence registration;

2) if a person has voluntarily returned to reside in the former Yugoslav republic he/she fled;

3) if a person move to a third country, and

4) for beneficiaries of the housing programme in the process of integration.

The Commissariat shall send 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.

On the basis of Amendments to the Law on Refugees, adopted in May 2010, the legal framework has been established for resolving the housing needs of refugees. The housing needs of refugees and former refugees which have acquired the citizenship of the Republic of Serbia and initiated the procedure of residence registration may be resovled 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 contruction of immovable property;

5) purchasing a country house with a croft.

The first-instance procedure shall be conducted and decision shall be taken by a commission of the Commissariat. Complaints against decisions of this commission shall be filed to the Governmental Commission for Resolving Housing Needs of Refugees, within 15 days from the day of delivery of the first-instance decision. The Commission for Resolving Housing Needs of Refugees is comprised of the President and six members appointed by the Government, for the four-year term. Manner and some procedural issues regarding resolving housing needs of refugees and former refugees which have acquired the citizenship of the Republic of Serbia and initiated the procedure of residence registration is specified by amendments to the Law on Refugees. Since housing needs of refugees may also be resolved through foreign earmarked loans and donors' programmes, the Law stipulates that, in that case, conditions, procedure and other issues of relevance to resolving housing needs of refugees, shall be laid down in donors' agreements and programmes.

ASYLUM

This matter is regulated by the Law on Asylum enacted in 2007, which became implemented from 1st of April 2008, and following by-laws:

- 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 and Contents of Records Kept of Persons Accommodated at the Asylum Centre ("Official Gazette of RS", No. 31/2008);
- Rulebook on Social Assistance for Asylum Seekers or Persons Granted Asylum ("Official Gazette of RS", No. 44/2008);
- Rulebook on Contents and Layout of the Asylum Application Form and Documents Which May Be Issued to Asylum Seekers and Persons 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 Centre for Asylum in Banja Koviljaca;
- Decision on Establishing a List of Safe Countries of Origin and Safe Third Countries ("Official Gazette of RS" No. 67/2009);
- Decision on Establishing the Asylum Centre ("Official Gazette of RS", No. 34/2011), establishing Centre for Asylum in Bogovadja.

The Law on Asylum stipulates principles, conditions and procedure for granting and cessation of asylum, as well as status, rights and obligations of asylum seekers and persons granted the right to asylum in the Republic of Serbia. This Law does 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 the Law.

Asylum is defined as the right to residence and protection accorded to an alien 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. For purposes of this Law, the term "asylum" is broader than the term "refuge" which has been defined as a right to residence and protection granted to a refugee on 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 .

The term "refugee", specified in the Law on Asylum, should not be confused with the term "refugee" under the Law on Refugees, which pertains exclusively to 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. A refugee, within the meaning of the Law on Asylum, is understood to mean a person who, on account of well-founded fear of persecution on the grounds of race, gender, language, religion, nationality, membership in a particular social group or his/her political opinions, is not in the country of his/her origin, and is unable or unwilling, owing to such fear, to avail him/herself of the protection of that country, as well as a stateless person who is outside the country of his/her previous permanent residence, and who is unable or unwilling, owing to such fear, to return to that country.

A subsidiary protection is defined as a form of protection which the Republic of Serbia grants to an alien 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.

Apart from these terms, the Law on Asylum also specifies terms such as a country of origin, safe country of origin, safe third country etc.

An alien who is in the territory of the Republic of Serbia is entitled to file an application for grant of asylum in the Republic of Serbia. If the abovementioned alien is not eligible to be granted the right to refuge, the competent authorities shall consider *ex officio* whether the conditions for granting subsidiary protection exist. The Law also stipulates that competent authorities should cooperate with UNHCR in implementation of their activities.

Basic principles advocated by the Law on Asylum are:

- the principle of non-refoulment;
- the principle of non-discrimination;
- the principle of non-punishment for unlawful entry or stay;
- the principle of family unity;
- the principle of providing information and legal aid;
- the principle of providing free translation services;
- the principle of free access to UNHCR;
- the principle of personal delivery;
- the principle of gender equality;
- the principle of providing care for persons with special needs;
- the principle of representation of unaccompanied minors and persons; without legal capacity;
- the principle of directness and
- the principle of confidentiality.

The first-instance asylum procedure is conducted and all decisions are passed by the competent organizational unit of the Ministry of Interior – which should be the Asylum Office and established within the Ministry of Interior. The Action Plan for the Implementation of Recommendations from the European Commission Annual Report for 2010, for the purpose of accelerated candidate status acquisition, which the Government of the Republic of Serbia adopted in December 2010, stipulates that the Asylum Office has not been established and that all tasks, falling within the competence of the Office, have been performed by the Asylum Section within the Department for Foreign Nationals of the Border Police Administration (BPA). New systematization draft of the Ministry of Interior, whose adoption is expected by 30th June 2011, envisages the establishment of the Asylum Office, which would operate independently within the Border Police Administration (BPA).

The Asylum Commission decides on complaints against decisions taken by the first-instance authority. The President and eight members of the Commission are appointed by the Government for the four-year term. The President and members of the Asylum Commission are appointed by the Government Decision 24 No. 19-1643/2008 of 17th April 2008. A person may be appointed as the President and member of the Commission if he/she is a citizen of the Republic of Serbia, has a university degree in law and a minimum of five years of working experience as a practicing lawyer and is familiar with regulations in the field of human rights. 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.

The Law on Asylum provides for establishing of the Asylum Centre within the Commissariat for Refugees, which will be managed by a Commissioner on Refugees. The Government has passed decisions establishing two Asylum Centres, in Banja Koviljača, which began its work on 15th December 2008, and in Bogovađa which opened on 23rd of May 2011. Asylum seekers are provided with accommodation and basic living conditions until final decision on their application is reached. Funds required for functioning of the Asylum Centre are provided from the Budget of the Republic of Serbia. The Commissioner on Refugees has set out the Rulebook on House Rules in the Asylum Centre, defining the code of conduct for asylum seekers, accommodated at the Asylum Centre, in accordance with the Law on Asylum, as well as other issues of importance to undisturbed work of the Centre. Also the Rulebook on Conditions for Accommodation and Provision of Basic Living Conditions in the Asylum Centre has been passed, stipulating that an asylum seeker may be accommodated at the Centre if he/she has been previously listed, that is registered and referred to the Centre by the Ministry of Interior, if medical examination has been conducted in accordance with the regulation enacted by the Minister in charge of the area of health and if the Centre has available accommodation capacities. Information about the occupancy rate of the Centre are sent to the Asylum Office, and in case the Centre has reached its full capacity, it is not obliged to admit and accommodate the person referred. The Centre may not accommodate persons that need assistance and care from other persons, persons with mental disorders or persons who require regular dialysis and other persons who require health care of specialized institution, which cannot be provided within the Centre.

An alien 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. He/she shall be entered into records and in accordance with legal regulations, he/she should be referred to the Asylum Office or Asylum Centre, and also obliged to report to the authorised officer of the Asylum Office or Asylum Centre, within 72 hours. The police officer, to whom an alien has expressed his/her intention to seek asylum, shall make a record of it and issue a certificate containing personal data that the foreign national has provided about himself/herself or may be established on the basis of identity and other documents at his/her disposal. The police officer may search an alien for the purpose of finding identity and other documents, while the certificate issued to an alien serves as a proof of an alien's expressed intention to seek asylum and his/her right of residence for 72 hours. The method of registration of aliens, who have expressed their intention to seek asylum, should be further prescribed by the regulation of the Minister of Interior. This by-law is still in its draft phase.

Pursuant to the Law on Asylum, the authorised officer of the Asylum Office shall register an alien and his/her family members. The registration includes establishing identity of that person, taking his/her photograph and fingerprints and even temporary seizure of identity and other documents which may be relevant to the asylum procedure. The certificate on seizure of identity and other documents is issued to an alien. An alien is obliged to submit any documents of relevance to the asylum procedure during registration or application for asylum, but prior to his/her interview at the latest. Upon the completion of his/her registration, an alien shall be issued an identity card for asylum seekers. The method of conducting the registration should be further prescribed by the regulation of the Minister, but this by-law is not yet adopted. .

Under the clauses of the Law on Asylum, the procedure for granting asylum itself is initiated by applying for asylum to the authorised officer of the Asylum Office, using the prescribed application form and as a rule, within 15 days from the day of registration. At the alien's request and in justified cases, this deadline may be extended. In case he/she unjustifiably fails to abide by the deadline, an alien shall lose the right to reside in Serbia. The Rulebook on Contents and Layout of the Asylum Application Form and Documents which May Be Issued to Asylum Seekers and Persons Granted Asylum or Temporary Protection ("Official Gazette of RS", No. 53/2008) stipulates the content and layout of the asylum application form. This application form shall be published in the Serbian language, in Cyrillic script, as well as in the English language, while the content of this asylum application form shall be interpreted into the language the foreign national understands. The asylum application form shall be completed in the language in which it has been published, but if the asylum seeker does not understand that language, he/she may complete it in the language he/she understands.

The authorised officer of the Ministry of Interior shall interview the asylum seeker as soon as possible and he/she may be interviewed more than once.

After the conducted procedure, the first-instance authority shall pass a decision and it may:

1) accept the asylum application and recognise the right to refuge or grant subsidiary protection to an alien;
2) refuse the asylum application, if it has been determined that the application is unfounded (for instance, it is based on false reasons, falsified identity documents, or if it has been determined during the procedure that the person has applied merely for economic reasons or in order to delay deportation) or due to other statutory reasons for refusing the right to asylum (for instance, the person is considered to have committed a crime against peace, war crime or crime against humanity, serious non –political criminal act or have been responsible for acts contrary to goals and principles of the United Nations), and order the alien to leave the territory of Serbia within the specified deadline, unless there are other grounds for residence; this decision has to be reasoned.

An alien, 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.

In specific cases an asylum application may be rejected without examining the eligibility of an asylum seeker for grant of asylum (for instance, it has been determined that the asylum seeker could have received an effective protection in another part of the country of origin, he/she has a grant of asylum in another country, a citizenship of a third country, or that an asylum application, which the asylum seeker has submitted in another country that complies with the Geneva Convention, has been refused, or the asylum seeker has deliberately destroyed an identity document etc.).

There are particular cases in which the procedure is suspended ex officio (for instance if a person withdraws an asylum application, if he/she fails to appear for an interview or declines to make a statement, without providing a valid reason for doing so, if he/she leaves Serbia without authorisation etc).

A complaint against first-instance decisions rendered in the asylum procedure may be lodged to the Commission for Asylum through the Asylum Office within fifteen days from the date of receipt of the first-instance decision.

The Law on Asylum also recognizes the institution of temporary protection. The Government will pass a decision on temporary protection, 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. Individual decisions on granting temporary protection should be issued by the Asylum Office. Since temporary protection is an extraordinary measure, it is envisaged to last for maximum one year, with a possibility of extension if the reasons for providing temporary protection continue to apply. In justified cases, family reunification and temporary protection shall be granted for family members of the person who enjoys temporary protection in Serbia.

Temporary protection ceases upon the expiry of the date for which it was granted, or when the reasons for which it was granted have ceased to exist, which shall be decided by the Government.

