

UPDATE ON 2024



SERBIA



# COUNTRY REPORT

**JULY 2025**

## Acknowledgements & Methodology

This report was written by Nikola Kovačević, independent expert, human rights lawyer from Serbia and coordinator of Asylum and Migration Program at the Centre for Research and Social Development IDEAS, with the help of Centre for Research and Social Development IDEAS, Anđela Šemić, Senior Advocacy Officer at IDEAS, Marko Milanović, Executive Director of IDEAS and the Council of Refugees and Asylum Seekers. The report was edited by ECRE.

This report draws on authors and the above-enlisted CSOs' experience providing legal assistance to asylum seekers and refugees in Serbia, engaging with the asylum authorities and monitoring the respect for the right to asylum in the country.

The Report also draws on the findings and reports of other CSOs who are active in the field of asylum and migration in Serbia, such as Asylum Protection Centre (APC), Belgrade Centre for Human Rights, (BCHR), Border Violence Monitoring Network (BVMN), Centre for Development of Social Policies (Klikaktiv), Centre for Peace Studies (CMS), Danish Refugee Council (DRC), Psychosocial Innovation Network (PIN) and Hungarian Helsinki Committee (HHC), as well as the findings of regional and international human rights bodies, United Nations High Commissioner for Refugees office in Serbia (UNHCR), European Commission and other relevant and credible sources.

The information in this report is up-to-date as of 31 December 2024, unless otherwise stated.

## The Asylum Information Database (AIDA)

The Asylum Information Database (AIDA) is managed by the European Council on Refugees and Exiles (ECRE). It aims to provide up-to date information on asylum practice in 25 countries. This includes 19 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, SI) and 6 non-EU countries (Egypt, Serbia, Switzerland, Türkiye, Ukraine and the United Kingdom) which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website [www.asylumineurope.org](http://www.asylumineurope.org). The database also seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.



This report is part of the Asylum Information Database (AIDA), funded by the European Union's Asylum, Migration and Integration Fund (AMIF) and ECRE. The contents of this report are the sole responsibility of ECRE and can in no way be taken to reflect the views of the European Commission.



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## Glossary & List of Abbreviations

<b>A11</b>	A11-Initiative for Economic and Social Right
<b>Afis</b>	Automated fingerprint identification system
<b>ADA</b>	Administrative Dispute Act
<b>APC</b>	Asylum Protection Centre
<b>BVMN</b>	Border Violence Monitoring Network
<b>BCHR</b>	Belgrade Centre for Human Rights
<b>BIA</b>	Security-Information Agency of Serbia
<b>BID</b>	Best Interest Determination
<b>BPA</b>	Border Police Administration
<b>BPS</b>	Border Police Station
<b>BPSB</b>	Border Police Station Belgrade
<b>CAT</b>	United Nations Committee against Torture
<b>CESCR</b>	United Nations Committee on Economic, Social and Cultural Rights
<b>CHTV</b>	Government's Centre for Human Trafficking Victims' Protection
<b>CJEU</b>	Court of Justice of the European Union
<b>CoI</b>	Country of Origin Information
<b>CSO</b>	Civil Society Organisation
<b>CPT</b>	European Committee for Prevention of Torture and Inhumane and Degrading Treatment or Punishment
<b>CRC</b>	United Nations Committee on the Right of the Child
<b>CRM</b>	Commissariat for Refugees and Migration
<b>CSW</b>	Centre for Social Work
<b>DCOT</b>	Department of the Ministry of Interior for Combating Organized crime and Terrorism (DCOT)
<b>DoI</b>	Declaration of Intent for Lodging an Application on Asylum in Hungarian Embassy
<b>DRC Serbia</b>	Danish Refugee Council in Serbia
<b>ECHR</b>	European Convention on Human Rights and Fundamental Freedoms
<b>ECtHR</b>	European Court of Human Rights
<b>GAPA</b>	General Administrative Procedure Act
<b>HRC</b>	United Nations Human Rights Committee
<b>IAN</b>	International Aid Network
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>IDEAS</b>	Centre for Research and Social Development IDEAS
<b>IDP</b>	Internally displaced person
<b>ISIS</b>	Islamic State of Iraq and Syria
<b>MoI</b>	Ministry of Interior
<b>MoLEVSA</b>	Ministry of Labour, Employments, Veteran and Social Affairs
<b>MYLA</b>	Macedonian Young Lawyers' Association
<b>NES</b>	National Employment Service

<b>NPM</b>	National Preventive Mechanism
<b>OKS</b>	Specific Category of Foreigners   Određena kategorija stranaca
<b>PIN</b>	Psychosocial Innovation Network
<b>RBC</b>	Regional Border Centre
<b>RSDP</b>	Refugee Status Determination Procedure
<b>TRHG</b>	Temporary Residency on Humanitarian Grounds
<b>VBA</b>	Military Security Agency
<b>UAE</b>	United Arab Emirates
<b>UASC</b>	Unaccompanied and Separated Children
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>Recording of intention to lodge an asylum application</b>	Request certifying a person's intention to apply for asylum. This does not constitute a formal application for asylum.

## Statistics

### Overview of statistical practice (1)

The Asylum Office does not publish statistics on asylum applications and decisions. Basic figures based on information provided by the Asylum Office are published by UNHCR office in Serbia. Positive and negative decision rates are weighed against the total number of decisions rendered in merits in the same timeframe. Apart from the first column which is related to the number of applicants/persons in 2024, all other figures refer to the number of decisions. The total number of persons encompassed with the bellow-outlined decisions can be observed in the [Asylum Office practice in 2024](#). Thus, one decision can encompass two or more asylum seekers. It is also important to note that decisions to discontinue asylum procedures due to absconding are still the most common decisions and that is the reason why, in relation to many nationalities, there are no in-merit decisions.

### Applications and granting of protection status at first instance - top 10 nationalities: 2024<sup>1</sup>

	Applicants in 2024 (2)	Pending at end of 2024	Total decisions in 2024 (3)	Total in-merit decisions (4)	Total rejections (5)	Refugee status	Subsidiary protection	Humanitarian protection (6) <sup>2</sup>
<b>Total (1)</b>	219 <sup>3</sup>	N/A	65 <sup>4</sup>	60	53	4	3	78 <sup>5</sup>
Breakdown by the countries of origin with the highest figures of the total numbers								
<b>Syria</b>	35	N/A	7	6	3	0	3	0
<b>Türkiye</b>	30	N/A	2	2	2	0	0	0
<b>Cuba</b>	27	N/A	15	15	15	0	0	2
<b>Russian Federation</b>	22	N/A	7	6	6	0	0	4
<b>Burundi</b>	13	N/A	15	15	14	1	0	1
<b>Afghanistan</b>	11	N/A	1	1	1	0	0	0
<b>Pakistan</b>	11	N/A	0	0	0	0	0	1

<sup>1</sup> It is important to note that for the purpose of the 2024 Update to this report, the Asylum Office delivered copies of all decisions rendered in the period from 1 January 2024 and 31 December 2024, which provided the author with the possibility to provide accurate statistical data and substantive analysis of the 2024 practice.

<sup>2</sup> Because humanitarian protection is not related to the asylum procedure or the Law on Asylum and Temporary Protection these figures have not been added to the figures for total decisions in 2024 and total in-merit decisions.

<sup>3</sup> Out of 219 applicants in 2024, only 3 were subsequent, while the rest were first-time applicants.

<sup>4</sup> This number does not encompass decisions on discontinuation due to absconding which cannot be accurately determined in terms of the ratio between number of decisions and number of persons. The Asylum Office provides inaccurate data to the UNHCR office in Serbia outlining in its monthly reports that the number of decisions on absconding is identical to the number of persons. This is simply not correct since 1 decision on absconding can encompass more people (e.g. families or couples). For that reason, the methodology established by the author is to reduce the total number of persons for 30% as the approximate number of decisions - 87. Thus, the approximate number of decisions on discontinuation in this Report will be 87 decisions rendered in relation to 113 persons. A total number of all decisions related to the asylum procedure and rendered by the Asylum Office in 2024 is 152. These 152 decisions encompass 200 persons.

<sup>5</sup> Ministry of Interior - Border Police Department's Response to the request for the information of public importance no. 26-311/25, 5 June 2025 (received on 16 June 2025).



<b>Armenia</b>	10	N/A	2	2	2	0	0	0
<b>Iran</b>	7	N/A	2	2	1	1	0	0
<b>Belarus</b>	7	N/A	0	0	0	0	0	1

Source: Ministry of Interior - Asylum Office and of the UNHCR office in Serbia (monthly reports) and Asylum Office's responses to the request for the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

Note 1: The figure for "total" refers to all nationalities, while the breakdown is for the top 10 countries of origin with the highest numbers of the applicants.

Note 2: 'Applicants in year' refers to the total number of applicants, and not only to first-time applicants.

Note 3: Statistics on decisions cover the decisions taken throughout the year, regardless of whether they concern applications lodged that year or in previous years.

Note 4: Statistics on decisions rendered in merits.

Note 5: 'Total rejections' in this column only covers negative decisions on the merit of the application (and not inadmissibility decisions).

Note 6: Temporary residency on humanitarian grounds ('привремени боравак из хуманитарних разлога') can be granted for the period ranging from 6 months to 1 year, in line with the Article 61 of the Foreigners Act.

#### Applications and granting of protection status at first instance - top ten nationalities: rates for 2024

	<b>Overall rejection rate (1)</b>	<b>In merit protection rate (2)</b>	<b>Refugee rate amongst positive decisions (1)</b>	<b>Subsidiary protection rate amongst positive decisions (1)</b>	<b>Humanitarian protection rate</b>
<b>Total</b>	88%	12%	57%	43%	N/A
Breakdown by the countries of origin with the highest numbers					
<b>Syria</b>	50%	50%	0%	100%	N/A
<b>Türkiye</b>	100%	0%	0%	0%	N/A
<b>Cuba</b>	100%	0%	0%	0%	N/A
<b>Russian Federation</b>	100%	0%	0%	0%	N/A
<b>Burundi</b>	93.4%	6.6%	100%	0%	N/A
<b>Afghanistan</b>	100%	0%	0%	0%	N/A
<b>Pakistan</b>	0%	0%	0%	0%	N/A
<b>Armenia</b>	100%	0%	0%	0%	N/A
<b>Iran</b>	50%	50%	100%	0%	N/A
<b>Belarus</b>	0%	0%	0%	0%	N/A

Source: Ministry of Interior - Asylum Office and of the UNHCR office in Serbia (monthly reports) and Asylum Office's responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

Note 1: These rates are calculated based on total in-merit decisions.

Note 2: These rates are calculated based on in-merit decisions only, excluding non-in-merit rejections, as well as decision on temporary residency on humanitarian grounds, as it is irrelevant for the assessment of the asylum procedure in the Serbian context.

**Gender/age breakdown of the total number of persons issued with the certificate on the intention to lodge asylum application in the Republic of Serbia: 2024**

	Men	Women
Number	716	134
Percentage	84%	16%

	Adults	Children	
		Accompanied	Unaccompanied
Number	702	131	17
Percentage	83%	15%	2%

Source: Ministry of Interior - Asylum Office and UNCHR office in Serbia (monthly reports)

Note: The gender breakdown (Men/Women) for asylum applicants was not provided by the Asylum Office in 2024, but only a breakdown of persons who expressed their intention to lodge asylum application, and in line with the Article 35 (11) of the Asylum and Temporary Protection Act. The Asylum Office simply does not keep such data, but it is reasonable to assume that the ratio between men and women asylum applicants is similar to the ratio of men and women issued with registration certificates.

### First instance and appeal decision rates: 2024

It should be noted that, during the same year, the first instance and appeal authorities handle different caseloads. Thus, the decisions below do not necessarily concern the same applicants.

	First instance		Appeal	
	Number	Percentage	Number	Percentage
<b>Total number of decisions</b>	60	100%	45	100%
Positive decisions	7	12%	4 <sup>6</sup>	9%
• <i>Refugee status</i>	4	6,6%	N/A	N/A
• <i>Subsidiary protection</i>	3	5,4%	N/A	N/A
• <i>Other</i>	0	0%	N/A	N/A
Negative decisions	53	88%	41 <sup>7</sup>	91%

Source: Ministry of Interior - Asylum Office and of the UNHCR office in Serbia (monthly reports), Asylum Office's responses to the request for information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025) and Asylum Commission response to the request for the information of public importance no. 01/25, 4 February 2025 (delivered on 7 February 2025).

<sup>6</sup> All 4 decisions implied that the cases were referred back to the Asylum Office. Also, it is important to note that only two appeals were upheld on the basis of the arguments outlined in the appeal of applicants and their lawyers, while two other decisions in which the first instance decisions were quashed and cases referred back to the Asylum Office implied the positive judgment of the Administrative Court which referred cases back to the Asylum Commission- both cases were related to procedural issues, and not merits of the claim.

<sup>7</sup> It is important to note that 7 negative decisions were related to rejection of the appeals lodged against decisions on discontinuation of asylum procedure and not merits of the claim. Thus, in 32 cases the Asylum Commission examined the substance of asylum claims.