RIGHTS AND OBLIGATIONS

An alien who has been granted temporary protection shall have the right to:

1) reside during the period of the validity of temporary protection;

2) a personal identity document verifying his/her status and residence right;

3) health care, in accordance with regulations governing health care for foreign nationals; the right to health care for foreign nationals is regulated by Articles 238- 242 of the Law on Health Care;

4) free primary and secondary education in public schools, in accordance with a special regulation; Article 71 of the Constitution provides for the right of every person to education and stipulates that primary education is mandatory and free, while secondary education is free; Article 6 of the Law on the Fundamentals of the Education System stipulates that foreign nationals and stateless persons are entitled to education under the same conditions as specified for the citizens of the Republic of Serbia;

5) legal aid, under the conditions prescribed for the asylum seekers;

6) freedom of religion, under the same conditions that apply to the citizens of the Republic of Serbia;

7) accommodation, in accordance with a special regulation;

8) affordable accommodation for disabled persons.

A foreign national who has been granted temporary protection shall be equal in terms of obligations with persons whose right to refuge has been recognized.

During the procedure, an asylum seeker has the right to reside in the Republic of Serbia and, if necessary, he/she is entitled to accommodation at the Asylum Centre. During the course of admission to the Asylum Centre, it is mandatory to carry out a medical examination in accordance with the Rulebook on Medical Examinations of Asylum Seekers during the Admission to the Asylum Centre. If an asylum seeker has his/her own financial resources, he/she shall be obliged to participate in accommodation costs at the Asylum Centre.

An asylum seeker and a person who has been granted asylum in the Republic of Serbia are entitled to health care, in accordance with regulations governing health care for foreign nationals. Article 241 of the Law on Health Care stipulate that the costs of health care services, provided for foreign nationals who have been granted asylum in the Republic of Serbia, shall be covered by the Budget of the Republic of Serbia, in case they are without material support. These persons are also entitled to free primary and

secondary education, as well as to social assistance in accordance with the Rulebook on Social Assistance for Asylum Seekers or Persons Who Have Been Granted Asylum, prescribing that a monthly financial aid is available to persons who are not accommodated at the Asylum Centre and whose family members do not have income or their incomes are below the required minimum laid down by the Rulebook. Decisions on requests for monthly financial aid are rendered by a social work centre in a municipality of residence of the asylum seeker or person who has been granted asylum.

Persons whose right to refuge in the Republic of Serbia has been recognized have rights equal to those of the citizens of the Republic of Serbia with respect to rights to intellectual property protection, free access to courts of law, legal aid, exemption from the payment of court fees and other fees payable to state bodies, as well as the right to freedom of religion.

Persons whose right to refuge in the Republic of Serbia has been recognized shall have rights equal to those of permanently residing foreign nationals with respect to the right to work and rights arising from employment, entrepreneurship, the right to permanent residence and freedom of movement, the right to movable and immovable property, and the right of association.

To persons whose right to refuge or subsidiary protection has been recognized, accommodation shall be provided commensurate with the capacities of the Republic of Serbia, for maximum one year from the final decision on the status recognition. Accommodation implies the provision of a certain habitable space for use, or of financial assistance necessary for housing. Commensurate with its capacities, the Republic of Serbia shall create conditions for the inclusion of refugees in its social, cultural and economic life, and enable the naturalization of refugees.

A person whose right to refuge has been recognized shall have the right to reunite with his/her family members. At the request of the abovementioned person, the right to refuge shall also be granted to his/her family members who are outside the territory of the Republic of Serbia. A person who has been granted subsidiary protection shall have the right to family reunification, in accordance with the regulations governing the movement and residence of foreign nationals.

The Law on Asylum also defines specific obligations of an asylum seeker (for instance, adherence to measures of restrictions of movement, in case such measures are adopted, respect of house rules of the Asylum Centre, written notification of the competent authority about the change of address within three days, submission of identity documents to an authorized officer etc.).

The movement of asylum seekers may be restricted, when it is necessary for the purpose of establishing identity of an alien, ensuring the presence of an alien in the course of the asylum procedure, if there are reasonable grounds to believe that the asylum application has been filed with a view to avoiding deportation, or if it is not possible to establish other relevant facts on which the asylum application is based without the presence of the alien in question, as well as for the purpose of protecting national security and public order, in conformity with the law. Restriction of movement of these persons is implemented by ordering

accommodation at the Reception Centre for foreign nationals under intensified police surveillance or by imposing a ban on leaving the Asylum Centre or specified address, that is a designated area. Restriction of movement may not last longer than three months and in exceptional cases, it may be extended for another three months.

The law defines reasons for the cessation of the right to refuge.

1) a person has voluntarily re-availed him/herself of the protection of his/her country of origin;

2) a person has voluntarily regained a citizenship he/she has previously lost;

3) a person has acquired new citizenship and thus enjoys the protection of the country of his/her new citizenship;

4) a person has voluntarily returned to the country he/she left or outside which he/she has remained owing to the fear of persecution or ill-treatment, and

5) 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 (unless the person is able refer to solid reasons pertaining to persecution or ill-treatment in the past).

The decision on gr anting asylum shall be revoked *ex officio* if it has been established that some of the abovementioned reasons exist. There is also the possibility of revoking the decision on granting asylum, if it has been subsequently determined that it has been rendered on the basis of misleading 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, or if it has been subsequently determined that 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.

In accordance with the Law on Asylum and the Rulebook on Contents and Layout of the Asylum Application Form and Documents Which May Be Issued to Asylum Seekers and Persons 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– in accordance with legal regulations, it should be issued by the Asylum Office, upon the conducted registration of the person; it shall also be issued to his/her family member and valid until the completion of the asylum procedure, while its validity shall be renewed every six months.

- an identity card for a person granted asylum– in accordance with legal regulations, it should be issued by the Asylum Office to a person over 15 years of age; if the person has been recognised the right to refuge, an identity card shall be issued with the validity

period of 5 years, and if the person has been granted subsidiary protection, it shall be valid for one year.

- an identity card for a person granted temporary protection- it shall be issued with the validity period of one year.

- a travel document for refugees- at the request of a person over 18 years of age, who has been granted the right to refuge in the Republic of Serbia, a travel document shall be issued on a prescribed form, valid for a period of 2 years, in accordance with the law. The Rulebook on Contents and Layout of the Asylum Application Form and Documents Which May Be Issued to Asylum Seekers and Persons Granted Asylum or Temporary Protection in Article 17 predicts that the layout of a travel document for refugees will be prescribed with specific rulebook. Rulebook that would define the layout and conditions of issuing travel documents for refugees has not yet been enacted. In exceptional cases of a humanitarian nature, a travel document shall also be issued to persons enjoying subsidiary protection who do not possess a national travel document, with a validity period of maximum one year.

The Law on Asylum prescribes that the Ministry of Interior shall keep records of:

1) registered persons;

2) asylum seekers in the Republic of Serbia;

3) persons granted the right to refuge or persons granted subsidiary protection;

4) persons granted temporary protection;

5) persons whose movement has been restricted in accordance with Articles 51 and 52 of the Law on Asylum ;

6) temporarily seized foreign identity documents, and

7) identity documents issued in accordance with this Law.

By-law that would more closely defined keeping of these records is still in the adoption process.

The Commissariat for Refugees shall keep records of persons accommodated at the Asylum Centre, in accordance with the Rulebook on the Method and Contents of Records Kept of Persons Accommodated at the Asylum Centre.

READMISSION

Readmission, in the broadest sense, is the process of safe and orderly return of persons who do not or no longer meet the criteria for the entry, stay or residence on the territory of a certain State, from that State which is in the readmission process referred to as "the Requesting State", to the State that is in the readmission process referred to as "the Requested State" which is the country that the person who is being readmitted originally left before he/she tried to enter or has resided within the territory of the Requesting State.

The Republic of Serbia implement s the following readmission agreements:

1) The Agreement between the Republic of Serbia and the European Community on Readmission of Persons Residing Illegally ("Official Gazette of RS- International Agreements", No. 103/2007);
2) The Agreement between the Federal Government of the Federal Republic of Yugoslavia and the Government of the Kingdom of Denmark on the Return and Admission of Persons Who Do Not or No Longer Meet the Conditions for the Entry or Residence in the Territory of Another Country ("Official Journal of FRY-International Agreements", No. 12/2002);
3) The Agreement between the Republic of Serbia and the Kingdom of Norway on the Readmission of Persons Residing Illegally ("Official Gazette of RS-International Agreements", No. 19/2010);
4) The Agreement between the Republic of Serbia and the Swiss Confederation on the Readmission of Persons Residing Illegally, including the Protocol ("Official Gazette of RS-International Agreements", No. 19/2010);
5) The Agreement between the Council of Ministers of Serbia and Montenegro and the Government of Canada on the Return and Admission of Persons Who Do Not or No Longer Meet Conditions for the Entry or Residence in the Territory of Another Country, including the Protocol ("Official Journal of FRY-International Agreements ", No. 3/2006);
6) The Agreement between the Council of Ministers of Serbia and Montenegro and the Council of Ministers of Bosnia and Herzegovina on the Return and Admission of Persons Who Do Not or No Longer Meet Conditions for the Entry or Residence in the Territory of Another Country, including the Protocol ("Official Journal of FRY-International Agreements ", No. 22/2004);
7) The Agreement between the Governments of the Republic of Serbia and the Republic of Croatia on the Turning in and Admission of Persons Who Have Entered or Resided Illegally, including the Protocol ("Official Gazette of RS-International Agreements", No. 19/2010);
8) The Agreement b etween the Governments of the Republic of Serbia and the Republic of Macedonia on Turning in and Admission of Persons Who Have Entered or Resided Illegally, including the Protocol ("Official Gazette of RS-International Agreements", No. 1/2011).

THE AGREEMENT BETWEEN THE REPUBLIC OF SERBIA AND THE EUROPEAN COMMUNITY ON THE READMISSION OF PERSONS RESIDING ILLEGALLY

Among the abovementioned bilateral readmission agreements, the most important one for the Republic of Serbia is the one between the Republic of Serbia and the European Community on the Readmission of Persons Residing Illegally. Prior to the conclusion of the aforementioned Agreement, the Republic of Serbia had already signed, ratified and applied a number of readmission agreements with certain EU member states, which seized to be implemented following the signing and verification of the Agreement between the Republic of Serbia and the European Community on the Readmission of Persons Residing Illegally. An exception in this regard presents the Kingdom of Denmark, given that the regulations of this agreement are applicable to all EU member states apart from this particular one, thus the issue of readmission between Serbia and the Kingdom of Denmark remains to be governed by the bilateral agreement between FRY and the Kingdom of Denmark.

Apart from the core text, the Agreement also contains 7 annexes, which constitute its integral part regulating the following issues:

Annex 1 – Joint list of documents required for submission that are considered as evidence of citizenship.

Annex 2 – Joint list of documents required for submission that are considered as prima facie evidence of citizenship.

Annex 3 – Joint list of documents that are considered as evidence of eligibility for the readmission of third-country nationals or stateless persons.

Annex 4 – Joint list of documents that are considered as prima facie evidence of eligibility for the readmission of third-country nationals or stateless persons.

Annex 5 – Joint list of documents that are considered as evidence or prima facie evidence of eligibility for the readmission of citizens of the former SFRY.

Annex 6 – Readmission request application form.

Annex 7 – Transit request application form.

Apart from readmission, the Agreement also defines the term “transit” as the transition of third-country nationals or stateless persons through the territory of the state where transit has been requested, on the way from the country which has applied for readmission to the country of final destination. It also specifies when Serbia or an EU member state shall authorise the transit, when they may refuse transit, as well as the very transit procedure which begins with the filing of a transit request.

For the purpose of implementation and application of the Agreement, it is foreseen that a Joint Readmission Committee be established that will be comprised of representatives of the European Community and Serbia, whose decisions shall be binding upon both contracting parties. The Agreement stipulates that the Commission shall convene when required, and at the request of either signatory.