## Overview of the legal framework

### Main legislative acts on asylum procedures, reception conditions, detention and content of international protection

Title (EN)	Original Title (SR)	Abbreviation	Web Link
Law on Asylum and Temporary Protection Official Gazette no. 24/2018	Zakon o azilu i privremenoj zaštiti / Закон о азилу и привременој заштити Službeni glasnik RS, br. / Службени гласник РС, бр. 24/2018	Asylum Act	<a href="https://bit.ly/2KZnmGv">https://bit.ly/2KZnmGv</a> (EN) <a href="https://bit.ly/2NigaSq">https://bit.ly/2NigaSq</a> (SR)
Law on Foreigners Official Gazette no. 24/2018, 31/2019 and 62/2023	Zakon o strancima / Закон о странцима Službeni glasnik RS, br. / Службени гласник РС, бр. 24/2018, 31/2019 и/и 62/2023	Foreigners Act	<a href="https://bit.ly/2SP2aa9">https://bit.ly/2SP2aa9</a> (EN) <a href="https://bit.ly/2SUJlee">https://bit.ly/2SUJlee</a> (SR)
Law on Migration Management Official Gazette no. 107/2012	Zakon o upravljanju migracijama / Закон о управљању миграцијама Službeni glasnik RS, br. / Службени гласник РС, бр. 107/2012	Migration Management Act	<a href="https://bit.ly/2RQR7gY">https://bit.ly/2RQR7gY</a> (EN) <a href="http://bit.ly/1Qo7kPK">http://bit.ly/1Qo7kPK</a> (SR)
Constitution of the Republic of Serbia Official Gazette no. 83/06 and 115/21	Ustav Republike Srbije / Устав Републике Србије Službeni glasnik RS, br. / Службени гласник РС, бр. 83/06 и/и 115/21	Constitution	<a href="http://bit.ly/1Rd2D98">http://bit.ly/1Rd2D98</a> (EN) <a href="https://bit.ly/3fxuFk9">https://bit.ly/3fxuFk9</a> (SR)
General Administrative Procedure Act Official Gazette no. 18/2016	Zakon o opštem upravnom postupku / Закон о општем управном поступку Službeni glasnik RS, br. / Службени гласник РС, бр. 18/2016	GAPA	<a href="https://bit.ly/3bn76ua">https://bit.ly/3bn76ua</a> (EN) <a href="https://bit.ly/2lpyEP">https://bit.ly/2lpyEP</a> (SR)
Law on Administrative Disputes Official Gazette no. 111/2009	Zakon o upravnim sporovima / Закон о управним споровима Službeni glasnik RS, br. / Службени гласник РС, бр. 111/2009	ADA	<a href="https://bit.ly/2SbzJxS">https://bit.ly/2SbzJxS</a> (EN) <a href="https://bit.ly/42nGv8u">https://bit.ly/42nGv8u</a> (SR)
Law on Employment of Foreigners Official Gazette no. 128/2014, 113/2017, 50/2018 and 31/2019	Zakon o zapošljavanju stranaca / Закон о запошљавању странаца Službeni glasnik RS, br. / Службени гласник РС, бр. 128/2014, 113/2017, 50/2018 и/и 31/2019	Foreigners Employment Act	<a href="https://bit.ly/42njKlh">https://bit.ly/42njKlh</a> (EN) <a href="https://bit.ly/35bggXD">https://bit.ly/35bggXD</a> (SR)

Law on Citizenship Official Gazette nos. 35/2004, 90/2007 and 24/2018	Zakon o državljanstvu Republike Srbije / Закон о држављанству Републике Србије Službeni glasnik RS, br. / Службени гласник РС, бр. 35/2004, 90/2007 и/и 24/2018	Citizenship Act	<a href="https://www.refworld.org/legal/legislation/natlegbod/2004/en/71411">https://www.refworld.org/legal/legislation/natlegbod/2004/en/71411</a> (EN)  <a href="https://www.paragraf.rs/proposisi/zakon_o_drzavljanstvu_republike_srbije.html">https://www.paragraf.rs/proposisi/zakon_o_drzavljanstvu_republike_srbije.html</a> (SR)
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**Main implementing decrees and administrative guidelines and regulations relevant to asylum procedures, reception conditions, detention and content of protection**

Title (EN)	Original Title (SR)	Abbreviation	Web Link
The Rulebook on the Form of the Decision on Refusal of Entry into the Republic of Serbia, the Form of the Decision on the Approval of Entry into the Republic of Serbia and the Manner of Entering Data on the Refusal of Entry into the Travel Document of the Foreigner Official Gazette, no. 50/2018	Pravilnik o izgledu obrasca o odbijanju ulaska u Republiku Srbiju, o izgledu obrasca o odobrenju ulaska u Republiku Srbiju i načinu unosa podatka o odbijanju ulaska u putnu ispravu stranca / Правилник о изгледу обрасца о одбијању уласка у Републику Србију, о изгледу обрасца о одобрењу уласка у Републику Србију и начину уноса податка о одбијању уласка у путну исправу странца Službeni glasnik RS, br. 50/2018/ Службени гласник РС, бр. 50/2018	Rulebook on the Refusal of Entry	<a href="https://bit.ly/2EkP1N9">https://bit.ly/2EkP1N9</a> (SR)
Rulebook on the Procedure of Registration, Design and Content of the Certificate on Registration of a Foreigner Who Expressed Intention to Seek Asylum Official Gazette, no. 42/2018	Pravilnikom o načinu i postupku registracije i izgledu i sadržini potvrde o registraciji stranca koji je izrazio nameru da podnese zahtev za azil / Правилник о начину и поступку регистрације и изгледу и садржини потврде о регистрацији странца који је изразио намеру да поднесе захтев за азил	Rulebook on Registration	<a href="https://bit.ly/2U3A3AE">https://bit.ly/2U3A3AE</a> (SR)

	Službeni glasnik RS, br. / Службени гласник РС, бр. 42/2018		
<p>Rulebook on the Content and Structure of the Asylum Application Form and the Content and Appearance of the Forms of Documents issued to Asylum Seeker and Person Granted Asylum or Temporary Protection</p> <p>Official Gazette, no. 42/2018</p>	<p>Pravilnik o sadržini i izgledu obrasca zahteva za azil i sadržini i izgledu obrazaca isprava koje se izdaju tražiocu azila i licu kojem je odobren azil ili privremena zaštita / Правилник о садржини и изгледу обрасца захтева за азил и садржини и изгледу образаца исправа које се издају тражиоцу азила и лицу којем је одобрен азил или привремена заштита</p> <p>Službeni glasnik RS, br. / Службени гласник РС, бр. 42/2018</p>	<p>Rulebook on Asylum Application</p>	<p><a href="https://bit.ly/3sDTDF0">https://bit.ly/3sDTDF0</a> (SR)</p>
<p>Decree on the Manner of Involving Persons Granted Asylum in Social, Cultural and Economic Life</p> <p>Official Gazette, no. 101/2016 and 56/2018.</p>	<p>Uredba o načinu uključivanja u društveni, kulturni i privredni život lica kojima je odobreno erti na azil / Уредба о начину укључивања у друштвени, културни и привредни живот лица којима је одобрено право на азил</p> <p>Službeni glasnik RS, br. / Службени гласник РС, бр. 101/2016 и/и 56/2018.</p>	<p>Integration Decree</p>	<p><a href="https://bit.ly/2J5b3rW">https://bit.ly/2J5b3rW</a> (SR)</p>
<p>Rulebook on Medical Examinations of Asylum Seekers upon Admission to the Asylum Centre or other Facility for Accommodation of Asylum Seekers</p> <p>Official Gazette, no. 57/2018</p>	<p>Pravilnik o zdravstvenim pregledima tražioca azila prilikom prijema u Centar za azil ili drugi objekat za smeštaj tražilaca azila / Правилник о здравственим прегледима тражиоца азила приликом пријема у Центар за азил или други објекат за смештај тражилаца азила</p> <p>Službeni glasnik RS, br. / Службени гласник РС, бр. 57/2018</p>	<p>Rulebook on Medical Examinations</p>	<p><a href="https://bit.ly/3LG93IS">https://bit.ly/3LG93IS</a> (SR)</p>
<p>Rulebook on House Rules in the Asylum Centre and other Facility for Accommodation of Asylum Seekers</p> <p>Official Gazette, no. 96/2018</p>	<p>Pravilnik o kućnom redu u centru za azil i drugom objektu za smeštaj tražilaca azila / Правилник о кућном реду у центру за азил и другом објекту за смештај тражилаца азила</p> <p>Službeni glasnik RS, br. / Службени гласник РС, бр. 96/2018</p>	<p>Rulebook on House Rules</p>	<p><a href="https://bit.ly/3gRBnmV">https://bit.ly/3gRBnmV</a> (SR)</p>

Decree on the Criteria for Determining the Priority for Accommodation of Persons who have been Granted Refugee Status or Subsidiary Protection and the Conditions for the Use of Housing for Temporary Accommodation Official Gazette, no. 56/2018	Uredba o merilima za utvrđivanje prioriteta za smeštaj lica kojima je priznato parvo na utočište ili dodeljena supsidijarna zaštita i uslovima korišćenja stambenog prostora za privremeni smeštaj / Уредба о мерилима за утврђивање приоритета за смештај лица којима је признато право на уточиште или додељена супсидијарна заштита и условима коришћења стамбеног простора за привремени смештај Službeni glasnik RS, br. / Службени гласник РС, бр. 56/2018	Decree on Accommodation of persons granted refugee status or subsidiary protection	<a href="https://bit.ly/3oSVo0Y">https://bit.ly/3oSVo0Y</a> (SR)
Rulebook on Social Allowances for Asylum Seekers and Persons Granted Asylum Official Gazette, no. 12/2020	Pravilnik o socijalnoj pomoći za lica koja traže, odnosno kojima je odobren azil / Правилник о социјалној помоћи за лица која траже, односно којима је одобрен азил Službeni glasnik RS, br. / Службени гласник РС, бр. 12/2020	Rulebook on Social Allowances	<a href="https://bit.ly/3LFNp0O">https://bit.ly/3LFNp0O</a> (SR)
Rulebook on the Look and Content of the Travel Document for Refugees Official Gazette no. 104/2023	Pravilnik o sadržini i izgledu obrasca putne isprave za izbeglice/ Правилник о садржини и изгледу обрасца путне исправе за избеглице Službeni glasnik RS, br. / Службени гласник РС, бр. 104/2023	Rulebook on Refugee Travel Document	<a href="https://bit.ly/4e6rDBI">https://bit.ly/4e6rDBI</a> (SR)
Decision on Granting Temporary Protection in the Republic of Serbia to Persons Fleeing from Ukraine Official Gazette no. 36/2022, 21/2023 i 21/2024	Odluka o pružanju privremene zaštite u Republici Srbiji raseljenim licima koja dolaze iz Ukrajine / Одлука о пружању привремене заштите у Републици Србији лицима која долазе из Украјине Službeni glasnik RS, br. / Службени гласник РС, бр. 36/2022, 21/2023 i/и 21/2024	Decision on Temporary Protection	<a href="https://www.paragraf.rs/propisi/odluka-o-pruzanju-privremene-zastite-raseljenim-licima-koja-dolaze-iz-ukrajine.html">https://www.paragraf.rs/propisi/odluka-o-pruzanju-privremene-zastite-raseljenim-licima-koja-dolaze-iz-ukrajine.html</a> (SR)

## Overview of main changes since the previous report update

The previous version of this report was last published in **August 2024**.

### International protection

#### *Asylum procedure*

- ❖ **Key statistics on arrivals:** The number of arrivals to Serbia decreased by 82% in 2024. A total of 19,603 arrivals was recorded by the Commissariat for Refugees and Migration in comparison to 108,808 recorded in 2023.
- ❖ **Access to the territory - pushbacks:** Refugees and migrants arriving to Serbia from North Macedonia and Bulgaria still face significant difficulties to access the territory and the asylum procedure. They are subjected to border practices that are a cluster of human rights violations (arbitrary deprivation of liberty, ill-treatment, expulsion without examination of individual circumstances and risks of *refoulement* and chain *refoulement*, etc.), applied by the Serbian Border Police. A total of 14,080 persons were prevented from 'entering Serbia illegally' according to the Mol (10,487 from North Macedonia and from 3,437 Bulgaria), a number which does not include foreign nationals formally refused entry or readmitted to third countries or countries of origin. Thus, these persons prevented from 'entering Serbia illegally' were denied access to the territory and the asylum procedure outside the scope of the relevant legal frameworks (i.e. either the Asylum or Foreigners Act). On the other hand, only 137 foreign nationals were readmitted from Serbia to neighbouring countries (mainly to Bulgaria).
- ❖ **Pushbacks from other countries to Serbia:** Pushbacks from neighbouring EU states continued, leading to 5,713 persons being informally sent to Serbia from Hungary. Still, the number of incident reports and testimonies decreased due to the generally decreased presence of civil society organizations in border areas, but also due to the fact that the UNHCR office in Serbia stopped reporting on such practices. On the other hand, only 462 foreign nationals were officially readmitted to Serbia, further confirming that collective and often violent expulsions are the main manner in which forcible removals are conducted.
- ❖ **Smuggling activities:** Smuggling activities continued, but are conducted in a more clandestine manner after massive police operations on the north of Serbia in border areas with Croatia, Hungary and Romania. Still, the increased police presence and fear of forcible removal to North Macedonia are one of the reasons why people on the move decided to take more dangerous journeys, which has led to several tragic incidents in which lives were lost.
- ❖ **Access to the asylum procedure at the airport:** A total of 4,706 foreign nationals were refused entry to Serbia, out of which 1,757 were at the Belgrade airport Nikola Tesla (including citizens of Türkiye, Afghanistan and Syria). The refusal of entry practice at the airport leads to the automatic serving of refusal of entry decisions followed by arbitrary detention and a lack of the possibility to challenge the lawfulness of both the detention and the forcible removal. Two requests for interim measures were adopted in relation to BPSB at Belgrade airport, preventing the forcible removal of people fleeing political persecution in Türkiye.
- ❖ **Registration and lodging of asylum applications:** In 2024, the Mol issued 850 registration certificates, and only 216 lodged their application for the first time.
- ❖ **First-instance asylum decisions:** In 2024, the Asylum Office rendered 152 decisions regarding 200 asylum seekers. Out of that number, 53 decisions regarding 75 asylum seekers were rejected in merits, while 7 decisions granting asylum to 7 asylum seekers were delivered in the same period. The asylum procedure was discontinued in 87 cases regarding 113 applicants, due to their absconding, while in 5 instances subsequent asylum applications were declined in relation



to 5 applicants. A total of 60 merits decisions were rendered in relation to asylum seekers from: Burundi (21), Cuba (19), Russian Federation (11), Syria (6), Iran (5), Armenia (4), Tunis (3), Croatia (2), Türkiye (2), Ukraine (2) and 1 from India, Tunis, Germany, Sweden, Egypt, Afghanistan and Congo.<sup>8</sup> The rejection rate in 2024 was 88%, while the recognition rate was 12%. This represents a 3% decrease in recognition in comparison to 2023.<sup>9</sup> In total, international protection was granted through 7 decisions (12%) encompassing 7 persons. Of these, refugee status was granted through 4 decisions and to citizens of Congo, Burundi, Iran and Ukraine (1 each), while the remaining 3 decisions were related to subsidiary protection granted to citizens of Syria (3).<sup>10</sup>