It is also stipulated that, at the request of a member state or the Republic of Serbia, implementation protocols of this Agreement shall be produced and signed, which

shall further specify technical issues pertaining to its implementation, such as determining competent authorities, border crossings and contact points, fast-track return modalities etc. Before the entry into force of these protocols, it is necessary to inform the Joint Readmission Committee. Serbia has agreed to comply with the Protocol provisions drawn up with one EU member state, even the in case when this is required by another member state.

In November 2009, the Implementation Protocol of the Agreement between the Republic of Serbia and European Community on the Readmission of Persons Residing Illegally was signed between the Governments of the Republic of Serbia and the Republic of Italy, which was verified and ratified in 2010, through the Law on the Ratification of the Implementation Protocol of the Agreement between the Republic of Serbia and the European Community on the Readmission of Persons Residing Illegally signed between those two countries ("Official Gazette of RS-International Agreements, No. 19/2010). Apart from Italy, the Implementation Protocols of the Readmission Agreement with the European Community were signed with Slovenia (8th June 2009), France (18th November 2009), Hungary (19th December 2009), Great Britain (18th March 2009), Austria (25th June 2010) and Malta (2nd July 2010).

OBLIGATIONS OF THE REPUBLIC OF SERBIA AND THE EUROPEAN COMMUNITY PERTAINING TO READMISSION

The Agreement defines the obligations of the Republic of Serbia and the European Community with respect to the circle of persons who are subject to readmission, regarding the readmission of their own nationals as well as the readmission of third-country nationals and stateless persons.

OBLIGATIONS OF THE REPUBLIC OF SERBIA:

Serbia is committed to admit, at the request of an EU member state, without additional formalities other than those stipulated by this Agreement, any person who does not meet or no longer meets the conditions in force for the entry, stay or permanent residence within the territory of the member state which has submitted the readmission application, provided that it has been proven or there are valid grounds for assumption, on the basis of rendered *prima facie* evidence, that the respective person is a national of Serbia.

Serbia is also obliged to admit:

- unmarried minor children of the aforementioned person, irrespective of their birth place or citizenship, unless they have an independent right of residence in the member state which has submitted the readmission application;
- spouses of the aforementioned person, holding another citizenship, provided they have the right to enter and reside within the territory of Serbia, unless they have an independent right of residence in the member state which has submitted the readmission application;

- persons whose citizenship of Serbia has ceased due to release, due to the entering onto the territory of a member state, unless these persons have been promised at least naturalisation by that EU member state.

Concerning the readmission of third-country nationals and stateless persons, Serbia has committed itself to admit, at the request of an EU member state and without additional formalities other than those stipulated by this Agreement, any third-country national and stateless person who does not or no longer fulfills the conditions in force for the entry, stay or permanent residence within the territory of the member state which has submitted the readmission application, provided that it has been proven or it may be validly assumed, on the basis of *prima facie* evidence rendered, that the person in question:

a) holds, or held at the time of entry, a valid visa or residence permit issued by Serbia,

b) entered illegally and directly onto the territory of a member state, after residing or transiting through the territory of Serbia.

The abovementioned readmission obligation shall not apply if:

a) third-country nationals or stateless persons have only been in transit by air via the International Airport of Serbia,

b) the member state which has submitted the readmission application, has also issued to the third-country national or stateless person a visa or residence permit, before or after entering its territory, unless:
   - the person is in possession of a visa or a residence permit, issued by Serbia, with a longer validity period;
   - the visa or residence permit issued by the member state which has submitted the readmission application, has been obtained by using fraudulent or falsified documents, or making false statements, whereas the person has previously resided in or transited through the territory of Serbia;
   - the person fails to respect some of the conditions attached to the visa or he/she has previously resided in or transited through the territory of Serbia.

Serbia is obliged to receive and readmit nationals of the Former Socialist Federative Republic of Yugoslavia who have not acquired another citizenship and whose place of birth and permanent residence on 27th April 1992, was within the territory of Serbia.

OBLIGATIONS OF THE EUROPEAN COMMUNITY:

The EU member state is obliged to readmit, at the request of Serbia, without additional formalities, other than those stipulated by this Agreement, any person who

does not meet or no longer meets the conditions in force for the entry, stay or permanent residence within the territory of Serbia, provided that it has been proven or it may be validly assumed, on the basis of *prima facie* evidence rendered, that the said person is a national of that member state.

The member state shall also admit:

- unmarried minor children of the aforementioned person, irrespective of their birth place or citizenship, unless they have an independent right of residence in Serbia;
- spouses of the aforementioned person, holding another citizenship, provided they have the right to enter and reside or have acquired the right to enter or reside within the territory of the requested state, unless they have an independent right of residence within the territory of Serbia.
- persons whose citizenship of the member state has ceased due to release, since entering the territory of Serbia, unless such persons have at least been promised naturalisation by Serbia.

Concerning the readmission of third-country nationals and stateless persons, the EU member state has committed itself to admit, at the request of Serbia and without additional formalities, other than those stipulated by this Agreement, all third-country nationals and stateless persons who do not or no longer fulfill the conditions in force for the entry, stay or permanent residence in the territory of Serbia, provided that if it has been proven or it may be validly assumed, on the basis of *prima facie* evidence rendered, that persons in question:

a) holds, or held at the time of entry, a valid visa or residence permit issued by the competent authority in the EU member state to which Serbia has submitted the readmission application,

b) entered illegally and directly the territory of Serbia, after residing or transiting through the territory of the EU member state to which Serbia has submitted the readmission application.

The abovementioned readmission obligation shall not apply if:

a) third-country nationals or stateless persons have only been in airside transit via the international airport located in the territory of the EU member state to which Serbia has submitted the readmission application,

b) Serbia has also issued to the third-country national or stateless person a visa or residence permit, before or after entering its territory, unless:
   - the person is in possession of a visa or residence permit, issued by the EU member state to which Serbia has submitted the readmission application, with a longer validity period;
   - the visa or residence permit issued by Serbia, has been obtained by using fraudulent or falsified documents, or making false statements, while the

person has previously resided in or transited through the territory of the EU member state to which Serbia has submitted the readmission application;

- the person fails to respect some of the conditions attached to the visa or he/she has previously resided in or transited through the territory of the EU member state to which Serbia has submitted the readmission application.

In case a visa or residence permit have been issued by two or more member states, the readmission obligation shall refer to the member state issuing the document with a longer validity period or if the validity period has expired for one or more documents, it shall refer to the member state issuing the document which is still valid. If the validity period of all documents has expired, the readmission obligation shall refer to the member state whose competent authority has issued the document with the most recent expiration date. If a person does not possess any of the abovementioned documents, the readmission obligation shall refer to the latter member state which the person has left.

READMISSION PROCEDURE

The readmission procedure is closely specified in the Agreement. A readmission application is submitted to the competent authority of the Republic of Serbia or the EU member state. It is not necessary to submit the abovementioned application when the person who is to be readmitted is in possession of a valid travel document, and in case that the person is a third-country national or stateless person and is in possession of a valid visa or residence permit in the country to which the readmission application has been submitted.

The application should contain data on the person which should be admitted, documents proving the citizenship and the prerequisites on the basis of which *prima facie* evidence regarding citizenship, transit, eligibility for readmission, as well as on illegal entry and residence of third-country nationals or stateless persons and a photograph of the repatriate. The application should contain information about whether the person requesting readmission needs medical assistance or care or information about any other type of protection or safety measure or information about the health condition of the person, which could be essential in individual transfer cases.

The Agreement also defines the procedure pertaining to proving the citizenship of persons whose readmission is requested. Annexes No. 1 and 2, define which documents shall be considered as evidence or *prima facie* evidence of citizenship. Annexes No. 3 and 4, define which documents shall be considered evidence or *prima facie* evidence of eligibility for readmission of third-country nationals and stateless persons. It is stipulated that illegal entry, stay or permanent residence shall be established on the basis of travel documents of persons, who do not have the required visa or other residence permit in the territory of the country requesting readmission. Annex 5 of the Agreement specifies which documents shall be considered evidence or *prima facie* evidence of eligibility for readmission of the citizens of the Former SFRY.

The Agreement specifies the deadline for submission of a readmission application (typically, within a maximum of one year after the competent authority of the requesting country has established that a person does not meet or no longer meets the conditions in force for the entry, stay or permanent residence), within which the requested country has to respond to such applications in written form (typically, two working days, in case of a fast-track procedure and 10 calendar days in other cases). If no response is received within this time limit, the transfer shall be deemed approved. In case of refusal of the readmission application the reasons have to be stated.

The readmission shall take place within three months after the approval or determination of the deadline for submission of the response. If so requested by the country which has submitted the readmission application, the deadline may be extended in order to remove legal or practical obstacles. Before the return of the person for whom readmission is requested, the competent authorities of the Republic of Serbia and the EU member state shall agree on the date and other details relevant to the transfer. The Agreement also provides for the possibility for the country requesting readmission, that in case of an error in the readmission, that is, when it has been established that readmission conditions have not been met, to take back the readmitted person.

The Agreement also underlines the importance of the protection of personal data of persons in the process of readmission. Their personal data may be shared among competent authorities of the Republic of Serbia and EU member states.

AGREEMENT BETWEEN THE REPUBLIC OF SERBIA AND THE SWISS CONFEDERATION ON THE READMISSION OF PERSONS RESIDING ILLEGALLY, INCLUDING THE AGREEMENT IMPLEMENTATION PROTOCOL

Since it has been concluded in the Agreement between the Republic of Serbia and European Community on Readmission of Persons Residing Illegally, that the European Union, European Community and Switzerland have signed the agreement on the implementation, application and improvement of the Schengen acquis and that it would be advisable for the Republic of Serbia to sign the Agreement on Readmission with Switzerland in the form identical to the Agreement between the Republic of Serbia and European Community, in June 2009 in Belgrade, the Agreement between the Republic of Serbia and the Swiss Confederation on the Readmission of Persons Residing Illegally, including the Agreement Implementation Protocol, was signed. The aforementioned Agreement was ratified in 2010, by means of the Law on Ratification of the Agreement between the Republic of Serbia and the Swiss Confederation on the Readmission of Persons Residing Illegally, including the Agreement Implementation Protocol ("Official Gazette of RS- International Agreements", No. 19/2010).

There are no great differences between the text of the Agreement between the Republic of Serbia and the European Community on the Readmission of Persons Residing Illegally and the text of the Agreement between the Republic of Serbia and the Swiss Confederation on the Readmission of Persons Residing Illegally, including the Agreement Implementation Protocol. In this case, the Agreement Implementation Protocol constitutes an integral part of the Readmission Agreement and includes, apart

from the Protocol, of two Annexes (Readmission Request Application Form and Transit Request Application Form), but Annexes 1-5 of the Agreement between the Republic of Serbia and the European Community on the Readmission of Persons Residing Illegally are contained in the text of the Agreement Implementation Protocol between the Republic of Serbia and the Swiss Confederation on Readmission of Persons Residing Illegally. Some of the existing differences are:

- the acceptance of DNA analysis, carried out by the country which has submitted the readmission application as a *prima facie* evidence of citizenship;
- this Agreement does not make reference to a fast-track readmission procedure and the deadline for response by the country to which the application has been submitted in writing is longer, namely 15 instead of 10 calendar days; the deadline for the transfer of persons is 6 instead of 3 months;
- the Joint Readmission Committee is not determined, but the contracting parties may arrange expert meetings, at the request of one of the contracting parties and
- the cooperation in operational activities is emphasised, since contracting parties have committed themselves to assist each other, within the limits of their capacities and resources, in the areas of: a) facilitation of reintegration of persons returning to the Republic of Serbia; b) capacity building for regular migration management; and c) exchange of information and identification of new areas of mutual interest to programmes and actions, including technical assistance and cooperation in operational activities.

AGREEMENT BETWEEN THE REPUBLIC OF SERBIA AND THE KINGDOM OF NORWAY ON THE READMISSION OF PERSONS RESIDING ILLEGALLY

In November 2009, the Agreement between the Republic of Serbia and the Kingdom of Norway on the Readmission of Persons Residing Illegally was signed and ratified in 2010, by means of the Law on Ratification of the Agreement between the Republic of Serbia and the Kingdom of Norway on the Readmission of Persons Residing Illegally ("Official Gazette of RS-International Agreements", No. 19/2010).

Given that it has been concluded in the Agreement between the Republic of Serbia and the European Community on the Readmission of Persons Residing Illegally, that it would be advisable for the Kingdom of Norway and Republic of Serbia to sign the Readmission Agreement in the same form, logical structure and texts of these two agreements do not differ significantly. One of the differences is that the Agreement between the Republic of Serbia and the Kingdom of Norway on the Readmission of Persons Residing Illegally specifies competent authorities for its implementation, which

constitutes the foreseen part of the Agreement Implementation Protocol between the Republic of Serbia and the European Community on the Readmission of Persons Residing Illegally. Apart from that, the Agreement between the Republic of Serbia and the Kingdom of Norway contains 8 Annexes, unlike the Agreement between the Republic of Serbia and the European Community which has 7 Annexes. Annex 8 of the Agreement between the Republic of Serbia and the Kingdom of Norway represents a permit issued by the National Police Immigration Service of Norway.

AGREEMENT BETWEEN THE FEDERAL GOVERNMENT OF THE FEDERAL REPUBLIC OF YUGOSLAVIA AND THE GOVERNMENT OF THE KINGDOM OF DENMARK ON THE RETURN AND ADMISSION OF PERSONS WHO DO NOT OR NO LONGER MEET THE CONDITIONS FOR THE ENTRY OR RESIDENCE IN THE TERRITORY OF ANOTHER COUNTRY

In May 2002, the Agreement between the Federal Government of the Federal Republic of Yugoslavia and the Government of the Kingdom of Denmark on the Return and Admission of Persons Who Do Not or No Longer Meet Conditions for the Entry or Residence in the Territory of Another Country was signed and ratified the same year, by means of the Law on Ratification of the Agreement between the Federal Government of the Federal Republic of Yugoslavia and the Government of the Kingdom of Denmark on the Return and Admission of Persons Who Do Not or No Longer Meet Conditions for the Entry or Residence in the Territory of Another Country ("Official Journal of FRY-International Agreement", No. 12/2002).

Pursuant to this Law, former FRY and the Kingdom of Denmark have pledged to admit:

- their own nationals who do not or no longer meet the conditions for entering or residing in the territory of the other contracting party;

- as well as third-country nationals and stateless persons who do not or no longer meet the conditions for entering or residing in the territory of the other contracting party, who previously resided in the territory of another contracting party which is requested to admit the person .

For the purposes of this Agreement, the requesting party has been defined as the country within whose territory persons who do not meet or no longer meet the conditions for entering or residing are present and which requests their readmission or transit, under the conditions stipulated by this Agreement, while the requested party has been defined as the country, to which territory the person should be admitted to or authorised to transit through, under the conditions stipulated by this Agreement.

The Agreement prescribes exceptions to the readmission obligations, either of the country's own nationals or third-country nationals and stateless persons. Among others, it has been defined that the requested party shall send a response to the readmission request to the competent authority of the requesting party within 21 days, as well as that a negative response to the readmission request must be explained. The Agreement also addresses the term "transit of third-country nationals or stateless persons", as well as "personal data protection". The signing of the Agreement Implementation Protocol is foreseen, which shall further regulate specific issues, as well as the setting up of the Expert Committee, comprised of the members of the competent authorities of the contracting parties, which shall meet as required, at the request of one of the contracting parties, at least once a year.

AGREEMENT BETWEEN THE COUNCIL OF MINISTERS OF SERBIA AND MONTENEGRO AND THE GOVERNMENT OF CANADA ON THE RETURN AND ADMISSION OF PERSONS WHO DO NOT OR NO LONGER MEET THE CONDITIONS FOR THE ENTRY OR RESIDENCE IN THE TERRITORY OF ANOTHER COUNTRY

In March 2006, the Agreement between the Council of Ministers of Serbia and Montenegro and the Government of Canada on the Return and Admission of Persons Who Do Not or No Longer Meet the Conditions for the Entry or Residence in the Territory of Another Country, including its Implementation Protocol, were signed and ratified the same year, by means of the Law on Ratification of the Agreement between the Council of Ministers of Serbia and Montenegro and the Government of Canada on the Return and Admission of Persons Who Do Not or No Longer Meet the Conditions for the Entry or Residence in the Territory of Another Country ("Official Journal of FRY-International Agreements", No. 3/2006)

This Agreement, as well as the other readmission agreements, stipulates the obligation of the state to admit, either its own nationals who do not or no longer meet the conditions for the entry or residence in the territory of another signatory country, or foreign nationals, that is, third-country nationals or stateless persons, who have been refused entry into the territory of one of the signatory countries upon the arrival at the border crossing point, if it has been proven that the foreign national has arrived directly from the territory of the other signatory country, as well as foreign nationals who have illegally entered the territory of one of the signatory countries, if it has been proven that the foreign national has arrived directly from the territory of the other signatory country. Exceptions have been foreseen to the readmission obligation, the term "transit of third-country nationals or stateless persons" has been defined and it has been provided for to set up the Expert Committee.

The Agreement Implementation Protocol:

- specifies the competent authorities for the implementation of the Agreement;

- designates the border crossings for the implementation of the Agreement and

- defines the rules of procedure relevant to the implementation of this Agreement.

READMISSION AGREEMENTS CONCLUDED WITH THE COUNTRIES FROM THE REGION

The Republic of Serbia has concluded three readmission agreements with countries of the former SFRY, i.e. with Bosnia and Herzegovina, Croatia and Macedonia. All the three agreements are accompanied by implementation protocols for the agreements, keeping in mind that in the agreements with Bosnia and Herzegovina and Macedonia, the protocols were signed at the government level, while the agreement with Croatia is accompanied by the protocol signed between the ministries of internal affairs of the Republic of Serbia and the Republic of Croatia. The agreement with Bosnia and Herzegovina was signed in May 2004 and was ratified in the same year. The agreement with Croatia was signed in May 2009 and ratified in 2010, while the agreement with Macedonia was signed in October 2010 and ratified in 2011.

With the exception of minor differences in the structure, these agreements contain essentially similar solutions. In addition to the obligation to admit their own citizens who do not or no longer meet the conditions for the entry and residence in the territory of the other signatory party, it is envisaged that countries shall also be obliged to admit third-country nationals, as well as persons without citizenship if they do not or no longer meet the conditions for the entry and residence in the territory of the other signatory party, provided that the persons referred to above entered the territory of the country that submitted the readmission application directly from the territory of the country which the above-mentioned application was submitted to, where their previous residence was. The agreements with Croatia and Macedonia, apart from the obligation to admit third-country nationals and persons without citizenship whose previous residence was in the territory of the signatory party which the readmission application is being submitted to, exclusively state the admission of third-country nationals and persons without citizenship, who entered the country submitting the readmission application after the transit through the territory of the country which the readmission application was submitted to. All these agreements also envisage exceptions from the obligation to admit the third-country nationals and persons without citizenship, who are more or less identical (e.g. there is no obligation to admit third-country nationals from countries bordering the signatory party submitting the readmission application).

These agreements regulate the transit of third-country nationals or persons without citizenship through the territory of the county which the transit request was submitted to, in case the other signatory party had provided the admission to the person in transit to a third country. These agreements stipulate the protection of personal data used under the readmission procedure in line with the national legislation and relevant international treaties imposing obligations on the signatory parties.

Agreements signed with Bosnia and Herzegovina and Croatia stipulate the establishment of a joint body to monitor their enforcement (the Experts' Commission in

the agreement with Bosnia and Herzegovina and the Joint Commission in the agreement with Croatia). The agreement with Macedonia does not stipulate the establishment of such a body, but it does provide an opportunity to call meetings of experts in order to clarify any issues regarding the agreement's implementation.

The protocols concluded with these readmission agreements address a number of procedural issues, such as the establishment of:

- bodies competent for the implementation of the agreement,

- personal documents establishing the person's citizenship and identity,

- border crossing points for the transmission and admission of persons,

- contents of the readmission application or transit request etc.

EMPLOYMENT OF FOREIGN CITIZENS IN SERBIA

The Law on Conditions for Establishing a Labour Relation with Foreign Citizens adopted in 1978, is regulating employment of foreign citizens in the Republic of Serbia. The new legal document which would regulate this matter in a modern manner, also taking into account the European legislation, is currently being developed and is expected to be adopted in 2011.

In addition to the Law on Conditions for Establishing a Labour Relation with Foreign Citizens, the Guidelines for the submission of a request for issuing and giving approval for the establishment of a labour relation with foreign citizens ("Official Journal of the SFRY", No. 51/81 and "Official Journal of Serbia and Montenegro", No. 1/2003 – Constitutional Charter) and Rulebook on conditions and method of issuance of a work permit to a foreigner and stateless person ("Official Gazette of the RS", No. 22/2010) were also adopted.

The Law on Conditions for Establishing a Labour Relation with Foreign Citizens prescribes that foreign citizens and stateless persons may establish a labour relation if they meet the following:

a) General terms and conditions prescribed by the Law (e.g. the condition prescribed by the Labour Law ("Official Gazette of the RS", Nos. 24/2005, 61/2005 and 54/2009) according to which a person has to be at least 15 years of age), collective agreement and general act (e.g. the Statute) for performing activities of a specific job position and

b) Special conditions prescribed by the Law on Conditions for Establishing a Labour Relation with Foreign Citizens – which are the

following: foreign citizens may establish a labour relation if he/she holds the permission for permanent residence and/or temporary residence, and if he/she obtains a permission for establishing a labour relation; in case a labour relation is established for the purpose of performing professional activities determined by the agreement on business and technical cooperation, on long-term production cooperation, on transfer of technology and on foreign investments, it is not necessary to obtain a permission for establishing a labour relation.

If a foreign citizen holds the permission for permanent residence, then he/she shall personally submit a request for issuing a permission for establishing a labour relation to the republic and/or provincial organisation competent for employment activities. If a foreign citizen holds the permission for temporary residence, then the request for issuing an approval for establishing a labour relation shall be submitted by the employer with a description of the need for the employment of the foreign citizen. A permission for establishing a labour relation with a foreign citizen is issued by the republic and/or provincial organisation competent for employment activities.

A labour relation shall be terminated for a foreign citizen if the validity of the permission for temporary residence expires, or his/her temporary residence is cancelled, or if his/her or if his/her permanent residence is terminated. A labour relation may be extended for a foreign citizen if his/her temporary residence has been extended, and if he/she has obtained a new permission for establishing a labour relation.