- ❖ **Asylum Commission – the second instance authority:** In 2024, the Asylum Commission rendered 45 decisions in relation to 59 persons originating from: Burundi (16), Cuba (12), Russian Federation (10), Syria (5), Iran (4), Armenia (3), Türkiye (2), Ukraine (1), Sweden (1), Egypt (1), Germany (1), Kazakhstan (1), Afghanistan (1) and Croatia (1). Only 2 appeals were upheld and in relation to the 2 SGBV survivors from Burundi,<sup>11</sup> while two more cases were referred to the Asylum Office after the complaints lodged to the Administrative Court (third instance) were upheld, yet not on substantive but rather procedural grounds. All other appeals were rejected (41 in total).
- ❖ **Administrative Court – the third instance authority:** In 2024, the Administrative Court delivered 16 decisions regarding 19 persons from the following countries: Iran (7), Unknown (3), Afghanistan (3), Burundi (2), Türkiye (1), Cuba (1), Syria (1) and Ghana (1). Only three complaints were upheld, but two of them for procedural reasons related to family unity and inclusion of a newborn baby in the procedure and the silence of the administration. Only one complaint was upheld on the basis of substantive grounds, and in relation to the applicant who claimed religious persecution and who was also in an extradition procedure.
- ❖ **Legal aid:** Legal aid is still mainly provided by CSOs, but more and more attorneys at law have been involved in asylum cases. Free Legal Aid Act guarantees free legal aid only before the Administrative Court, but it has not been used in practice.

#### *Reception conditions*

- ❖ **Reception capacity and conditions:** Most of the reception facilities governed by the CRM were closed in 2024, leaving only 4 asylum and 3 reception centres operational by the end of 2024. In 2024, **AC Krnjača** was mostly accommodating vulnerable applicants: families with small children, persons with disabilities, persons with health and psychosocial needs, LGBTQI+ applicants, SGBV survivors and others. **AC Obrenovac**<sup>12</sup> and **AC Sjenica** accommodate single males, but most of them were not willing to apply for asylum. As of 20 April 2022, **AC Vranje**<sup>13</sup> accommodated on average 40 to 70 refugees from Ukraine.
- ❖ **Vulnerability:** There is no vulnerability assessment of foreign nationals arriving to CRM-governed asylum and reception centres, and most of the vulnerable persons are identified by CSOs.

#### *Detention of asylum seekers*

- ❖ **Freedom of movement/deprivation of liberty:** In 2024, a total of 8 asylum seekers were detained, namely people from Afghanistan (3), Russian Federation (3), Syria (2), and Sweden (1).

<sup>8</sup> Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

<sup>9</sup> AIDA, *Country Report Serbia*, 2022 Update, pp. 99-100.

<sup>10</sup> *Ibid.*

<sup>11</sup> Asylum Commission, Decision No. AŽ, 06/24, 12 February 2024 and AŽ 15/25, 7 October 2024.

<sup>12</sup> Decision of the Government of the Republic of Serbia, no. 02–5650/2021, available at: <https://bit.ly/3nqLK4Z>.

<sup>13</sup> *Ibid.*

Asylum seekers are detained in Detention Centre for Foreigners in **Padinska Skela (DC Padinska Skela)** as well as in **DC Dimitrovgrad** and **DC**. The total capacities of DC **Padinska Skela** are 110 places, whereas the capacities of DC **Plandište** and DC **Dimitrovgrad** are of 100 places each. Thus, overall detention capacity is of 310 beds.

- ❖ **Detention conditions:** Detention conditions vary from one detention facility to other, but the main issues reported by the NPM is related to its carceral structure, lack of interpreters, no health care screening and vulnerability assessment upon arrival and no access to meaningful activities.

#### *Content of international protection*

- ❖ **Integration – right to work:** There were no major challenges recorded when it comes to the access to the labour market, which is not surprising having in mind that only a handful of people received international protection in 2024.
- ❖ **Integration – right to permanent residency:** The amended Foreigners Act introduced the new provision which allows persons granted asylum to apply for permanent residency which is the final step before the possibility for obtaining citizenship. The first decisions on permanent residency were granted in the first quarter of 2024.
- ❖ **Access to education:** No major issues were reported in relation to access to education of asylum seeking or refugee children.
- ❖ **Travel documents:** Until 31 December 2024, a total of 49 travel documents for refugees were issued. Of that number, 33 documents were issued to men and to 6 boys, while 7 documents were issued to women and to 3 girls.
- ❖ **Family reunification:** There were no instances of family reunification in Serbia in 2024.

#### **Temporary protection**

For further information, see the [Annex on Temporary Protection](#).

#### *Temporary protection procedure*

- ❖ **Scope of temporary protection:** The following persons are eligible to be beneficiaries of temporary protection: 1) citizens of Ukraine and their family members who resided in Ukraine; 2) asylum seekers, stateless persons and foreign nationals who have been granted asylum or equivalent national protection in Ukraine and their family members who have been granted residence in Ukraine; 3) foreign nationals who have been granted valid permanent residence or temporary residence in Ukraine and who cannot return to their country of origin under permanent and long-term circumstances.
- ❖ **Registration for temporary protection:** In 2024, a total of 400 persons were registered under the TP, out of which 381 were Ukrainian nationals, 15 Russian Federation citizens and 4 from other countries. In the same period, 375 persons were granted temporary protection and, again, it was mostly Ukrainian nationals (355). Finally, for a total of 709 persons temporary protection was extended (672 Ukrainian nationals, 19 Russian Federation nationals and 18 from other countries).

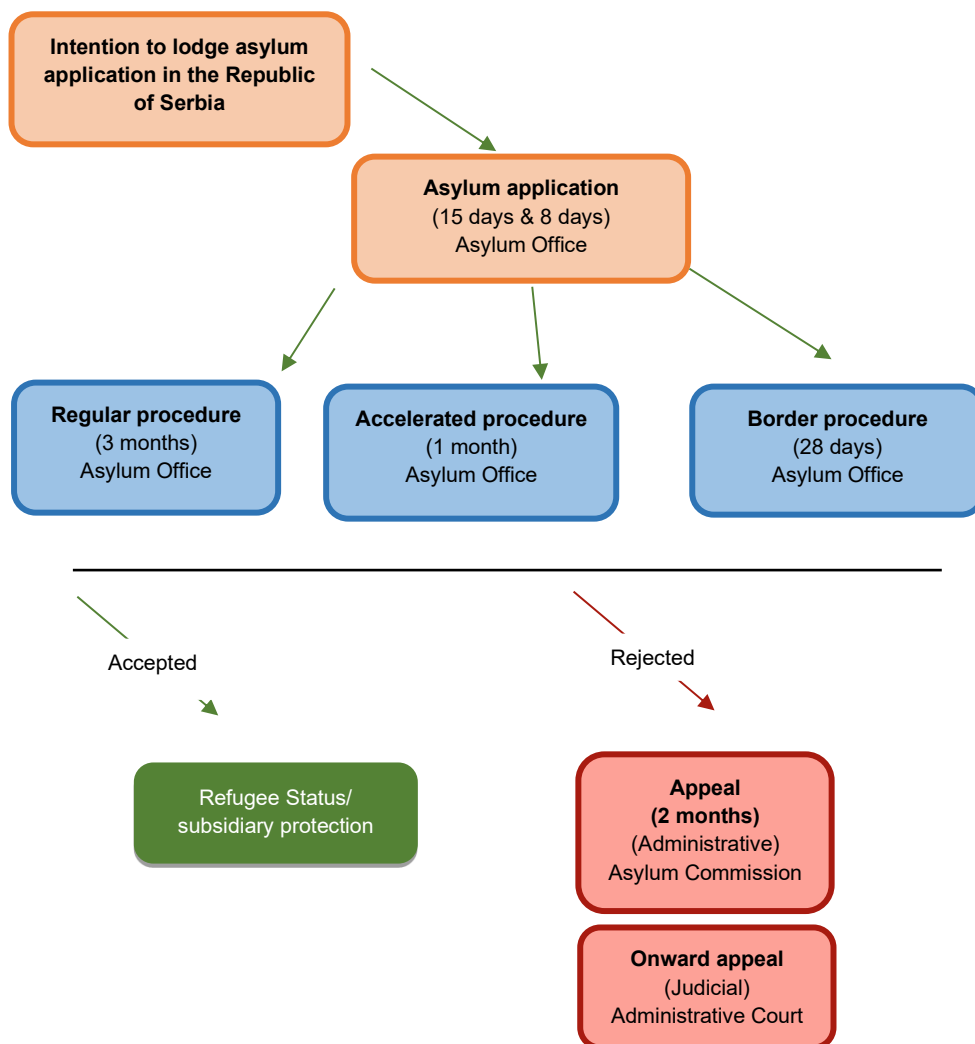
#### *Content of temporary protection*

- ❖ **Access to rights:** There were no major issues reported in access to rights and in relation to Ukrainian refugees and other beneficiaries of TP. Most of the problems were identical to those described in relation to asylum seekers and persons granted asylum in the general report.

# Asylum Procedure

## A. General

### 1. Flow chart



## 2. Types of procedures

### Indicators: Types of Procedures

1. Which types of procedures exist in your country?
 

❖ Regular procedure:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
▪ Prioritised examination: <sup>14</sup>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
▪ Fast-track processing: <sup>15</sup>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
❖ Dublin procedure:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
❖ Admissibility procedure:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
❖ Border procedure:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ Accelerated procedure: <sup>16</sup>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ Other:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
2. Are any of the procedures that are foreseen in the law, not being applied in practice?
 

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
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The **regular procedure** still represents the most commonly applied procedure and is usually conducted in relation to applicants accommodated in Belgrade, in the Asylum Centre (AC) Krnjača and sometimes in AC Obrenovac, or those who can afford to live in private accommodation in Belgrade or in other places such as social care institutions for unaccompanied and separated children (UaSC) or safe houses for survivors of trafficking in human beings. At the end of 2024 and the beginning of 2025, asylum interviews have started to more frequently take place in AC Sjenica,<sup>17</sup> while in other reception facilities that was not the case. Thus, out of 7 accommodation facilities which were operational at the end of 2024, the asylum procedure was mostly facilitated in AC Krnjača, even though most of the genuine asylum seekers<sup>18</sup> were referred to AC Sjenica.

The lack of human capacity within the Asylum Office in 2024 was again the reason why AC Sjenica was not more frequently visited by them. As an authority tasked with facilitating the lodging of asylum applications in person and asylum interviews, the unregular presence of the Asylum Office in AC Sjenica was the reason why people were deprived of the possibility of having their asylum claims effectively assessed. Another reason is the unreasonable referral system of asylum seekers, which is mostly controlled by the Commissariat for Refugees and Migration (CRM) and whose stance is that all single male asylum seekers should be referred to AC Sjenica and not to AC Obrenovac or AC Krnjača, which were almost completely empty for most of the year. Thus, the ineffectiveness and extensive length of the asylum procedure should also be attributed to the CRM (for further information on this practice and its consequences on asylum seekers' access to the asylum procedure, see [Registration – Concerns in practice](#)).

As for the **accelerated procedure**, it is still rarely used and only in instances of manifestly unfounded applications. It has also been conducted mostly in relation to applicants accommodated in Belgrade. In 2023 and 2024, the accelerated procedure was not applied.<sup>19</sup>

Since the introduction in the Asylum Act in 2018, the **border procedure** has not been conducted. Thus, the border procedure has yet to be applied in practice. The two operational immigration detention facilities in the border areas with Romania and Bulgaria – Detention Centre (DC) in Plandište and DC in Dimitrovgrad - were not used for such purpose, nor was the border procedure facilitated in the airport transit zones.