The Rulebook on conditions and method of issuance of a work permit to a foreigner and stateless person is a new legal document issued in 2010, which more closely defines conditions and manner of issuing a work permit to foreigners and stateless persons, as well as the role of the National Employment Service in this procedure. The Rulebook prescribes that the National Employment Service shall, in accordance with the Law, issue a work permit to foreigners who hold the permission for permanent residence or permission for temporary residence. The same as the Law on Conditions for Establishing a Labour Relation with Foreign Citizens, the Rulebook also prescribes that a foreigner who hold the permission for permanent residence shell by himself/herself submit a request for issuing a work permit to the branch office of the National Employment Service according to the place of his/her permanent residence. He/she will be issued with a work permit for the term of duration of his/her permission for permanent residence. If a foreigner holds the permission for temporary residence, the request shall be submitted by the employer with a description of the need to employ the foreigner. In such a case, a work permit shall be issued for the term of duration of the permission for temporary residence of the foreigner.

The Rulebook allows to the branch office of the National Employment Service to refuse a request for issuing a work permit to a foreigner if records in the branch office contain unemployed citizens of the Republic of Serbia who fulfil conditions for performing of activities stated in the request for issuing a work permit to a foreigner.

The National Employment Service keeps special records about issued work permits to foreigners who hold the permission for permanent or temporary residence.

The Law on Employment and Insurance in Case of Unemployment in Article 85 prescribes that foreign citizen or stateless person may apply as an unemployed person to the National Employment Service if he/she hold the permission for permanent and/or temporary residence and a valid work permit. If foreign citizens or stateless persons are kept in the records of unemployed persons of the National Employment Service, they are equal in status with Serbian citizens in terms of rights and possibilities for employment, and they are included in programmes and measures of an active policy of employment conducted by the National Employment Service. In addition, they have the right to be informed about vacant job positions, counselling, mediation in employment, inclusion in programmes of additional education and training and financial support during employment, i.e. they can use the right to subvention award and the right to the utilisation of self-employment funds.

If a foreign citizen was insured in case of unemployment on the territory of the Republic of Serbia, and if he/she was registered in the register of the National Employment Service after termination of insurance, he/she shall gain the right to financial compensation in the manner and under the same conditions as the citizens of the Republic of Serbia.

EMPLOYMENT OF CITIZENS OF THE REPUBLIC OF SERBIA ABROAD

There are two important legal regulations in this field – **the Law on Employment and Insurance in Case of Unemployment** and **the Law on Protection of Citizens of the Federal Republic of Yugoslavia employed abroad.** The Law on Protection of Citizens of the FRY Employed Abroad is a regulation which was adopted at the federal level at the time when there was still a division of competencies between the federal and republic level. Considering that the Law on Employment and Insurance in Case of Unemployment also regulates the field of employment abroad, its adoption in 2009 terminated the effect of Articles 2 – 10 of the Law on Protection of Citizens of the FRY Employed Abroad, but all other articles of the Law are still in force.

A) Law on Employment and Insurance in Case of Unemployment

The Law on Employment and Insurance in Case of Unemployment regulates the following: employment activities and holders of employment activities; rights and obligations of the unemployed and employer; active employment policy; insurance in case of unemployment and other issues relevant for employment, increase of an employment rate and prevention of long-term unemployment in the Republic of Serbia.

The Law defines employment activities as follows:

1. Informing about possibilities and conditions for employment;

2. Mediation in employment in the country and abroad;

3. Professional orientation and counselling on career planning;

4. Implementation of measures of an active employment policy;

5. Issuing work permits to foreigners and stateless persons, in accordance with the Law.

It is envisaged that employment activities are conducted by the National Employment Service and employment agencies to which work permits are issued by the Ministry competent for employment activities. Article 20 of the Law prescribes that legal entities and natural persons incorporate an employment agency for the purpose of conducting employment activities, such as:

1. Informing about possibilities and conditions for employment;

2. Mediation in employment in the country and abroad;

3. Professional orientation and counselling on career planning;

4. Implementation of measures of an active employment policy, on the basis of agreement with the National Service.

The Law deals with records in the field of employment and prescribes that specific records are kept by the holders of employment activities, and that central records in the field of employment are kept by the National Employment Service. Article 83 of the Law prescribes that the National Employment Service keeps special records about foreigners and stateless persons, and Article 85 prescribes that a foreign citizen or stateless person may be reported as unemployed if he/she holds the permission for permanent or temporary residence and a valid work permit. Article 93 of the Law prescribes that records about the need for employment are kept on the basis of reports on the need for employment in the country and abroad, and further prescribes that records about the need for employment abroad are kept according to the place of a report on the need for employment.

Articles 95 – 100 of the Law refer to the employment abroad. They prescribe that employment abroad is conducted on the basis of a report on the need for employment abroad received by the ministry competent for employment activities, National Employment Service or employment agency, and that for the purpose of ensuring employment abroad, the ministry competent for employment activities may conclude an employment agreement with a competent authority, organisation or employer abroad. When mediating in employment abroad, the National Employment Service and employment agency are responsible for ensuring protection of a person involved in the

process of employment abroad, which implies at least the same treatment on the basis of work with the citizens of the country of employment during the work and stay abroad.

It is also prescribed that protection of persons employed abroad implies the provision of the following: a permit to work and stay abroad; the costs of general, sanitary and specialist and medical examinations and issuance of a certificate on health competency; travel costs; information about living and working conditions abroad; information about the rights and responsibilities resulting from work; conclusion of an employment agreement before leaving the country, etc. The Law prescribes that the National Employment Service and employment agency submit to the ministry competent for employment activities a notification about persons employed abroad, their number and structure and other information related to employment abroad, before these people leave the country to work abroad.

B) **Law on Protection of Citizens of the FRY Employed Abroad**

The provisions of the Law on Protection of Citizens of the FRY Employed Abroad, which are still in force, prescribe that a citizen employed in a country with whom he/she did not conclude an international agreement on social security, must obtain in the Federal Republic of Yugoslavia (now the Republic of Serbia) health, pension and disability insurance, as well as insurance in case of unemployment, if during the time of employment he/she has no insurance from a foreign insurance holder, or if he/she and/or his/her family members cannot exercise the rights or use them outside the territory of the country according to the regulations of the relevant country. The provision on the compulsory insurance is applicable in cases when an international agreement on social security with the country in which a citizen is employed does not provide health care to his/her family members living in the FRY (now in the RS).

Article 12 of the Law prescribes that employees, who are temporarily employed abroad by the Yugoslav employer, shall be protected in the following cases:

1) Performing investment and other activities and providing services;

2) Employment in business units of a company incorporated by a Yugoslav employer;

3) Professional training and education.

Article 14 prescribes that such employees have the same rights, obligations and responsibilities as employees working with the employer in the country, i.e. Republic of Serbia, but they also have the right to the following:

1) Board and lodging by the standards prevailing in the country in which works are conducted, i.e. in accordance with the terms of board and lodging determined by the collective agreement;

2) Security at work in accordance with Yugoslav regulations which may not be lower than the security provided by the regulations of the country in which work are conducted.

Article 18 of this Law prescribes that an employer which refers its employees to temporary work abroad shall ensure health, pension and disability insurance, as well as insurance in case of unemployment, excluding double insurance, except if an employee, i.e. members of his/her family may not exercise the rights or use them outside the territory of the country, according to the regulations of the relevant country, and Article 19 prescribes that if an employee is referred to the country with whom he/she concluded an international agreement on social security, the employer may not provide insurance to the employee in the FRY (now in the RS) until it receives a consent from the competent foreign authority that he/she is not affected by the application of the regulation on social security of the country of employment.

The Law also prescribes the possibility to refer a citizen to work abroad as an individual or as a part of a professional team in order to establish scientific, technical and educational and cultural cooperation between the FRY and other countries. It prescribes that the authority and/or organisation competent for the implementation of an international agreement on scientific and technical, and educational and cultural cooperation, shall conclude with a citizen an agreement on referring to work in the capacity of an expert. The agreement shall, in accordance with this Law and international treaty, determine the type of activity and period of employment, as well as mutual rights and responsibilities, including the rights related to social security, and method of obtaining and protecting the rights.

HEALTH CARE OF FOREIGNERS

Health care of foreigners is regulated by the Law on Health Care, Law on Health Insurance and bilateral agreements on social security.

Article 3 of the Law on Health Care prescribes that a citizen of the Republic of Serbia, as well as another person with permanent or temporary residence in the Republic of Serbia, shall have the right to health care, in accordance with the Law. The right to health care of foreigners is regulated by Articles 238 - 242. They prescribe that foreign citizens, stateless persons and persons with an approved status of a refugee or approved asylum in accordance with the international and national legislation, with permanent or temporary residence in Serbia, or who pass through the territory of Serbia, shall have the right to health care, in accordance with the Law, unless otherwise determined by an international treaty. International treaties herein mentioned are bilateral agreements on social security concluded by, or whose legal successor is, the Republic of Serbia. If there is a ratified agreement on social security, the citizen of the country that agreement is concluded with, shall exercise their rights originating from compulsory health insurance in accordance with the agreement. Since agreements support the principle of equal

treatment, citizens, i.e. insured parties of the countries with whom an international agreement on social security have been concluded, shall obtain health care in the same manner and in the same scope as do the citizens of the Republic of Serbia.

Persons who obtained the status of a refugee on the basis of the Law on Refugees, shall exercise the right to health care in accordance with the regulations applying to them.

If foreigners meet the conditions for becoming an insured party in accordance with the Law on Health Insurance, they will obtain health care in accordance with the regulations governing the field of compulsory health insurance. The Law on Health Insurance regulates the rights originating from compulsory health insurance of employees and other citizens covered by the compulsory health insurance, as well as organisation and financing of compulsory health insurance, voluntary health insurance and other issues relevant for the health insurance system. The Law prescribes that the compulsory health insurance is based on the principle of solidarity and reciprocity, and that it includes insurance against diseases and injuries outside of work and insurance against injury at work or occupational diseases. The principle of compulsory health insurance is applied, which is ensured by the obligation of payment of contributions for the compulsory health insurance by employees and employers, as well as other taxpayers in accordance with the Law, which represents a condition for exercising the right from the compulsory health insurance. For the purpose of the Law, insured persons shall be defined as insured parties and members of their family who are ensured with the right from the compulsory health insurance. Article 17 of the Law defines the term of an insured person as a natural person who has compulsory insurance in accordance with the Law, and stipulates several categories of insured persons because there are several basis for granting insurance. It is important to point out that the capacity of an insured person can be acquired only on one insurance basis, therefore, if a person meets conditions for becoming an insured person on several insurance basis, the priority will be insurance on the basis of employment. Some categories of insured persons which could easily include foreign citizens are as follows:

- Employed persons;

- Foreign citizens and stateless persons which are, on the territory of the Republic of Serbia, employed with foreign legal entities or natural persons, unless otherwise determined by an international treaty, as well as with international organisations and institutions and foreign diplomatic and consular offices, if such insurance is prescribed by an international treaty;

- Persons with the right to financial compensation for unemployment, according to the regulations on employment;

- Persons who are founders, members and/or shareholders of companies (partnership companies, limited partnerships, limited liability companies, joint stock companies and other legal forms of companies and enterprises), who did not establish a labour relation in abovementioned companies, but do performed specific activities;

- Foreign citizens who on the territory of the Republic of Serbia work at local organisations or with private employers on the basis of special agreements on the exchange of experts or agreements on international technical cooperation;

- Foreign citizens during schooling or professional training in the Republic of Serbia.

Article 23 of the Law allows persons without compulsory insurance to obtain the compulsory health insurance in order to provide for themselves and for the immediate family members the rights resulting from the compulsory health insurance. They have a capacity of insured persons and they pay contributions from their own funds. The Rulebook on method and procedure of including persons who do not have compulsory health insurance into compulsory health insurance ("Official Gazette of the RS", Nos. 24/2006, 68/2006 – amended by the Rulebook, 95/2007 and 23/2009) in Article 2 prescribes that a person who shall be included into the compulsory health insurance shall become an insured person on the day of submission of the request for inclusion into the compulsory health insurance to the branch office of the Republic Institute for Health Insurance on whose territory the person has permanent residence, or temporary residence if he/she is a foreigner.