<sup>14</sup> For applications likely to be well-founded or made by vulnerable applicants.

<sup>15</sup> Accelerating the processing of specific caseloads as part of the regular procedure, without reducing procedural guarantees.

<sup>16</sup> Entailing lower procedural safeguards, whether labelled as 'accelerated procedure' in national law or not.

<sup>17</sup> In 2022, AC in Sjenica and AC in Tutin were visited twice each, while in 2023 only once at the end of the year. In 2024, AC Sjenica was visited twice by the Asylum Office in the second half of 2024.

<sup>18</sup> This is a contextual expression in Serbia, which refers to people that are truly eager to remain in Serbia (i.e., not willing to leave before their asylum interview).

<sup>19</sup> Conclusion based on the basis of the analysis of all first instance decisions delivered by the Asylum Office, which were shared with the author for the purpose of drafting this Report.

The Ministry of Interior (MoI) had previously explained that a **border/transit zone procedure** at the airport would be conducted after the reconstruction and extension of the Terminal facility at the airport Nikola Tesla. The project envisaged the construction of detention premises for persons refused entry, but also persons who might apply for asylum and who could then be subjected to the airport/border procedure. Said reconstruction was finalised during 2022, and the newly established premises are operational but still not considered suitable for longer stays due to their size and carceral structure.<sup>20</sup>

Thus, the **airport transit zone procedure** is yet to be applied in practice and it is reasonable to assume that such procedure will not be conducted at the airport in the near future due to infrastructural deficiencies. For that reason, all foreigners who express their intention to lodge an asylum application at the airport are issued with the certificate on the intention to lodge asylum application (registration certificate) and are referred to one of the Asylum or Reception Centres.

### 3. List of authorities that intervene in each stage of the procedure

Stage of the procedure	Competent authority (EN)	Competent authority (SR)
Decision on entry and Decision on refusal of entry <sup>21</sup>	Regional Border Centres (RBC) or Border Police Stations (BPS) established within the Border Police Administrations of the Ministry of Interior	Regionalni centri granične policije (RCGP) i stanice granične policije (SGP) / Регионални центри граничне полиције (РЦГП) и станице граничне полиције (СГП)
Registration Certificate	RBC, BPS and Foreigners Units within Police Departments in Serbia	RCGP, SGP i Odeljenje za strance unutar policijskih uprava / РЦГП, СГП и Одељења за странце унутар полицијских управа
Asylum Application	Asylum Office	Kancelarija za azil / Канцеларија за азил
Refugee status determination	Asylum Office	Kancelarija za azil / Канцеларија за азил
Appeal procedure ❖ First appeal ❖ Onward appeal	Asylum Commission Administrative Court	Komisija za azil / Комисија за азил Upravni sud / Управни суд
Subsequent application	Asylum Office	Kancelarija za azil / Канцеларија за азил
Constitutional Appeal	Constitutional Court of the Republic of Serbia	Ustavni sud / Уставни суд
Revocation / Withdrawal	Asylum Office	Kancelarija za azil / Канцеларија за азил

#### Impact of security checks on asylum procedures

In Serbia, the **Security Information Service (BIA)**, but also the **Department of the MoI for Combating Organized crime and Terrorism (DCOT)**, always conduct security checks and assessments, after which an application for international protection can be rejected based on exclusion grounds.<sup>22</sup> This has become the usual practice before the decision granting asylum is officially rendered. According to the observations of the author of the report, the main issue is that a negative decision issued after such assessments does not contain any factual information or evidence which would indicate why the asylum seeker in question represents a national security risk. This further undermines their possibility to challenge such assessment before the Asylum Commission and the Administrative Court, who also keep applicants in the dark on the facts which allegedly indicate their security threat to Serbia.

<sup>20</sup> Outlined by the representatives of the Asylum Office at the round table with Border Police that took place in Vrdnik on 28 December 2023.

<sup>21</sup> Formally speaking, the Border Police is not authorised to refuse entry to any person seeking asylum.

<sup>22</sup> Article 33 (2) Asylum Act.

This practice was applied for the first time in the period 2015-2018 in one case concerning a Libyan family whose asylum applications were rejected because they were on the list of individuals whose presence on Serbian territory was considered a threat to national security. The family complained before the European Court for Human Rights (ECtHR) that their expulsion to Libya would violate Articles 2 and 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) due to their political affiliation with the former Ghaddafi regime, and under Article 13 of ECHR due to an alleged lack of effective remedy in Serbia.<sup>23</sup> Eventually, they were granted subsidiary protection. After they were granted subsidiary protection, they decided to withdraw part of the ECtHR application and opted to pursue the case only from the perspective of access to an effective legal remedy (due to the lack of suspensive effect of the remedy provided) and in relation to the expulsion order rendered on the basis of a negative security assessment which was not provided in the reasoning of the decision.<sup>24</sup> However, the ECtHR was satisfied with the fact that the applicants were allowed to apply for international protection after they were served with the expulsion order which in view of the Court remedied the lack of suspensive effect.<sup>25</sup> Thus, the case was struck out of the ECtHR list in 2024.

Another case, which also refers to an applicant from Libya, was rejected on security grounds in 2019. The case was referred from the first to the second instance body on several occasions and, eventually, the applicant was granted refugee status in February 2022,<sup>26</sup> after the second instance body received a positive security assessment from BIA. According to the assessment of the author of the report, the fact that this case was not taken further before international instances can be attributed to the results of the case of *A. and Others* explained above.

In 2022, there were three additional cases in which negative assessments from the BIA were used as grounds for detention of one Kirgizstan<sup>27</sup> and two Turkish<sup>28</sup> citizens of Uzbek and Kurdish ethnicity respectively, one of the Turkish citizens also being a member of the Gulen movement.<sup>29</sup> All these applicants were rejected on the merits during the asylum procedure, but, according to the assessment of the author of the report, it is clear that the outcome of their cases was impacted by the negative security assessment of BIA. Another common point to these cases is the fact that they were all fugitives subjected to the extradition procedure. Although all the extradition procedures ultimately resulted in favour of the 'fugitives', protecting them from extradition, their negative security assessments remained. In one of the instances, E.P., a Turkish citizen, whose asylum application and subsequent asylum applications were rejected, was detained for a maximum of 6 months after which he fled the country.<sup>30</sup> The Kyrgyz national decided to leave Serbia.

In 2023, the Asylum Office rejected the asylum applications of 3 more applicants on the grounds of the negative assessments of the BIA (for further elaboration, see [Regular procedure - General](#)).

In 2024, the national security grounds were applied in 9 negative decisions which represents 16% of all negative decisions rendered in 2024 by the Asylum Office. Accordingly, in 2024, this practice expanded

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<sup>23</sup> ECtHR, *A. and Others v. Serbia*, Application No. 37478/16, Decision of 23 May 2024, available at: <https://bit.ly/3V7WW6A>.

<sup>24</sup> See a similar case where the Court ruled that the right to an effective remedy under Article 13 of the ECHR was violated, ECtHR, *D and Others v. Romania*, Application No. 75953/16, 14 January 2020, EDAL, available at: <http://bit.ly/3aBHWGZ>.

<sup>25</sup> ECtHR, *A. and Others v. Serbia*, Application No. 37478/16, Decision of 23 May 2024, available at: <https://bit.ly/3V7WW6A>.

<sup>26</sup> Asylum Office, Decision No. 26–1389/17, 2 February 2022.

<sup>27</sup> Radio Free Europe, *Komitet protiv torture UN naložio Srbiji odlaganje izručenja državljanina Kirgiztana*, 24 August 2022, available in Serbian at: <http://bit.ly/3KFW1LR>; the applicant eventually decided to leave Serbia.

<sup>28</sup> BIRN, *Serbia to Extradite Kurdish Politician to Türkiye over 'Terrorism' Charges*, 31 May 2022, available at: <https://bit.ly/3xY3Ujj> and Amnesty International, *Serbia: Political Activist on Hunger Strike*, available at: <https://bit.ly/4cbeNR4>.

<sup>29</sup> Radio Free Europe, *Bez odgovora Ministarstva pravde Srbije o izručenju turskog državljanina*, 31 May 2022, available in Serbian at: <http://bit.ly/41uwlTB>.

<sup>30</sup> Article 77 Foreigners Act, and N1, *Kurdish activist Ecevit Piroglu leaves Serbia*, 7 August 2024, available at: <https://n1info.rs/english/news/kurdish-activist-ecevit-piroglu-leaves-serbia/>.

beyond those applicants who were also treated as fugitives in extradition procedure.<sup>31</sup>

Thus, according to the observations of the author of the report, the practice from 2024 indicates that arbitrary national security assessments are more widely applied in asylum, but also other residential procedures, as well as a common ground for immigration detention.

#### 4. Determining authority

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the first instance authority?
Asylum Office	23	Ministry of Interior	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Source: Asylum Office, Response to the request for the information of public importance no. 07-2/25, 11 February 2025 (delivered on 21 February 2025).

##### 4.1 Asylum Office – first Instance

The Asylum Office is responsible for examining applications for international protection and competent to take decisions at first instance.<sup>32</sup> In its response to the request for information of public importance, the Mol outlined that the Asylum Office has 28 positions envisaged, and that the current number of employees is 23.

Asylum Office staff: 2024	
Position	Number
Head of the Asylum Office	1
<b>Department for Refugee Status Determination</b>	
Head of the RSDP Department	1
RSDP officer	12
Junior RSDP officer	1
Operational Support officer	1
<b>Department for Collection and Documentation on the State of Human Rights in Countries of Origin (Col Department)</b>	
Head of the Country-of-Origin Department	1
Col Officer	3
Junior Col officer	1
Translators for English language	2
<b>Total</b>	<b>23</b>

Source: Asylum Office, Response to the request for the information of public importance no. 07-2/25, 11 February 2025 (delivered on 21 February 2025).

In 2024, a total of 12 asylum officers were in charge of the asylum procedure and deciding on applications for international protection. Asylum officers are in charge of facilitating the lodging of asylum applications in person, asylum interviews and rendering decisions at first instance.

<sup>31</sup> See more in AIDA Country Report: Serbia - 2023 Update, p. 21.

<sup>32</sup> Article 20 Asylum Act.



In the decision-making process, they are assisted by the Col Department, which provides information on specific issues in countries of origin and third countries which were raised during the asylum interview. The Head of the RSD Department and then the Head of the Asylum Office must further confirm the decision of asylum officers, and BIA or DCOT need to provide a positive 'security assessment' as outlined above (see [List of authorities that intervene in each stage of the procedure](#)).

It can be said that current capacities of the Asylum Office remain insufficient, even though the number of arrivals remains low, as well as the number of genuine asylum seekers. Still, the higher number of RSDP officers has led to the increased number of asylum interviews (conducted mostly in AC Krnjača in Belgrade) and first instance decisions in 2024 (65 decisions and 102 interviews) in comparison to 2023 (45 decisions and 88 interviews). However, this number is significantly lower than the numbers from 2022 (70 decisions and 107 interviews).

The Asylum Office continued with the positive practice and delivered the copies of all decisions taken in merits in 2024. For that reason, it is possible to calculate exactly the length of the first instance procedures which resulted in decisions in 2024. An average length for the purpose of this Report will be calculated only in relation to decisions which were rendered for the first time applicants and for the first time (cases which were referred back and forth from higher instances will not be taken into account). Thus, there were 5 decisions in which subsequent asylum application was dismissed, and three more cases which have been ongoing for more than 5 years and which have been rejected by the Asylum Office on multiple times. As for the remaining 57 cases an average length of the first instance procedure in 2024 was 13 months, which is more than in 2023 when an average length was 11,6 months. Accordingly, even though the capacities of the Asylum Office increased, the length on the first instance asylum procedure was extended and not shortened.

The low capacity of the Asylum Office is also reflected in the fact that the Asylum Office rarely undertakes evidentiary activities *proprio motu* (expert opinions, witness statements, etc.). This is mainly done by legal representatives who have a proactive approach. For that reason, applicants without specialized legal representatives are deprived of the possibility to have their claims examined through multi-disciplinary approach if necessary.<sup>33</sup> Thus, according to the observations of the author of the report, it is reasonable to repeat the assessment that the current capacities are unsustainable, especially after the influx of Ukrainian refugees who applied for temporary protection. Also, the question that remains open is if there is a budget within the Mol to cover the costs of expert opinions.

Thus, if Serbia were to be considered a safe third country to send asylum seekers for them to receive international protection, according to the assessment of the author of the report, if just a few hundreds of persons in need of international protection were to be returned on a yearly basis based on guarantees that they would be allowed to lodge an asylum application, the Asylum Office would collapse due to lack of capacity, even with the 2023/2024 increase in case workers (from 9 to 12).