If a foreign citizen is not an insured person in terms of Article 17 of the Law on Health Insurance, or he/she did not voluntarily obtain the compulsory health insurance in terms of Article 23 of the Law, or if he/she is not a citizen of the country with whom an international agreement on social security have been concluded, he/she shall still have the right to emergency medical care in accordance with Article 240 of the Law on Health Care. The same article prescribes that foreigners shall by themselves bear costs of provided emergency medical care, unless otherwise envisaged by the Law or international treaties, however, Article 242 prescribes that funds from the budget of the Republic of Serbia shall be used for paying a fee to health institutions and private practices for emergency medical care provided to a foreigner, if a foreigner could not have paid the fee because he/she did not have sufficient funds for this.

Article 241 of the Law on Health Care prescribes that funds from the budget of the Republic of Serbia shall be used for the compensation of costs to health institutions related to medical service provided to:

1) Foreigners to whom health care is provided free of charge on the basis of the international agreement on social security, unless otherwise determined by the agreement;

2) Foreigners who are invited by public authorities to stay in Serbia – during their stay, in accordance with reciprocity principles, if they do not meet conditions for becoming a compulsory insured person in accordance with the Law which regulates the field of the compulsory health insurance;

3) Foreigners with approved asylum in Serbia, with no means of subsistence;

4) Foreigners suffering from smallpox, plague, cholera, viral haemorrhagic fever (except for the haemorrhagic fever with a renal syndrome), malaria or yellow fever, and other infectious diseases due to which a person is placed under medical supervision in accordance with the regulations governing the field of population protection from infectious diseases;

5) Foreigners – crew members on foreign ships or vessels, suffering from venereal disease;

6) Foreigners who are victims of human trafficking.

International agreements on s ocial security are concluded with the following countries:

1) Austria – Agreement between the FRY and the Republic of Austria on Social Security;

2) Belgium – Convention on Social Security between Yugoslavia and Belgium;

3) Bulgaria – Convention on Social Security between the Federal People's Republic of Yugoslavia (FPRY) and People's Republic of Bulgaria;

4) Czech Republic – Agreement between the FRY and the Czech Republic on Social Security;

5) Slovakia – Convention on Social Security between the FPRY and the Republic of Czechoslovakia;

6) Denmark – Convention between the SFRY and the Kingdom of Denmark on Social Security;

7) France – General Convention on Social Security between France and Yugoslavia;

8) Italy – Convention on Social Security between the FPRY and the Republic of Italy;

9) Luxembourg – Agreement between Serbia and Montenegro and the Grand Duchy of Luxembourg on Social Security;

10) Hungary – Agreement on the Application of the Convention concluded on 7 October 1957 between the Government of the FPRY and the Government of the People's Republic of Hungary on Organising Issues of Social Security of Their Citizens;

11) Holland – Convention on Social Security between the SFRY and the Kingdom of Holland;

12) Norway – Convention between the SFRY and the Kingdom of Norway on Social Security;

13) Poland – Convention on Social Security between the Government of the FPRY and the Government of the People's Republic of Poland;

14) Germany – Agreement between the SFRY and the Federal Republic of Germany on Social Security;

15) Sweden – Convention between the SFRY and the Kingdom of Sweden on Social Security;

16) Great Britain and Ireland – Convention on Social Security between the FPRY and the United Kingdom of Great Britain and Northern Ireland;

17) Romania – Agreement between the Government of the SFRY and the Government of the Socialist Republic of Romania on Cooperation in the Field of Health Insurance (applies only to health insurance);

18) Slovenia – Agreement between the RS and the Republic of Slovenia on Social Security;

19) Switzerland – Convention on Social Security between the SFRY and Swiss Confederation;

20) Macedonia – Agreement between the SRY and Republic of Macedonia on Social Security;

21) Croatia – Agreement between the FRY and the Republic of Croatia on Social Security;

22) Bosnia and Herzegovina – Agreement between the FRY and Bosnia and Herzegovina on Social Security;

23) Montenegro – Agreement between the RS and the Republic of Montenegro on Social Security;

24) Libya – Agreement on Social Security between the SFRY and the Great Socialist People's Libyan Arab Jamahiriya (only covers issues related to pension and disability insurance);

25) Panama – Agreement on cooperation in the field of Social Security between the SFRY and the Republic of Panama (only covers issues related to pension and disability insurance) and

26) Cyprus – Agreement between the RS and the Republic of Cyprus on Social Security.

The Republic of Serbia signed new Agreements on Social Security with the Kingdom of Belgium (July 2010) and Swiss Confederation (October 2010), but they did not yet enter into force.

LAWS AND BYLAWS INDIRECTLY RELATED TO THE AREA OF MIGRATION MANAGEMENT

Among other regulations relevant for the area of migration management, what needs to be emphasized is the importance of regulations pertaining to the citizenship of the Republic of Serbia, personal documents, registers, domicile and residence of citizens, exercise of rights pertaining to pension and disability insurance, diaspora, education, social protection, as well as the importance of the Penal Code.

Law on Citizenship of the Republic of Serbia was adopted in 2004 and from the date of commencement of its enforcement, the Law on Citizenship of Yugoslavia ("Official Journal of the FRY", No. 33/96 and 9/01) and Law on Citizenship of the Socialist Republic of Serbia ("Official Gazette of the SRS", No. 45/79 and 13/83) ceased to be applicable. The Law on Citizenship shall regulate the acquisition and methods of termination of citizenship of the Republic of Serbia. It is stipulated that citizenship shall be acquired by:

- descent;
- birth in the territory of the Republic of Serbia (if both parents of a child are unknown, of unknown citizenship or without citizenship);
- admission and
- pursuant to international treaties.

By descent and by birth in the territory of the Republic of Serbia, citizenship of the Republic of Serbia is acquired on the basis of entering the fact of citizenship in the birth register, while citizenship of the Republic of Serbia is acquired by admission on the basis of the valid decision, made by the ministry competent for internal affairs, upon conducting the procedure stipulated in the Law on Citizenship.

The Law stipulates that citizenship of the Republic of Serbia shall terminate by:

- release (adult citizen of the Republic of Serbia may submit a request for release, and, providing he/she meets the relevant conditions, his/her citizenship may terminate by release);
- renunciation (adult citizen of the Republic of Serbia who was born and lives abroad and also has a foreign citizenship, may renounce the citizenship of the Republic of Serbia until the age of 25) and
- pursuant to international treaties.

This law provides detailed definition of the procedure for acquisition and termination of the citizenship of the Republic of Serbia. The Ministry of Internal Affairs shall, in an urgent procedure, decide on requests for acquisition of citizenship of the Republic of Serbia by admission of citizenship and for termination of citizenship of the

Republic of Serbia. The records of citizens of the Republic of Serbia shall be maintained by the public body responsible for maintenance of registers in birth registers. The citizenship of the Republic of Serbia shall be proved on the basis of an extract from the birth register and certificate of citizenship and by a valid travel document, when abroad.

Law on Personal Identity Card adopted in 2006, introduced new biometric documents in the legal system of the Republic of Serbia. The personal identity card is defined as a personal document used by citizens of the Republic of Serbia to prove their identity. The Law stipulates the persons who shall be required to have a personal identity card (citizens of the Republic of Serbia above the age of 16, with domicile in the territory of the Republic of Serbia) and when the entitlement to a personal identity card shall be acquired (citizens of the Republic of Serbia above the age of 10 shall be entitled to a personal identity card). The Law stipulates that the personal identity card shall be issued for the validity period of five years, while for persons under the age of 16 the validity period shall be two years.

This Law introduced the use of biometric personal documents, stipulating that the personal identity card form, in addition to the usual previous elements (name and surname, gender, date and place of birth and personal identification number) shall also contain the pictures of biometric data on the holder of personal identity card, such as the photograph, fingerprint and signature. Personal identity cards shall be made with a chip, which shall include all the information visible on a personal identity card, along with the data on citizenship, domicile and address of the personal identity card holder. Automatic reading of data contained in the chip shall be provided.

The Law stipulates the personal identity card issuance procedure (inter alia, who shall be eligible to submit the request, who shall the request be submitted to, the submission time frame, the content of the request and the time frame for personal identity card issuance).

A person above the age of 16 who shall be obliged to have a personal identity card, pursuant to the provisions of this Law, shall be obliged to carry it with himself/herself and present it at the request of an officer in charge of personal identification.

The Law stipulates keeping the records of issued personal identity cards, submitted requests for issuance of personal identity cards, personal identity cards that have been cancelled and those declared invalid (hereinafter: the personal identity cards record), kept by the competent body and stipulates the contents of this record. It is stipulated that the competent body may distribute the data from the record to public and other bodies and organisations, as well as to legal entities and natural persons, under the following conditions:

1) the entity seeking the data has been authorized by law or other regulations, to seek and receive these data;

2) the entity seeking the data finds these data necessary for carrying out the tasks within the scope of their competence;

3) the entity seeking the data shall ensure the protection of personal data protection.

Law on Travel Documents was adopted in 2007 and its adoption was set as a prerequisite for further participation in the European integrations, i.e. for achievement of the travel document protection standards present in countries of the European Union. This Law regulates the travel documents for citizens of the Republic of Serbia traveling abroad, stipulating the types of travel documents and defining the method of their issuance.

The travel document is defined as a personal document used by the citizen of the Republic of Serbia for purposes of crossing the state border, traveling and staying in a foreign country and the return. While being abroad, the travel document shall be used by its holder to prove his/her identity and as proof of the citizenship of the Republic of Serbia. This Law recognises the following travel documents: passport, diplomatic and official passport, travel certificate (travel document issued to a citizen of the Republic of Serbia who is abroad and has no travel document, for the purpose of his/her return to the Republic of Serbia), travel document issued pursuant to international treaties, service record and seaman's book. The service record (issued to a member of the crew of an inland shipping vessel) or seaman's book (issued to a member of the crew of a sea-going ship), if supplied with a visa, shall be used by a crew member on board as a travel document for traveling abroad or for traveling abroad either to get aboard the vessel or return to the Republic of Serbia after leaving the vessel.

The Law defines the public bodies competent for the issuance of travel documents and stipulates the travel documents' validity periods. A passport shall be issued for the validity period of ten years. In case of persons under the age of three, the passport shall be issued with the validity period of three years, while for persons from the age of 3 to 14, the validity period shall be five years. The diplomatic and official passport shall be issued for the validity period of five years. The travel certificate shall be issued for the validity period required for a return to the Republic of Serbia, for a maximum of 60 days, while the visa in the service record and seaman's book shall be issued for the two-year validity period. The Law stipulates the data to be entered in the travel document form, including the possibility of having automatic reading of the data entered.

A detailed travel document issuance procedure has been stipulated, along with the time frame for deciding on requests for travel document issuance, reasons for denial of requests for travel document issuance, as well as reasons and procedure for withdrawal of travel documents. It is stipulated that records shall be kept of all issued travel documents and visas, denied requests for travel document and visa issuance, withdrawn travel documents, cancelled visas and invalid travel documents.

The information contained in the records of travel documents may be distributed to public bodies only, and under the following conditions:

1) the body seeking the data has been authorized by the law or other regulations to seek and receive these data;

2) the body seeking the data finds these data necessary for carrying out the tasks within the scope of their competence;

3) these data may not be obtained otherwise or their obtainment would require disproportionally high costs.