Another concerning element is the frequent turnover within the Asylum Office, which has experienced many changes in high-level staff and directors. In September 2020, the Head of the Asylum Office was transferred to another position, and a new Head, without any prior experience, was appointed. Moreover, the Deputy Head of the Asylum Office was transferred to another Department of the Mol. In December 2020, the newly appointed Head of the Asylum Office was transferred again, leaving the Country-of-Origin Information Officer as acting Head and acting Deputy Head of the Asylum Office. At the beginning of 2021, the former Head of the Asylum Office (removed in September 2020) was reinstated, which was a positive development given the person's experience in the asylum field, and her status was confirmed in December 2022. However, at the beginning of 2023, she was replaced again, with a person with significant experience in the Border Police Administration and who served on several occasions as a member of the Asylum Commission. However, this person retired at the end of 2024 and a new Head of

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<sup>33</sup> From the case files assessed by the author of this report, it can be determined that in all decisions rendered in relation to applicants who did not have legal representatives there were no expert opinions or reports taken into account.



the Asylum Office was appointed. These kind of changes undoubtedly contribute to poor efficiency of the first instance authority.

In contrast to its assessment in the 2022 Progress Report, in 2023 the European Commission provided more realistic picture of the capacities of the Asylum Office,<sup>34</sup> stating that 'it needs to increase its capacity for actual handling of asylum applications'.<sup>35</sup> It also stated that quality of asylum decisions needs to be further improved through sustainable quality assurance mechanisms and harmonisation of the decision-making process.<sup>36</sup> These findings remain valid and basically unchanged until October 2024 and the latest Progress Report of the Commission.<sup>37</sup>

Thus, it is important to reiterate that a significant increase in operational asylum officers is necessary to up to at least 20 officers to cope in an appropriate and timely manner with the current numbers of applicants and additional tasks. This would reduce the length of the first instance procedure and potentially reduce the **absconding rate** which remains high. However, a quantitative increase in staff does not improve access to and quality of procedures without proper training and capacity building, which takes time. For that reason, if the capacities of the Asylum Office are to be increased in the near future, it will take several years to train newly-hired asylum officers to deal with several hundred asylum applications per year. To deal with several thousand asylum applications per year would require a complete shift of State policy towards the asylum issue which has never been the case until now, an assessment further corroborated by the fact that the first instance asylum procedure could not currently be conducted without the assistance of international Organisations and civil society.

## 4.2 Asylum Commission – second Instance

The Asylum Commission decides on appeals against decisions of the Asylum Office as the second instance body. It is comprised of a Chairperson and eight members, appointed by the Government for a four-year term. To be appointed Chairperson or member of the Asylum Commission a person must be a citizen of Serbia, have a university degree in law and minimum five years of working experience and must have an 'understanding' of the human rights legislation. The Asylum Commission shall operate independently and shall pass decisions with a majority of the entire membership votes.<sup>38</sup>

The specialisation and knowledge of the 9-member Asylum Commission can still be considered inadequate for their role, since none of the current members has a strong background in refugee and international human rights law. The fact that not a single applicant was granted asylum in 2022, 2023 and 2024 by the Asylum Commission confirms this statement. In the history of the Serbian asylum procedure, since 2008, this body has rendered only 3 decisions granting asylum to 4 persons. Moreover, all the members of the Asylum Commission are selected from different ministries and have regular full-time paid jobs. For their work in the Asylum Commission, they receive 25,000 dinars - 213 EUR (the president of the Commission) and 18,000 dinars - 153 EUR (members of the Commission). Remuneration and mostly the bureaucratic, but also security background of members of the Commission, clearly indicates that this body cannot exercise its corrective role but can only contribute to the lack of effectiveness of the Serbian international protection status assessment procedure. Based on the observations of the author of this report, the 2023 and 2024 practice corroborates this claim.

In April 2024, the Government elected members of the Commission from the following parts of State apparatus:

1. The Head of Commission holds a managerial position within the Mol

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<sup>34</sup> See more in AIDA, *Country Report: Serbia – Update on the year 2022*, May 2023, available [here](#), 25.

<sup>35</sup> European Commission, *Serbia: Progress Report*, SWD (2023) 695 final, 8 November 2023, available at: <https://bit.ly/4bRUaJU>, 68.

<sup>36</sup> *Ibid.*

<sup>37</sup> European Commission, *Serbia: Progress Report*, SWD(2024) 695 final, 30 October 2024, available at: [https://neighbourhood-enlargement.ec.europa.eu/document/download/3c8c2d7f-bff7-44eb-b868-414730cc5902\\_en?filename=Serbia%20Report%202024.pdf](https://neighbourhood-enlargement.ec.europa.eu/document/download/3c8c2d7f-bff7-44eb-b868-414730cc5902_en?filename=Serbia%20Report%202024.pdf).

<sup>38</sup> Article 21 Asylum Act.

2. The Head of the Department for Readmission from the Mol
3. The Officer for Systemic and Legal matters from the Mol
4. A State Secretary from the Ministry of Justice (political position)
5. A Coordinator from the Department of Consular Matters from the Ministry of Foreign Affairs
6. The Head of the Department for General Matters and Management of Human Resources from the Ministry of Health
7. The Head of the Department for Legal Matters from the Commissariat for Refugees and Migration (CRM)
8. The Manager of the Department for Legal and Analytical Matters in the field of Employment and Economical migration from the Ministry of Labour, Employment, Veteran and Social Affairs (MoLEVSA)
9. A Professor from the Police Academy<sup>39</sup>

The Asylum Commission does not have an office,<sup>40</sup> administration, country of origin department nor any other logistical support. Members of the Commission meet several times per year and vote on the proposals made by the rapporteurs designated for every appeal case. They do that outside their regular working hours within their respected ministries, sitting in an office located on the same floor as the Asylum Office within the Ministry of Interior.

In its 2021 Concluding Observations, the UN Committee against Torture (CAT) recommended that Serbia abolish the Asylum Commission and introduce a judicial review by the Administrative Court at second instance.<sup>41</sup> As outlined, this assessment of the CAT proved its continued validity in 2023 and 2024, given the lack of corrective influence of this body towards the Asylum Office in 2024.

The Asylum Commission, in most cases, renders decisions in a timely manner, within maximum 3 months (the deadline being 2 months). Still, there are instances in which appeals take much longer, sometimes even for more than a year. In 2024, and in relation to cases which were examined in merits by the Asylum Commission (35 in total), average length of the second instance procedure was 3 months, ranging from 1 month to 5, 7 or 9 months (see more in [Asylum Commission practice 2024](#)).

### 4.3 Administrative Court – third Instance

The final decisions of the Asylum Commission may be challenged before the Administrative Court.<sup>42</sup> The Administrative Court judges still lack adequate resources to assess complaints lodged by asylum seekers and their legal representatives and none of the judges are specialised in asylum and migration issues despite occasional trainings and study trips.<sup>43</sup> Thus, most of the complaints are rejected and in the history of Serbian asylum system, the Administrative Court has never held an asylum interview nor rendered a decision granting asylum.

There is no specially designated department comprised of judges with relevant and necessary knowledge and supporting infrastructure such as a Col department. The difficulty which the judges of the Administrative Court face is also related to the fact that, in their everyday work, they have to be familiar and apply several dozen laws and bylaws which are governing the field of administrative measures (taxes, election disputes, local municipality matters, issuance of permissions and licences, education, medical administrative disputes and others).

<sup>39</sup> Government Decision No. 119-3053/2024 of 11 April 2024.

<sup>40</sup> They meet at the Ministry of Interior and on the same floor where Asylum Office is based.

<sup>41</sup> CAT, *Concluding observations on the third periodic report of Serbia*, 20 December 2021, CAT/C/SRB/CO/3, available at: <https://bit.ly/3MLqTGh>, para. 34 (b).

<sup>42</sup> Article 22 Asylum Act.

<sup>43</sup> This conclusion is based on the author's assessment of the quality of the decision-making process for 2023; practice-informed observation of IDEAS; European Commission, *Serbia: Progress Report*, SWD (2023) 695 final, 8 November 2023, available at: <https://bit.ly/4bRUaJU>, 67 and 68 and poor practice analysed in previous AIDA Country Reports on Serbia, available [here](#).

There are 62 administrative judges in total, covering the entire territory of Serbia.<sup>44</sup> As of 31 December 2023, there were 181,220 administrative proceedings pending,<sup>45</sup> while that number on 31 December 2024 was 163,236,<sup>46</sup> which clearly shows that the backlog and variety of administrative disputes, together with administrative judges' lack of experience dealing with asylum and migration issues, makes this body ineffective, theoretical and illusory for asylum seekers.

The length of the procedure before the Administrative Court can sometimes be counted in years, which has led, in some instances, to asylum procedures that have lasted more than 4 years.<sup>47</sup> In 2023, such cases were also reported, and the length in itself indicates the lack of capacity of this body to deal with complaints of asylum applicants.<sup>48</sup> One judgment from 2024 that related to an applicant who lodged his asylum application when he was a minor is yet another example in which the procedure before the Administrative Court lasted for almost 4 years, while entire asylum procedure lasted 7 years in total.<sup>49</sup> Comprehensive analysis of the 2024 practice will be outlined in the [Onward appeal chapter](#).

#### **4.4 Quality assurance, transparency and cooperation with the UNHCR, EU, CSOs and other entities**

The Asylum Act explicitly envisages that the asylum authorities should cooperate with UNHCR when undertaking activities related to its mandate, and the UNHCR should have free access to all persons who might be in need of international protection.<sup>50</sup>

At the request of UNHCR, the competent authorities shall provide:

1. General information concerning the applicants, refugees or persons who have been granted subsidiary or temporary protection in Serbia, including statistical data, and specific information on individual cases, provided that the person to whom the asylum procedure refers has given their consent in the manner and under the conditions prescribed by the law governing the protection of personal data;
2. Information regarding the interpretation of the 1951 Convention and other international instruments relating to refugee protection and their application in the context of this Law.<sup>51</sup>

Since 2022, the Asylum Office has been delivering the above-outlined data to the UNHCR and its partners.

According to the observations of the author of this report, apart from human, professional and infrastructural lack of capacities, the lack of effective quality assurance control and comprehensive analysis of the asylum case law can be considered as one of the main reasons for contradicting decisions in the practice of the Asylum Office, Asylum Commission and Administrative Court. This can also explain the lack of corrective influence of the second and third instance authorities on the quality of the decision-making process in general.<sup>52</sup> The lack of corrective influence was noted by the European Commission as well.<sup>53</sup>

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<sup>44</sup> The list of judges can be found at the following link: <http://www.up.sud.rs/cirilica/sudije>.

<sup>45</sup> Annual Report of the Administrative Court, 9 January 2024, available at: <https://bit.ly/4bhck6J>, 1-2.

<sup>46</sup> Upravni sud, Annual Report of the Administrative Court, 13 January 2025, available at: <https://www.up.sud.rs/wp-content/uploads/2024/08/GODISNJI-IZVESTAJ-za-2024.pdf>.

<sup>47</sup> Administrative Court, Judgment U 12638/18, 20 July 2021; this judgment was rendered with regards to an Iraqi applicant who lodged his asylum application in 2017.

<sup>48</sup> Average length of the procedure before the Administrative Court will be outlined in the chapter which covers the practice of this body.

<sup>49</sup> Administrative Court, Judgment U 16013/20, 15 March 2024 - the complaint in this case was lodged on 18 September 2020.

<sup>50</sup> Article 5 (1) and (2) Asylum Act.

<sup>51</sup> Article 5 (3) Asylum Act.

<sup>52</sup> AIDA, *Country Report: Serbia – Update on the year 2021*, May 2022, available [here](#), 87 and 90.

<sup>53</sup> European Commission, *Serbia: Progress Report*, SWD(2024) 695 final, 30 October 2024, available at: [https://neighbourhood-enlargement.ec.europa.eu/document/download/3c8c2d7f-bff7-44eb-b868-414730cc5902\\_en?filename=Serbia%20Report%202024.pdf](https://neighbourhood-enlargement.ec.europa.eu/document/download/3c8c2d7f-bff7-44eb-b868-414730cc5902_en?filename=Serbia%20Report%202024.pdf), p. 50.

There is no State quality assurance control in place and the practice of the Asylum Office, Asylum Commission and Administrative Court cannot be adequately assessed by professionals acting externally. Thus, there are no personal records of asylum officers or judges available to the public or upon explicit request which can provide information on the decision-making process such as the number and type of decisions rendered, the length of the asylum procedure and the overall quality of the decision-making process. The same can be said for the members of the Asylum Commission.

In 2022, the MoI agreed with UNHCR to gradually introduce external control mechanisms, which implies the occasional presence of UNHCR officers at asylum interviews.<sup>54</sup> This was the first step in establishing quality assurance control in partnership with UNHCR. In April 2022, the UNHCR office in Serbia hired a Quality Assurance Officer who has regular meetings with the Administration for Border Police and the Asylum Office and who occasionally attends asylum interviews. Moreover, in 2021, a group of State officials from the asylum authorities, CRM and other relevant institutions, took part in a study visit to Italian asylum authorities facilitated by the UNHCR office in Serbia.<sup>55</sup> The practice of occasional presence of UNHCR officers during asylum interviews continued in 2023 and 2024. Still, and apart from the occasional presence of UNHCR officers and occasional seminars and trainings, it can be safely said that there is no quality assurance control of the credibility assessment conducted by the asylum authorities.