Data from the records of travel documents may be provided to bodies of foreign countries, provided that reciprocity is ensured and the following conditions have been met:

1) the distribution is conducted through a body of a foreign country responsible for diplomatic and consular affairs;

2) the data receiver has obliged to use the provided data for their actual purpose, i.e. to regulate the personal status or, if required, to prevent and supress serious forms of crime, or the distribution of data is beyond doubt useful to the person these data refer to;

3) the personal data protection has also been provided for foreigners in the country where the body, which the data are distributed to, is seated.

Law on Registers, adopted in 2009, defines registers as basic official records of citizens' personal status issues, kept by the registrar. Pursuant to this Law, three kinds of registers shall be kept – birth register, marriage register and death register. The facts of birth, marriage, death and other facts stipulated under the law and changes thereof shall be entered in these registers. The law defines the competence for the keeping of registers by delegating the tasks of register keeping and deciding in the first-instance administrative proceedings in the field of registers to municipalities, cities and/or the City of Belgrade.

The role of registrar, method of keeping the registers and types of information entered into registers have been precisely defined. Records shall be kept in two copies. The first copy shall be referred to as the original register, while the other copy shall be kept by a pplying the electronic tools for data processing and storage. Together with entering the data in the original register, the registrar shall enter the same data in the other copy of register. The Law precisely defines the method for storing registers, by stipulating that the original register and other copy of the register shall not be stored at the same building. The original register shall be stored by the registrar, while the other copy of registers shall be stored at the ministry in charge of administrative affairs, bearing in mind that this other copy may also be stored outside the seat of the ministry. The Law establishes that birth certificate, marriage certificate, death certificate and certificates containing particular information entered into registers or particular facts of citizens' personal status arising from this information shall be issued on the basis of registers.

Law on Domicile and Residence of Citizens, adopted in 1977, regulates the registration and deregistration of domicile and residence of citizens, change of home address, as well as the method of keeping the relevant records.

Domicile has been defined as the dwelling place where the citizen has settled with the intention to have it as his/her permanent residence, while residence has been defined as the place where the citizen resides temporarily outside his/her domicile. Adult citizens shall be obliged to register and deregister their domicile and register the change of home address and shall also be obliged to register their minor children. Registration of domicile and change of home address shall be conducted within eight days from the date of settling or changing the home address, while the citizen shall be obliged to deregister their domicile prior to departure.

Citizens shall be obliged to register their residence in all places when using the accommodation services in accommodation facilities or with persons providing accommodation services to tourists. The residence registration shall be conducted immediately upon arrival, while deregistration shall be carried out immediately prior to departing from the facility where the citizen was accommodated. If citizens reside outside their domicile for more than 15 days, without using the services of accommodation facilities, they shall be obliged to register their residence and deregister immediately prior to their departure.

Citizens who intend to reside abroad for more than 60 days shall be obliged to register their departure abroad prior to departing, as well as to report any minor child if traveling along. They shall also be obliged to report their temporary arrival or return to the country within three days from the date of arrival and/or return to their domicile, at the latest.

The Law stipulates an obligation of the citizens who provide accommodation to persons who are obliged to register their domicile, change of home address and/or residence, pursuant to this Law, to see to it that these persons be registered. Records of domicile, change of home address and residence of citizens, along with the records of citizens' residence abroad in the period exceeding 60 days, their temporary arrival or return to the country shall be kept by the municipal body responsible for internal affairs.

Law on Pension and Disability Insurance, adopted in 2003, stipulates that pension and disability insurance shall comprise the mandatory and voluntary pension and disability insurance and regulate the mandatory pension and disability insurance, as well as the pension and disability insurance for persons who are voluntary included to the mandatory insurance.

The rights to pension and disability insurance shall be acquired and exercised depending on the length of the contribution period and amount of the base for which the contribution for pension and disability insurance has been paid, observing the principle of solidarity. By pension and disability insurance, the rights shall be provided for the following cases:

- old age (right to the old age pension);
- disability (right to the disability pension);
- death (right to the family pension and right to reimbursement of funeral costs);
- physical injury caused by a work-related injury or occupational disease (right to allowance for the physical injury);
- need to provide assistance and care by other person (right to allowance for assistance and care provided by other person).

In respect of this Law, persons subject to mandatory insurance shall be employed persons, self-employed persons and farmers. Comparable to the case of health insurance, some of the categories of the employed insured persons, which may easily include foreign citizens, shall include the following:

- employed persons;
- foreign citizens and persons without citizenship employed in the territory of the Republic of Serbia with foreign legal entities or natural persons, if not otherwise stipulated under the international treaty, as well as with international organisations and institutions, foreign diplomatic and consular representation offices, if such insurance has been stipulated under the international treaty;
- persons performing temporary and occasional work, in line with the Law, unless insured on any other grounds.

In addition, foreign citizens may easily fall into the category of insured persons who are self-employed, among others, as the following:

- persons who are self-employed and perform an economic or other activity, pursuant to the Law, unless they are subject to mandatory insurance on the grounds of employment;
- persons who are founders and/or members of economic entities, pursuant to the Law, who work in them, regardless of whether they are employed in that economic entity whose founders and/or members they are;
- persons performing the activities pursuant to a temporary service agreement, activities pursuant to a copyright agreement and activities pursuant to other agreements, in which they receive an allowance for the work performed (hereinafter: the agreed allowance), who have not been insured on any other grounds.

If there is a ratified international treaty on social insurance and if this treaty is inclusive of the rights to pension and disability insurance, it shall be applied, in terms of exercising the rights on pension and disability insurance, to citizens of the countries the treaty was concluded with.

Law on Diaspora and Serbs in the Region regulates the matter previously not regulated in the legal system of the Republic of Serbia. This Law regulates the following issues:

- manner of preserving, strengthening and establishing the connections between the Diaspora and Serbs in the region with the homeland;
- competence and inter-relation of bodies of the Republic of Serbia in carrying out duties in the field of relations with the Diaspora and Serbs in the region;
- establishment and competence of the Assembly of the Diaspora and Serbs in the region;
- establishment of the Budget Fund for the Diaspora and Serbs in the region;
- establishment of the Council for Relations with Serbs in the Region and Council for the Diaspora;
- recording of organisations in the Diaspora and organisations of Serbs in the region and
- granting of national awards in the field of relations between the homeland and Diaspora, as well as between the homeland and Serbs in the region.

Under the term "Diaspora" the Law refers to citizens of the Republic of Serbia who live abroad and persons belonging to Serbian nation who emigrated from the territory of the Republic of Serbia and the region, as well as their descendents, while the term "Serbs in the region" denotes persons belonging to the Serbian nation, who live in the Republic of Slovenia, Republic of Croatia, Bosnia and Herzegovina, Montenegro, Republic of Macedonia, Romania, Republic of Albania and Republic of Hungary.

The Law stipulates a possibility of co-financing the projects that contribute to the preservation and strengthening of relations between the Republic of Serbia on the one, and the Diaspora and Serbs in the region on the other hand. The law precisely defines the tasks to be carried out by the ministry competent for the Diaspora. For the purpose of this Law, organisations in the Diaspora and/or organisaitons of the Serbs in the region refer to a voluntary form of association of people from the Diaspora and/or Serbs in the region, for the purpose of promotion of Serbia and advancement of state interests of Serbia, preservation and fostering of the Serbian cultural, religious and ethnic identity, as well as the exercise of cultural, educational, scientific, humanitarian and sports cooperation with the homeland for non-profit purposes, in line with the regulations of the foreign country inhabited by the Diaspora and/or Serbs in the region. The records of the organisations in the Diaspora and records of organisations of Serbs in the regions shall be kept by the ministry competent for the Diaspora.

The Assembly of the Diaspora and Serbs in the Region shall represent the supreme representative body of the Diaspora and Serbs in the region. The Law has defined the competences and composition of the Assembly, comprising 45 representatives of the Diaspora and Serbs in the region. Subjects that take part in the work of this Assembly shall include the President of the Government, ministers in charge of the Diaspora, foreign affairs, internal affairs, finances, economy, education, culture, labour and social policy, youth, sport and religions, one representative of the Serbian Orthodox Church, Serbian Academy of Sciences and Arts, Serbian Chamber of Commerce, Standing Conference of Cities and Municipalities and Radio television of

Serbia. The President of the republic may attend sessions of the Assembly, as an honorary guest. The Assembly shall establish councils of the diaspora as standing working bodies, namely the Economic Council of the Diaspora, Council for Status Issues of the Diaspora and Council for Cultural, Educational, Scientific and Sports Cooperation.

The Law also defines the composition and competences of the Council for relations with Serbs in the Region and Council for the Diaspora.

During 2010, the following by-laws were enacted, further regulating this field:

- Rulebook on the Contents and Method of Keeping the Records of Organisations in the Diaspora and Records of Organisations of Serbs in the Region ("Official Gazette of the RS", No. 6/10);
- Rulebook on Detailed Requirements and Procedure for the Award of Project Co-Financing Funds ("Official Gazette of the RS", No. 6/10 and 69/10);
- Rulebook on Requirements and Procedure for Granting the National Awards in the Field of Relations between the Homeland and Diaspora and between the Homeland and Serbs in the Region ("Official Gazette of the RS", No. 6/10);
- Decision on Establishing a Council of the Diaspora ("Official Gazette of the RS", No. 34/10).

Law on the Fundamentals of the Education System, **Law on Primary School**, **Law on Secondary School** and **Law on Higher Education**, are important for the field of migration management in the part referring to education and upbringing of citizens of the Republic of Serbia abroad, education of foreign citizens and persons without citizenship in the Republic of Serbia and the recognition of foreign school certificates.

The Law on the Fundamentals of the Education System stipulate that education and upbringing in the Serbian language may be organised for children and students residing abroad, according to a special curriculum. It is envisaged that the special curriculum for education and upbringing abroad, the method of record keeping and issuance of personal documents, special requirements pertaining to teachers, provision of income funds and income payment method, along with other issues relevant for the exercise of education and upbringing activities abroad, shall be prescribed by the minister. Education and upbringing activities abroad shall be carried out by a pre-school teacher and/or teacher possessing the license and meeting the special requirements pertaining to teachers. The Law also stipulates that a foreign citizen and person without citizenship shall enroll the preschool institutions, primary and secondary schools and exercise the right to education under equal conditions and in the manner stipulated for citizens of the Republic of Serbia by the Law. For children and students who are foreign citizens and persons without citizenship, for expelled and displaced persons who do not speak the language of instruction in education and upbringing or particular contents of the curriculum relevant for further education, the school shall organise language learning course and/or preparation for classes and additional classes, in line with a special instruction and pursuant to the regulation passed by the Minister of Education. A child and student who is the citizen of a European country, while residing in the Republic of Serbia, shall be entitled to attend the classes of their native language and culture, free of

charge, provided that reciprocity is ensured, in other case, with payment, on the premises of the institution determined by the body of the local self-government unit.