The EUAA (European Union Asylum Agency) - former EASO -, has also been providing support in Serbia since 2016. The support was provided under the second roadmap for cooperation between Serbia and EASO/EUAA 2020-2022, established by the MoI and CRM.<sup>56</sup> One of the main focuses with regards to the refugee status determination procedure was on country of origin information (Col).<sup>57</sup> EUAA representatives held a meeting with relevant CSOs recognised as main providers of free legal aid in Serbia in October 2021.<sup>58</sup> In addition, representatives of the asylum authorities have attended numerous seminars and trainings outside Serbia. However, EUAA support has failed to produce significant results: according to the observations of the author of this report, inadequate Col assessments continued to be observed in the Asylum Office's practice in 2023 and 2024, by way of copy-pasting selectively chosen parts of Col reports, which are then taken out of context and not in line with the meaning of such reports, with the sole aim to reject asylum applications<sup>59</sup> (for further information, see [Regular procedure – General](#)).

The third phase of the project *Protection sensitive Migration Management* is a regional IPA project which started in 2022 and will end in 2025, based on 4 pillars – identification and registrations, access to protection, return management and contingency plan. It is conducted by the UNHCR, IOM, FRONTEX, and EUAA.<sup>60</sup>

Regarding the transparency of asylum authorities' work, it is important to outline that the MoI did not provide data to CSOs regarding asylum issues between 2018 and 2022, and the only available data was obtained from legal representatives in asylum procedures and publicly available reports published by other State institutions such as the Ombudsperson or the CRM. However, in 2023 and 2024 all decisions rendered by the Asylum Office and Asylum Commission were communicated to the author of this report, accompanied with relevant statistical data on border practices, readmission, refusals of entry and immigration detention.<sup>61</sup> This data can shed more light on issues related to the access to territory and asylum procedure, but also on practices which imply deprivation of liberty of foreign nationals under the

<sup>54</sup> Practice-informed observation of IDEAS, January 2024.

<sup>55</sup> UNHCR, *UNHCR: Authorities of Italy and Serbia exchange experiences related to refugee protection*, 26 November 2021, available at: <https://bit.ly/3HXnuzD>.

<sup>56</sup> EASO and Serbia, *Roadmap for Cooperation EASO – Serbia (2020-2022): Strengthening the asylum and reception systems in line with the Common European Asylum System and EU Standards*, 2020, available [here](#).

<sup>57</sup> EASO and Serbia, *Roadmap for Cooperation EASO – Serbia (2020-2022): Strengthening the asylum and reception systems in line with the Common European Asylum System and EU Standards*, 2020, available [here](#), 15ff.

<sup>58</sup> The author of this report attended the meeting.

<sup>59</sup> Practice-informed observation of IDEAS, January 2024 and January 2025.

<sup>60</sup> Information provided by the IOM office in Serbia.

<sup>61</sup> Response of the MoI, Border Police Administration on the freedom of information request no. 072/1-32/23-3 of 26 February 2023.

immigration legal framework. Most importantly, it provides the author with the possibility for comprehensive analysis and the overview of the first instance practice in relation to asylum applications decided in merits.

The Administrative Court continued to be the most transparent and all the judgments rendered in 2024 were also communicated to the author of this report.<sup>62</sup> Still, the Asylum Commission, but also the Asylum Office, maintain their opinion that sharing copies of decisions with legal practitioners and researchers would violate the privacy of applicants, meaning that many of the communicated decisions were excessively anonymised which was also the case in 2024.<sup>63</sup> Nevertheless, there remains progress compared to previous years.

The Asylum Office still provides regular statistical data to UNHCR, but the statistical overview could be significantly improved. For instance, there is no gender or age breakdown when it comes to asylum applicants, nor is there a breakdown by particular vulnerabilities or the basis of the claim. In a system in which several hundred applications are made per year and they are addressed to one centralised body—the Asylum Office, this should not be considered a burden.

## 5. Short overview of the asylum procedure

### 5.1 International Legal Framework

Serbia is a State party to almost all relevant universal and regional treaties and conventions including the 1951 Refugee Convention Relating to the Status of Refugees,<sup>64</sup> 1967 Protocol,<sup>65</sup> European Convention for the Protection of Human Rights and Fundamental Freedoms,<sup>66</sup> UN Convention against Torture and Other Cruel, Inhumane and Degrading Treatment or Punishment,<sup>67</sup> International Covenant on Civil and Political Rights,<sup>68</sup> International Covenant on Economic, Social and Cultural Rights,<sup>69</sup> Convention on the Rights of the Child,<sup>70</sup> Convention on Preventing and Combating Violence against Women and Domestic Violence,<sup>71</sup> Convention on Action Against Trafficking in Human Beings,<sup>72</sup> Convention on the Elimination of All Forms of Discrimination Against Women,<sup>73</sup> Convention on the Rights of Persons with Disabilities<sup>74</sup> European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment,<sup>75</sup> and several others.

<sup>62</sup> Administrative Court response to the freedom of information request no. Cu-II-17a 94/22 od 26 February 2023.

<sup>63</sup> See for example the response on the freedom of information request of the Asylum Commission No. no. 27-A-128-9/22-KA of 8 February 2023.

<sup>64</sup> UNGA, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, available at: <https://bit.ly/2GCMu4R>, hereinafter: Refugee Convention.

<sup>65</sup> UNGA, *Protocol Relating to the Status of Refugees*, 31 January 1967, United Nations, Treaty Series, vol. 606, p. 267, available at: <https://bit.ly/3kbPLpf>, hereinafter: the Protocol.

<sup>66</sup> CoE, *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14*, 4 November 1950, ETS 5, available at: <https://bit.ly/3oUqWkC>, hereinafter: ECHR.

<sup>67</sup> UNGA, *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 December 1984, United Nations, Treaty Series, vol. 1465, p. 85, available at: <https://bit.ly/3auJbJj>, hereinafter: UN CAT.

<sup>68</sup> ICCPR, UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <https://bit.ly/3nBpWBv>, hereinafter: ICCPR.

<sup>69</sup> UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <https://bit.ly/3mRV4fy>, hereinafter: ICESCR.

<sup>70</sup> UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: <https://bit.ly/3mfoK5y>, hereinafter: UN CRC.

<sup>71</sup> Council of Europe, *The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence*, November 2014, ISBN 978-92-871-7990-6, available at: <https://bit.ly/3G0FoSJ>.

<sup>72</sup> Council of Europe, *Council of Europe Convention on Action Against Trafficking in Human Beings*, 16 May 2005, CETS 197, available at: <https://bit.ly/2IRT9ZV>, hereinafter: Istanbul Convention.

<sup>73</sup> UNGA, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, available at: <https://bit.ly/3ucAOxX>, hereinafter: UN CEDAW.

<sup>74</sup> UN General Assembly, *Convention on the Rights of Persons with Disabilities: resolution / adopted by the General Assembly*, 24 January 2007, A/RES/61/106, available at: <https://bit.ly/3wVbbNZ>, hereinafter: CRPD.

<sup>75</sup> Council of Europe, *European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*, 26 November 1987, ETS 126, available at: <https://bit.ly/3h2KQXQ>.



This further means that persons in need of international protection can address individual complaints/communications/applications to most of the UN and CoE Treaty bodies and that the legal framework and practice related to the field of asylum and migration can be assessed through the other forms of work of these bodies such as monitoring visits, periodic reporting and review, inquiry procedures and others. Also, it is important to note that in September 2023, Serbia ratified the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights<sup>76</sup> while the Optional Protocol to the Convention on the Rights of the Child on a communications procedure is yet to be ratified.<sup>77</sup> Thus, individuals can now address the Committee on Economic, Social and Cultural Rights (CESCR), but not the Committee on the Rights of the Child (CRC). A11-Initiative for Economic and Social Rights (A11) had been advocating for the ratification of the OPCESCR since 2019,<sup>78</sup> launching campaigns, but also securing public promises from Ministers of Human Rights<sup>79</sup> which eventually led to a positive outcome.<sup>80</sup>

## 5.2 Constitutional Legal Framework

**Article 16 of the Constitution** of the Republic of Serbia<sup>81</sup> stipulates that generally recognised rules of international law and ratified international treaties are an integral part of the legal system of Serbia and that relevant authorities shall apply them directly. **Article 18 of the Constitution** further confirms that the human rights enshrined in the Constitution shall also be applied directly, as well as human rights arising from the generally recognised rules of international law and in line with the values common to democratic societies and in accordance with international human rights standards, as well as the practice of international bodies for the protection of human rights. And finally, **Article 145 (2) of the Constitution** entails that courts' decisions shall be based on the Constitution, laws, ratified international treaties and other generally recognised rules of the international law.

Through cumulative interpretation of the above-outlined constitutional provisions, it can be safely concluded that all ratified universal and regional international treaties, as well as the practice of the ECtHR, UN Treaty Bodies and other relevant international bodies for the protection of human rights, should be interpreted as legally binding by asylum and other relevant authorities. This also implies that the legal framework governing asylum and migration issues should be aligned with the rules outlined in the sub-chapter 5.1., but also to the relevant practice of the bodies for the protection of human rights.

It is also important to note that the **Constitutional Court of the Republic of Serbia** (Constitutional Court) is entitled to receive individual complaints – **constitutional appeals** – and that the final outcome of the procedure initiated with the constitutional appeal can be pecuniary and non-pecuniary damage.<sup>82</sup> Accordingly, the Constitutional Court is entitled to examine individual complaints of refugees, asylum seekers and migrants and, in theory, this body can be considered as an effective legal remedy.<sup>83</sup> However, the practice has shown the opposite.<sup>84</sup>

**The right to refugee status ('utočište')** is explicitly enshrined in the Article 57(1) of the Constitution, which reads:

<sup>76</sup> UNGA, *Optional Protocol to the International Covenant on Economic, Social and Cultural Rights: resolution / adopted by the General Assembly*, 5 March 2009, A/RES/63/117, available at: <https://bit.ly/3ydMXBD>, hereinafter: OPCESCR.

<sup>77</sup> UN Human Rights Council, *Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure: resolution / adopted by the Human Rights Council*, 14 July 2011, A/HRC/RES/17/18, available at: <https://bit.ly/3tFVecN>.

<sup>78</sup> A11, *The Initiative to Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights*, 1 April 2019, available at: <http://bit.ly/3L0Bxca>.

<sup>79</sup> Insajder, Čomić: *Do kraja godine ratifikacija Opcionog protokola; Čurčić: To bi bila velika stvar za zaštitu ljudskih prava u Srbiji*, 25 February 2022, available in Serbian at: <http://bit.ly/3ZIZpes>.

<sup>80</sup> A11, *Parliament ratifies the international treaty allowing for enhanced protection of economic and social rights*, 11 September 2023, available at: <https://bit.ly/45BKEZ5>.

<sup>81</sup> Official Gazette of the Republic of Serbia, nos. 98/2006 and 115/2021.

<sup>82</sup> Constitutional Court Act, Official Gazette of the Republic of Serbia, nos. 109/2007, 99/2011, 18/2013, 103/2015 and 40/2015, available in Serbian at: <http://bit.ly/2NHOTVm>, Articles 82 to 92.

<sup>83</sup> On the effectiveness of the Constitutional Court see more in the following chapters.

<sup>84</sup> More about the practice of the Constitutional Court in the following chapters.

‘Any foreign national with reasonable fear of persecution based on his race, gender, language, religion, national origin or association with some other group, political opinions, shall have the right to asylum in the Republic of Serbia.’

Another relevant provision of the Constitution which recognises persecution in terms of the Article 1 of the Refugee Convention, but also provides wider protection from *refoulement* is the Article 39 (3) of the Constitution:

‘A foreigner can be expelled only on the basis of a decision of the competent authority, rendered in the procedure governed by law and if they are provided with the right to appeal, and only where they are not threatened with persecution because of their race, gender, religion, nationality, citizenship, belonging to a certain social group, political opinions or where they are not threatened with a serious violation of the rights guaranteed by this constitution.’

Thus, the right to international protection in terms of both international human rights law and international refugee law, revolving around the refugee definition outlined in the Article 1 of the Refugee Convention, and the principle of *non-refoulement* in terms of both frameworks, is explicitly guaranteed. Also, the constitutional framework and its link with universal and regional treaties for the protection of human rights and the practice of relevant monitoring bodies (ECtHR, CAT, CCPR and others) provides additional layers of protection for persons in need of international protection.

Constitutional appeals submitted by refugees and asylum seekers to the Constitutional Court are also examined under Article 25 of the Constitution which prohibits torture and inhumane or degrading treatment or punishment, and which can be interpreted in line with the practice of the ECtHR and Article 3 of the ECHR, including under the auspices of the *non-refoulement* principle. Articles 27 to 29 of the Constitution reflect the content of the Article 5 ECHR, including Article 5-1-f which is related to immigration detention. Article 36 (2) of the Constitution reflects Article 13 of the ECHR usually read in conjunction with the *non-refoulement* principle, but also other relevant rights. Article 4 of Protocol 4 to the ECHR was examined by the Constitutional Court through the framework of the Article 39 (3) of the Constitution.<sup>85</sup> Article 26 prohibits slavery and other contemporary forms of slavery such as forced labour. And finally, the Constitution also contains provisions which are related to economic and social rights which can be linked to the inclusion and integration of asylum seekers and refugees: non-discrimination (Article 21), right to work (Article 60), right to health care (Article 68), right to social protection (Article 69), right to education (Article 71) and others.