The Law on Primary School and Law on Secondary School regulate the recognition procedure for certificates acquired abroad for primary education and the recognition procedure for foreign school certificates acquired for the secondary education. These two procedures are almost identical. A citizen of the Republic of Serbia who acquired primary education or completed several grades of primary school abroad, or who completed the secondary school or several grades of secondary school abroad, shall be entitled to request the recognition of certificates of acquired primary education or certain primary school grades completed and/or to request the recognition of the secondary school diploma or certificate. A foreign citizen and person without citizenship shall be entitled to request the validation or recognition of the equivalence of foreign school certificates, providing the legal interest for that. Validation and/or recognition of the equivalence of foreign school certificates shall be carried out by the Ministry of Education. Validation shall be applied to make a foreign school certificate equal to the corresponding national school certificate, to the full extent, in terms of the entitlement granted to his/her holder to further education and entitlement to employment. Recognition of the equivalence is applied to make a foreign school certificate equal to the corresponding national school certificate in terms of entitlement to further education. If it is established in the validation procedure that the curriculum studied abroad differs significantly from the curriculum it is compared to, the validation shall require the person to take certain examinations or test his/her knowledge. The person who submitted the validation and/or recognition request for the equivalence of the foreign school certificate may enroll the next grade conditionally, providing the procedure has not been completed prior to the expiry of the students' enrolment deadline. The person requesting the validation and/or recognition of the equivalence of the foreign school certificate shall submit the original or certified copy of that document with the request, along with the translation provided by the authorised court interpreter. The Ministry of Education shall maintain the documentation and keep the records thereof.

The Law on H igher Education regulates the recognition procedure for foreign higher education documents and evaluation of foreign study programmes. Recognition of a foreign higher education document is the procedure that establishes the entitlement of the holder of that document to the continuation of his/her education and/or employment. In the recognition procedure for the purpose of further education in the higher education system, the entitlement shall be established for the holder of the foreign higher education document to continue with the higher education started and/or the right of admission to levels of higher education. In the recognition procedure for the purpose of employment, the type and level of studies shall be established for the holder of the foreign higher education document, as well as h is/her professional, academic and/or scientific title. Recognition procedures for foreign higher education documents shall be carried out by an independent higher education institution, in the manner and according to the procedure stipulated in the general act of that institution. The recognition procedure shall not be carried out for the diplomas acquired in the territory of the SFRY until 27 April 1992 and these diplomas shall have the same legal effect as the diplomas issued in the territory of the Republic of Serbia. In the recognition procedure for the higher education document,

evaluation of a foreign study programme shall also be conducted, based on the type and level of the acquired knowledge and skills. The once conducted positive evaluation of the particular foreign study programme shall be applicable to all further cases including the same study programme. This evaluation shall be conducted by a professional body of the independent higher education institution, taking into consideration the information on the foreign higher education institution the study programme is studied at, obtained by the Ministry of Education. In the evaluation procedure for the purpose of recognising a national higher education document abroad, the information on the independent higher education institution and education system shall be provided by the Ministry of Education.

Upon coming into force of the **Law on Social Protection** in April 2011, the Law on Social Protection and Provision of Social Security to Citizens as of 1991, ceased to be applicable. The new law introduces a lot of novelties in the system of social protection, from the method of categorising the social protection services, as compared to the previous division of rights in the field of social protection and social security, all the way to establishing the Chamber of Social Protection and introduction of licensing procedures for organisations of social protection, licensing of professionals and accreditation of training and service provision programmes.

This Law defines the social protection as an organised social activity of public interest, whose purpose is to provide assistance and empowerment for an independent and productive existence of individuals and families in the society, as well as to prevent the phenomenon of social exclusion and eliminate its consequences. It is stipulated that each individual and family in need of social assistance and support to overcome the social and existential problems and to create the conditions necessary to meet the basic existential needs, shall have the right to social protection, ensured by the provision of social protection services and material support.

Unlike the previous, the new law precisely stipulates that beneficiaries of social protection shall be citizens of the Republic of Serbia, adding that beneficiaries may include foreign citizens and persons without citizenship as well, pursuant to the Law and international treaties. The Law on Social Protection and Provision of Social Security to Citizens stipulated that social security shall be provided to citizens who are unable to work and have no resources required for subsistence, as well as to citizens and families who are, on the grounds of their activity and work, obligation to support family members, on the grounds of property and property rights or in any other way, unable to provide sufficient funds required to meet basic existential needs. This Law never used the term „person with citizenship“, but only the term „citizen“.

The Law on Social Protection defines beneficiaries of the social protection rights or services as individuals and/or families who are faced with difficulties in meeting their needs, as a result of which they are unable to achieve or maintain the quality of life or who do not have sufficient resources to meet their basic existential needs and are also unable to earn them on the grounds of their work, income from property or other sources. It is further stipulated that a minor and adult person until the age of 26 shall be the beneficiary of social protection right or services when, due to family and other existential

circumstances, his/her health, security and development is violated and/or when it is certain that without the support of the social protection system he/she shall not be able to achieve the optimum development level, among others, particularly if he/she is a foreign citizen or person without citizenship, unaccompanied. It is also stipulated that an adult at the age of 26 shall be the beneficiary of the social protection right and services when his/her well-being, security and productive life in the society is violated by risks due to old age, disability, illness, family and other existential circumstances, among others, particularly if he/she is a foreign citizen or a person without citizenship in need of social protection.

The Law on Social Protection stipulates that the procedure pertaining to the use of services under this Law shall be conducted by the Centre for Social Work, ex officio or at the beneficiary's request. It is stipulated that territorial jurisdiction of the centre shall be established according to the beneficiary's domicile and in exceptional cases, the procedure may be conducted by the centre for social work on the territory of which the beneficiary resides. This decision according to which the procedure may also be instigated based on one's residence is broader than the decision provided under the previous law, whereby it was stipulated that the requests for the exercise of rights shall be decided on by t he centre for social work established for the territory in which the applicant's residence is situated, but for the benefit of different migrant groups, it would be useful to determine the exact list of exceptional cases concerned.

One significant novelty of the Law on Social Protection is the introduction of the institute of Chamber of Social Protection, as an independent professional organisation of persons employed in the field of social protection. Another novelty is the introduction of the licensing procedure, defined as the procedure of assessing whether the social protection institution and/or provider of social services meets the criteria and standards for provision of services in the field of social protection and the procedure for assessing whether the professional worker meets the criteria and standards for provision of services in the field of social protection. Accordingly, the license shall also be issued to social protection organisations, in which case it shall be issued by the ministry competent for social protection and to professional workers, in which case the license shall be issued by the Chamber of Social Protection. The Law also introduces the term of accreditation of training and service provision programmes.

In its provisional and final provisions, the Law stipulates that by-laws required for its implementation shall be passed within six months, and until they have been passed, the applicable executive regulations shall be applied, provided they are not contrary to this Law.

Particular importance has the **Law on Social Housing** establishing the grounds for legal regulation in field of social housing. Although this law was adopted in 2009, unfortunately this field has still not been elaborated in detail, thus the social housing has still not been provided in the Republic of Serbia. The Law stipulates the enactment of the National Strategy for Social Housing, which should be adopted for the period of a minimum of ten years, as well as the Action Plan for the Strategy Implementation, which should cover the period of a minimum of five years. The Law also stipulates the

establishment of the Republic Housing Agency, along with the enactment of a range of by-laws within the period of one year from entering into force of this Law, which shall regulate this field in more detail and elaborate to a g reater extent the criteria and standards in establishing the priorities in resolving the housing needs for persons without dwellings and/or persons without the dwellings of adequate standards, who are unable, with the income they earn, to provide for their dwellings according to the market conditions. The Law stipulates that the priority in admission to the social housing programme shall be given to persons belonging to vulnerable social groups, among others the refugees and internally displaced persons, as r epresentatives of the most numerous migratory groups in the Republic of Serbia. The documents referred to above (National Strategy, Action Plan, majority of the required by-laws, except the Rulebook on Conditions for Issuance and Withdrawal of the Operating Licence of the Non-profit Housing Organisation and Contents of the Special Register of Non-Profit Housing Organisations ("Official Gazette of the RS", No. 44/10) adopted in 2010) have still not been adopted, neither has the Republic Housing Agency been established.

Penal Code of the Republic of Serbia ("Official Gazette of the RS", No. 85/05, 88/05 - rev., 107/05 - rev., 72/09 and 111/09) was adopted in 2005. A separate section of the Penal Code defines a n umber of criminal offences relevant for different aspects of migration management. There is a range of criminal offences against human rights and freedoms and against citizens that might be relevant for migrant groups, such as the criminal offence of violation of equality (Article 128), criminal offence of violation of the right to use languages and scripts (Article 129), criminal offence of violation of the freedom of expression of national and ethnic affiliation (Article 130) and criminal offence of violation of freedom of religious confession and performance of religious rites (Article 131). In the category of criminal offences against honour and reputation, one should emphasize the criminal offence against reputation due to racial, religious, national or other affiliation (Article 174), while in the category of criminal offences against the constitutional system and security of the Republic of Serbia, one should emphasize the criminal offence of incitement of national, racial and religious hatred and intolerance (Article 317).

Of crucial significance for the migration management was to define the criminal offence of illegal crossing of the state border and human smuggling (Article 350), classified under the category of criminal offences against public order and peace. A person who has illegally crossed or attempted to cross the border of Serbia, armed or resorting to violence, shall be punished by an imprisonment for the period of a maximum one year. Human smuggling shall be punished by imprisonment for the period from six months to five years, while if the smuggling was committed by a group, by the abuse of official position or in the manner that violates life or health of the person whose illegal crossing of the Serbian border, residence or transfer is being facilitated or if a l arge number of people have been smuggled, the perpetrator shall be punished by imprisonment for the period of one to ten years. If human smuggling was committed by an organised criminal group, the perpetrator shall be punished by i mprisonment for the period of three to twelve years.

The criminal offence of human trafficking (Article 388) has been separated from the criminal offence of human smuggling and belongs to the category of criminal offences against humanity and other values protected by the international law and may lead to an imprisonment for the period from three to twelve years. This article stipulates several qualified forms of this criminal offence, e.g. if the offence was committed against a minor, the perpetrator shall be punished by a minimum of five years of imprisonment, while if grievous bodily harm was caused to a person, the perpetrator shall be punished by an imprisonment for the period from five to fifteen years.

In addition to the criminal offence of human trafficking, the category of criminal offences against humanity and other values protected by the international law, one should emphasise the criminal offences of racial and other discrimination (Article 387), child trafficking for the purpose of adoption (Article 389) and establishment of slavery relations and transportation of persons in the slavery relation (Article 390).

CONCLUSION

As during the last decade the EU accession process has been a priority for the Republic of Serbia, activites started directed towards harmonization of the legislation of the Republic of Serbia with the EU *acquis*. For that purpose the Stabilization and Association Agreement between Serbia and the European Union was concluded, National Programme for Integration was prepared and the areas and regulations that should be harmonized were identified.

In the abovemention period a number of laws and by-laws in the area of migration management, with their content hazmonized with the EU *acquis*, have been adopted, such as, among others, Law on Foreigners, Law on Asylum and the Law on Protection of the State Border.

The area, that in this sense still remained non harmonized is the employment of foreign nationals, bearing in mind that Law on Conditions for Establishing a Labour Relation with Foreign Citizens from 1978 is still being applied. The Ministry of Economy and Regional Development is currently developing a draft law which would regulate this area in the more modern way, and the adoption of this law is planned by the end of 2011.

In addition, the need for enacting legislation that would regulate the system of migration management was recognized. Accordingly, the Annual Operational Programme of the Government of the Republic of Serbia in 2011 envisages the adoption of the Law on the Foundations of Migration Management System, which would set out normative framework for the monitoring of external and internal migration flows, creation and implementation of clear migration policy, as well as the other issues relevant to migration management system.

Considering that EU *acquis* are creating the rights and obligations for EU Member States, their citizens and commercial enteties, and that they have a direct effect, harmonization does not only implies reviewing existing and creation of new legal regulations, but also their proper usage in accordance with current practice of the EU bodies, in particular the Court of Justice.