### 5.3 Asylum legal framework

The asylum system and procedure *stricto sensu* are mainly governed by the Law on Asylum and Temporary Protection (Asylum Act) that came into force on 3 June 2018.<sup>86</sup> Additionally, relevant are the Foreigners Act,<sup>87</sup> the General Administrative Procedure Act (GAPA)<sup>88</sup> and the Administrative Disputes Act (ADA).<sup>89</sup> GAPA acts as *legi generali* with regard to the Asylum Act and Foreigners Act in their respective subject matter, as well as the Migration Management Act,<sup>90</sup> which regulates certain issues relevant to the housing and integration of asylum seekers and refugees, alongside the Decree on the Manner of Involving Persons Recognised as Refugees in Social, Cultural and Economic Life (Integration Decree).<sup>91</sup> There are several more laws and bylaws which regulate the House Rules in reception facilities,

<sup>85</sup> Constitutional Court, Decision No. UŽ 1823/17, Decision of 29 December 2020, available in Serbian at: <http://bit.ly/3fk0aPD>.

<sup>86</sup> Official Gazette no. 24/2018.

<sup>87</sup> Official Gazette no. 24/2018 and 62/2023

<sup>88</sup> Official Gazette no. 18/2016 and 95/2018.

<sup>89</sup> Official Gazette no. 111/2009.

<sup>90</sup> Law on Migration Management of the Republic of Serbia, Official Gazette of the Republic of Serbia, no. 107/2012.

<sup>91</sup> Official Gazette, no. 101/2016 and 56/2018.

social and health-care issues, right to work and other aspects related to inclusion and integration of asylum seekers and refugees.

The Asylum Act was introduced in 2018 and is now regulating the treatment of all asylum applications. All the procedures initiated under the old Asylum Act from 2008 were finalised by the end of 2019.<sup>92</sup> Thus, all the law's novelties, except for the border procedure, are generally applied in practice.<sup>93</sup>

### 5.3.1 Ongoing amendments of the Asylum Act

In 2021, the Government was working towards amending the Asylum Act. The MoI initiated dialogues on the amendments and all relevant CSOs were invited to take part in consultations in November 2021. The consultations continued in 2022 and were finalised on 28 February 2023.<sup>94</sup> The MoI shared with CSOs the first draft of the amendments to the Asylum Act which included numerous positive changes such as:

- ❖ introduction of the new category of the 'foreigner who expressed the intention to lodge an asylum application' who will be entitled to the majority of aspects of the material reception conditions;<sup>95</sup>
- ❖ harmonisation of terminology and certain procedural steps governed by GAPA;
- ❖ pre-elementary school education and preparation for children under the age of 7 who belong to the category of asylum seekers;
- ❖ recognising subsequent applicants as persons entitled to the same rights as first-time asylum seekers, including the right to have ID cards.

Suggestions of amendments to the First Draft of the amendments to the Asylum Act were proposed by some of the CSOs after the consultations. IDEAS and other CSOs suggested the following changes which, to a certain extent, reflect the proposals of other CSOs:

- ❖ prescribing more precise criteria for the assessment of the possibility for asylum seekers to enjoy protection from persecution in the country of origin – Article 31;
- ❖ excluding the deadline 15+8 days for submission of asylum application – Article 36 (see [Lodging an application](#));
- ❖ introducing specific evidentiary activities such as forensic expert opinions and witnesses – Article 37;
- ❖ clarifying the registration of asylum seekers at the border in terms of their detention and introducing provisions which govern the procedure and competent body for a decision on deprivation of liberty for the purpose of the asylum procedure or forced removal– Article 48;
- ❖ making a clear distinction between measures which imply deprivation of liberty and measures which are related to the limitation of the freedom of movement – Article 78;
- ❖ introducing clear criteria for the application of the safe third country concept – Article 45;
- ❖ specifying which aspects of material reception conditions should be granted to the newly introduced category of 'foreigner who expressed intention to lodge asylum application';
- ❖ harmonisation of provisions on guardianship contained in the Family Law with provisions of the Asylum Act governing accommodation of unaccompanied and separated children ('UASC').
- ❖ Introduction of the biometric ID cards of asylum seekers and persons granted asylum.

It was also suggested that the amendments to the provisions governing the exclusion procedure require more time and external expertise.

Unfortunately, in 2023 all attention was turned to another early Parliamentary elections which took place in December 2023, putting on hold again all legislative activities related to the Asylum Act. In May 2024, the new Government was elected, as well as the new Minister of Interior. However, the work on the

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<sup>92</sup> AIDA, *Country Report: Serbia, Update on the year 2019*, May 2020, available [here](#), 32.

<sup>93</sup> Ibid., 18-19.

<sup>94</sup> The final proposal of the amendments is available in Serbian language on the following link: <http://bit.ly/3yepU9U>.

<sup>95</sup> At this moment, only persons who lodged an asylum application are recognized as a category which is entitled to material reception conditions.



amendments did not continue, and on 28 January 2025, the Prime Minister resigned.<sup>96</sup> In April 2025, the new Government has been appointed.<sup>97</sup> It remains to be seen if the new Government will continue the process of adopting the proposed amendments.

### 5.3.2 Overview of the asylum procedure

The procedure for seeking asylum in Serbia is as follows: a foreigner may 'express the intention to lodge an asylum application' within the Serbian territory or at border crossing point (including the Nikola Tesla or Niš Airport in Belgrade), following which they are registered by the officials of the MoI before whom they have expressed the intention and receive a registration certificate of having done so.<sup>98</sup> The asylum seeker is then expected to go to their designated asylum centre, or to notify the Asylum Office within 72 hours should they wish to stay at private accommodation.<sup>99</sup> It is not possible to express such intention in diplomatic or consular representations of Serbia. In other words, the potential applicant must be present on Serbian territory or under the effective control of Serbian Border Police or other state authority.

Upon arrival at the centre or private accommodation, the asylum seeker should wait for 15 days for the Asylum Office to facilitate the lodging of the asylum application and then to issue them personal identity documents for asylum seekers. It is also possible to lodge a written application within 8 days after the expiry of the above-mentioned deadline.<sup>100</sup> Afterwards, an asylum officer will conduct the asylum interview.<sup>101</sup>

The Asylum Office is under the legal obligation to decide on the application within 3 months of its submission, during which time one or more interviews must be held in order to establish all of the facts and circumstances relevant to rendering a decision. This deadline could be extended by an additional 9 months.<sup>102</sup> Thus, the maximum length of the first instance asylum procedure is 1 year.

In the case of a negative decision (in-merits or inadmissible), the asylum seeker has 15 days to lodge an appeal to the Asylum Commission. A negative decision also contains an order to leave the country and a deadline to do so, which can be up to 30 days. However, when the decision on rejection becomes final (confirmed by the Administrative Court), the relevant MoI unit for foreigners renders an additional expulsion decision in cases where the applicant has failed to voluntarily leave the territory of the State within the given deadline.<sup>103</sup> Only the expulsion decision creates grounds for forcible removal and potential immigration detention imposed for the purpose of forced removal and in line with the Foreigners Act. An expulsion decision can be challenged, but this appeal does not have an automatic suspensive effect.<sup>104</sup> However, it is possible to lodge a request for interim measures to the Administrative Court after the appeal has been submitted to the second instance body - Border Police Administration and in line with the Article 23 of the Administrative Disputes Act (ADA).<sup>105</sup> If granted, expulsion cannot be facilitated before the final judgment of the Administrative Court.

The Asylum Commission has to decide and deliver the second instance decision to the applicant within 60 days of the appeal having been lodged.<sup>106</sup>

An onward appeal to the Administrative Court can be submitted and must be done within 30 days from the delivery of the second instance decision. There is no deadline within which the third instance body

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<sup>96</sup> Radio Slobodna Evropa, *Premijer Srbije podneo ostavku u jeku protesta*, 28 January 2025, available at: <https://www.slobodnaevropa.org/a/premijer-srbije-milos-vucevic-podneo-ostavku/33291712.html>.

<sup>97</sup> The Government of Serbia, *New Serbian government voted in*, 16 April 2025, available at: <https://www.srbija.gov.rs/vest/en/247381/new-serbian-government-voted-in.php>.

<sup>98</sup> Article 35 Asylum Act.

<sup>99</sup> *Ibid.*

<sup>100</sup> Article 36 Asylum Act.

<sup>101</sup> Article 37 Asylum Act.

<sup>102</sup> Article 39 Asylum Act.

<sup>103</sup> Article 74 (1-8) Foreigners Act.

<sup>104</sup> Article 80 Foreigners Act.

<sup>105</sup> Official Gazette no. 111/2009.

<sup>106</sup> Article 95 Asylum Act and Article 174 GAPA.

has to decide.<sup>107</sup> Both remedies (i.e., the appeals before the Asylum Commission and the Administrative Court) have automatic suspensive effect.<sup>108</sup>

### 5.3.3 Constitutional Court procedure

The last instance in the Serbian legal system is the Constitutional Court. The constitutional appeal does not have an automatic suspensive effect. It is possible to lodge a request for interim measures to the Constitutional Court, but several cases, which implied forcible removal, have shown that this mechanism is weak and slow, as that the decision on the interim measures was taken several months after the request was lodged.<sup>109</sup> This was recognised by the ECtHR, which granted interim measures submitted by Serbian lawyers on at least 12 occasions in the past years.<sup>110</sup>

According to the Constitutional Court, in its practice, up to 2023 there were in total 10 constitutional appeals related to the alleged violations of human rights of refugees, asylum seekers and migrants decided by this body, out of which 5 had been concluded, while 5 are were still pending.<sup>111</sup> This data seems to be inaccurate, and the following decisions have been collected for the purpose of this report.

#### The practice of the Constitutional Court for the period 2008-2024 – concluded and pending cases

No.	Case file number	Date of decision/pending	Article	Description	Decision
<b>CONCLUDED</b>					
1	UŽ 1286/2012 <sup>112</sup>	29.03.2012	32 (1) and 57	Automatic application of the safe third country concept	Rejected as unfounded
2	UŽ 5331/2012 <sup>113</sup>	24.12.2012	22, 36 (2) and 57	Automatic application of the safe third country concept	Rejected as manifestly unfounded
3	UŽ 3548/2013 <sup>114</sup>	19.09.2013	32 (1), 39 (3), 57 and 66	Automatic application of the safe third country concept	Rejected as unfounded
4	UŽ 124/2014 <sup>115</sup>	30.10.2014	32 (1) and 57	Right to a fair trial	Adopted as founded
5	UŽ 4197/2015 <sup>116</sup>	20.06.2016	39	Right to freedom of movement	Rejected as manifestly unfounded
6	UŽ 6006/2016 <sup>117</sup>	19.12.2018	25, 36 (2), 39	Libyan refugees rejected in merits and served with an	Rejected as manifestly unfounded

<sup>107</sup> Article 96 Asylum Act.

<sup>108</sup> *Ibid.*

<sup>109</sup> Constitutional Court, Decision No. UŽ 3548/2013, Decision of 19 September 2013, available in Serbian at: <http://bit.ly/3cG4bhy>.

<sup>110</sup> For example, ECtHR, *P. v. Serbia*, Application No. 80877/13, granted on 23 December 2013 – *refoulement* from the Belgrade airport 'Nikola Tesla' to Greece as a country that could not had been considered as a safe for Iranian political activist; *Ahmed Ismail (Shiine Culay) v Serbia*, Application No. 53622/14, granted on 29 July 2014 – *refoulement* from the Belgrade airport 'Nikola Tesla' to Somalia where the applicant would have faced persecution as a journalist who was targeted by al-Shabab and *H.G.D. v. Serbia*, Application No 3158/20, granted on 30 November 2016 – *refoulement* to Iran of a man who converted from Islam to Christianity.

<sup>111</sup> Constitutional Court, Response to the freedom of information request no. 17/1 of 9 January 2023.

<sup>112</sup> Available at: <http://bit.ly/3kKVHME>.

<sup>113</sup> Available at: <http://bit.ly/3ygC4yO>.

<sup>114</sup> Available at: <http://bit.ly/3cG4bhy>.

<sup>115</sup> Available at: <http://bit.ly/3F5BmZk>.

<sup>116</sup> Not available online.

<sup>117</sup> Not available online.

			(3) and 57	expulsion decision on the basis of security grounds	
7	UŽ 8023/2016 <sup>118</sup>	07.03.2019	25, 36 (2), 39 (3) and 57	Automatic application of the safe third country concept	Rejected as unfounded
8	UŽ 9940/2016 <sup>119</sup>	13.06.2019	22, 27, 28, 29 and 36 (2)	Arbitrary refusal of entry and deprivation of liberty at the transit zone	Manifestly unfounded
9	UŽ 1823/17 <sup>120</sup>	29.12.2020	25, 27, 28, 29, 36 (2) and 39 (3)	Arbitrary deprivation of liberty, ill-treatment, non-refoulement, collective expulsion and right to an effective legal remedy	Partially adopted as founded in relation to arbitrary deprivation of liberty, ill-treatment and violation of prohibition of collective expulsion
10	UŽ 29/2018	01.07.2021	22, 27, 29 and 36	Arbitrary deprivation of liberty	Rejected as manifestly unfounded
11	UŽ 3651/2015	27.07.2022	22, 27, 28, 29 and 36 (2)	Arbitrary refusal of entry and deprivation of liberty at the transit zone	Partially adopted in relation to the lack of legal remedy against the act of refusal of entry
<b>PENDING</b>					
12	UŽ 10165/17	7.12.2017	25, 36 (2), 39 (3) and 57	Automatic application of the safe third country concept	Pending
13	X.	11.06.2020	27, 28 and 29	Arbitrary deprivation of liberty during COVID-19 lockdown	Pending
14	X.	2022	25, 27 and 57	Extradition of Bahrein national to his country of origin	Pending
15	X.	2022	25 and 57	Rejecting of LGBTQI+ applicant from Tunisia in asylum procedure	Pending
16	X <sup>121</sup>	2022	25 and 57	Rejecting of LGBTQI+ applicant from Tunisia in asylum procedure	Pending
17.	X.	2024	27	Arbitrary deprivation of liberty at the airport transit zone	Pending

<sup>118</sup> Available at: <http://bit.ly/3oeSFND>.

<sup>119</sup> Not available online.

<sup>120</sup> Available at: <http://bit.ly/3fk0aPD>.

<sup>121</sup> For the said cases see more in BCHR, *Right to Asylum in the Republic of Serbia 2022*, available at: <https://bit.ly/3F4yJXE>, para. 3.4, hereinafter: *Right to Asylum 2022*.

18.	X.	2024	27	Arbitrary deprivation of liberty at the airport transit zone	Pending
19.	X.	2024	27	Arbitrary detention based on national security grounds	Pending
20.	X.	2024	27	Arbitrary detention based on national security grounds	Pending

## 5.4 International legal procedures

In the past several years, the number of asylum seekers addressing UN Treaty Bodies, UN Special Procedures and the ECtHR has been increasing. Currently, there are 9 communicated cases pending before the ECtHR related to the rights of asylum seekers:

- ❖ *M.H. v. Serbia*;<sup>122</sup>
- ❖ *A.K. v. Serbia*;<sup>123</sup>
- ❖ *M.W. v. Serbia*;<sup>124</sup>
- ❖ *A.H. v. Serbia and North Macedonia and A.H. v. Serbia*;<sup>125</sup>
- ❖ *H.G.D. v. Serbia*;<sup>126</sup>
- ❖ *O.H. and Others v. Serbia*;<sup>127</sup>
- ❖ *A.A. v. Serbia*;<sup>128</sup>
- ❖ *S.B. and Others v. Serbia*;<sup>129</sup>
- ❖ *Mohamed v. Serbia*;<sup>130</sup>
- ❖ *P.D. v. Serbia*.<sup>131</sup>

## B. Access to the procedure and registration

### 1. Access to the territory and push backs

#### Indicators: Access to the Territory

1. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs? ☒ Yes ☐ No
2. Is there a border monitoring system in place? ☐ Yes ☒ No
3. Who is responsible for border monitoring? ☒ National authorities ☐ NGOs ☐ Other
4. How often is border monitoring carried out? ☐ Frequently ☐ Rarely ☒ Never

### 1.1 Legal access to the territory and effective access to means of legal entry at the border crossing points

As regards legal access to the territory, third country nationals cannot apply for a (humanitarian) visa, specifically with the intention to apply for international protection upon arrival, nor are there any resettlement or relocation operations in place.

Serbia has not designated official border crossing points as places where asylum applications can be lodged or registered. This means that persons in need of international protection who successfully access

<sup>122</sup> Application No. 62410/17, 23 October 2017, available at: <https://bit.ly/34MuQHJ>.

<sup>123</sup> Application No. 57188/16, 3 October 2016, available at: <https://bit.ly/3rVFfde>.

<sup>124</sup> Application No. 70923/17, 29 September 2017, available at: <https://bit.ly/3oT0Ot0>.

<sup>125</sup> Application Nos. 60417/16 79749/16, 19 October and 27 December 2016 respectively, available at: <https://bit.ly/3oVp8dz>.

<sup>126</sup> Application No. 3158/20, 12 December 2019, available at: <https://bit.ly/3HU3uxR>.

<sup>127</sup> Application No. 57185/17, 1 August 2017, available at: <https://bit.ly/3JyPhXo>.

<sup>128</sup> Application Nos. 50086/20 50898/20, available at: <https://bit.ly/3GUV4F1>.

<sup>129</sup> Application No. 22463/17, 8 February 2017, available at: <https://bit.ly/3JuDPfu>.

<sup>130</sup> Application No. 4662/22, 4 July 2022, available at: <http://bit.ly/3ynDYO8>.

<sup>131</sup> Application No. 42112/21, 25 September 2024, available at: <https://hudoc.echr.coe.int/?i=001-237739>.

the territory or who are not subjected to pushbacks or any other form of collective expulsion, can in most of the cases access the asylum procedure regardless of the place of entry – official border crossing points or green border area.

## 1.2 Hindering of access through legal ways

### 1.2.1 Readmission agreements

As Serbia is neither an EU member state nor a party to the Dublin Regulation, there is nothing equivalent to a Dublin procedure in the country. However, Serbia has concluded Readmission Agreements with the European Union<sup>132</sup> as well as North Macedonia,<sup>133</sup> Albania,<sup>134</sup> Montenegro<sup>135</sup> and Bosnia and Herzegovina ('Bosnia').<sup>136</sup>

As regards the Readmission Agreement with the EU, it has not been functioning properly since September 2015, and Hungary mostly expels foreigners to Serbia in an informal manner, amounting to a push-back policy. The same practice is applied by Croatia and Romania in the vast majority of cases. According to the Mol, in 2019, not a single foreigner was returned to Serbia under the Readmission Agreement, while in 2020, 84 readmission requests were accepted by Serbia. It is not clear from which States foreigners were returned as well as how many foreigners were included in these 84 requests.<sup>137</sup> In 2023, a total of 744 foreigners were readmitted to Serbia from neighbouring countries,<sup>138</sup> while the number in 2024 was 462.

The same can be said for the functioning of the Readmission agreement with North Macedonia. The NPM outlined in its Report the following:

*'The NPM also wants to point out the difficult implementation of readmissions with North Macedonia. According to the data obtained during the visit, in 2020, 68 requests for readmission of same number of persons were submitted to North Macedonia and all requests were rejected, usually with the explanation that there was no evidence that a foreigner entered Serbia from North Macedonia, even though, according to officials' statements, that was more than obvious, and all the necessary evidence was provided.'*<sup>139</sup>

These findings remain valid as of March 2025, as can be seen from the outlined statistical data provided below, which shows that only 137 foreign nationals were officially readmitted from Serbia to neighbouring States, primarily to Bulgaria.

In April 2019, Serbia and Austria signed an agreement that would allow **Austria** to send back to Serbia asylum seekers whose asylum applications have been rejected on the merits and who had transited from Serbia. Upon their return, they are to be placed in an 'adequate' accommodation, for which Vienna will pay. This agreement is most likely the technical agreement between Serbia and Austria which should serve as foundation for the operationalization of the Readmission Agreement which Serbia has signed with the European Union. At the time of writing, the agreement has not yet been applied in practice even

<sup>132</sup> Official Gazette no. 103/2007

<sup>133</sup> Radio Free Europe, *Srbija i Makedonija potpisale sporazum o readmisiji*, 4 October 2010, available at: <http://bit.ly/3kl8Od3> [accessed on 26 February 2021].

<sup>134</sup> Official Gazette no. 7/2011.

<sup>135</sup> Official Gazette no. 13/2013.

<sup>136</sup> Radio Free Europe, *Srbija i BiH potpisale Sporazum o readmisiji*, 5 July 2013, available at: <http://bit.ly/3dSKJ1F> [accessed on 26 February 2021].

<sup>137</sup> Mol, *Извештај о спровођењу Стратегије супротстављања ирегуларним миграцијама за период 2018-2020. година*, June 2021, available at: <https://bit.ly/3Dtss4r>, 24.

<sup>138</sup> Mol, *Response on the request for the information of public importance of the Mol no. 07-34/24 of 15 April 2024*.

<sup>139</sup> Ombudsman, *Serbia: National Report on the situation of human rights of migrants at the borders*, ENNHRI, July 2021, available [here](#), 21.

though it triggered debates in both Austria and Serbia.<sup>140</sup> In the opinion of the author of this report, the announcement of the signing of the agreement was more for domestic political purposes than informed by a realistic prospect for mass returns of irregular foreign nationals to Serbia.

In November 2022, the President of Serbia Aleksandar Vučić, Austria's Chancellor Karl Nehammer and Hungarian President Viktor Orbán signed trilateral agreement with the aim to strengthen border security policies in Balkan countries.<sup>141</sup> Even though it is not clear from this agreement which concrete measures will be undertaken and in line with what kind of procedures, it provides for deployments of Austrian and Hungarian border officers to Serbian border with North Macedonia, provision of additional equipment for monitoring of the borders, etc.<sup>142</sup> As future measures, the heads of state of Austria, Serbia and Hungary aim at readmission of those persons who are not in need of international protection. Without disputing the sovereign right of these States to cooperate in managing the mixed migratory flows, the practice of systemic denial of access to territory based on ill-treatment, pushbacks or other forms of collective expulsions has been recorded as the most common practice applied at borders of Serbia and Hungary in 2024 (see [Informal pushbacks](#)). The terminology used at the press conference completely disregarded the concepts of refugees and asylum seekers and was only based around the notions of 'migrants' and 'illegal migration'.

For the purpose of this 2024 update of the AIDA report, the Mol delivered statistical data on the number of readmissions and returns from and to Serbia. Even though the numbers are quite low,<sup>143</sup> they should be considered important for the comparative analysis with the number of pushbacks and other forms of collective or individual informal types of expulsions which took place in the same period (see [Informal pushbacks](#)).

It is also important to highlight that persons readmitted from Serbia to neighbouring countries are primarily detained in one of the Immigration Detention Centres, mainly in the one located at the border with Bulgaria (Dimitrovgrad) and in line with the Article 87 of the Foreigners Act. The basis for detention is the forcible removal, so one of the additional preconditions for detention is the issuance and serving of the expulsion order to the foreign national and in line with the Article 77 of the Foreigners Act.

**The expulsion order** is served in Serbian language and in a procedure in which the acting police officer does not take into consideration potential risks of *refoulement* or *chain-refoulement*, where foreigners, especially those in need of international protection, are, in practice, effectively denied the possibility to access a remedy against this decision. In particular, expulsion orders, as well as refusal of entry decisions, are rendered in a bureaucratic manner, on the basis of a template drafted in Serbian Cyrillic. In addition, these decisions are served to foreigners who rarely enjoy access to legal aid and who are not allowed to inform third persons of their whereabouts during the first hours of the arrest, which are also basic safeguards against ill-treatment, including safeguards against *refoulement* as enshrined in Article 83 of the Foreigners Act.<sup>144</sup> They are not informed in a language they understand of their other rights, but also obligations and applicable procedures, which further undermine their capacity to challenge both detention and expulsion decisions.<sup>145</sup> Finally, the appeal against an expulsion order does not have an automatic suspensive effect.<sup>146</sup> In 2024, a total of 12,420 expulsion orders were issued in relation to foreign nationals.<sup>147</sup>

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<sup>140</sup> Taz, *Einfach weitergeschoben: Abgelehnte Geflüchtete will Österreich in serbischen Abschiebezentren unterbringen – und für sie zahlen*, 17 April 2020, available (in German) at: <https://bit.ly/2SY8U3c>; Der Standard, *Grüne lehnen Abschiebung abgelehnter Flüchtlinge nach Serbien ab*, 16 April 2020, available (in German) at: <https://bit.ly/2T0LzOv>.

<sup>141</sup> Euronews, *Austria, Serbia and Hungary strike migration deal, saying EU measures have failed*, 17 November 2022, available at: <http://bit.ly/3T1LWgk>.

<sup>142</sup> RTS, *Vučić, Orbán i Nehammer potpisali Memorandum o borbi protiv ilegalnih migracija*, 16 November 2022, available at: <https://bit.ly/3T0VzVG>.

<sup>143</sup> Especially in comparison to the number of pushbacks from and to Serbia.

<sup>144</sup> CPT, *Immigration Factsheet*, CPT/Inf(2017)3, available at: <https://bit.ly/3zntMUA>, 2-3.

<sup>145</sup> *Ibid.*

<sup>146</sup> Article 80, Foreigners Act.

<sup>147</sup> Mol-Border Police Administration, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 17 February 2025).



The fact that many expulsion orders were issued to nationals of Syria (1,216) and Afghanistan (653), but also Somalia (21) and Palestine (58) and other individuals who might be in need of international protection, indicates that at least 50% of foreign nationals are theoretically introduced into the forcible removal regime despite risks that they might face in third countries or even countries of origin (e.g. Türkiye, see [List of authorities that intervene in each stage of the procedure](#)).

Expulsion orders issued in relation to foreign nationals in the period 1 from January 2024 to 31 December 2024	
Country	Number
Syria	3,991
Afghanistan	1,994
Türkiye	1,423
China	576
India	277
Others	4,159
<b>Total</b>	<b>12,420</b>

Source: Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

#### 1.2.1.1 Readmissions from neighbouring countries to Serbia in 2024

There were no readmissions from Hungary and Albania to Serbia in 2024. In 2024, there were a total of 359 readmissions from neighbouring countries to Serbia, mostly from Croatia (295). The detailed breakdown by readmitting country, nationality, sex and age is detailed in the following tables.

Readmission from Romania to Serbia from 1 January 2024 to 31 December 2024					
Country	Adult Male	Underage Male	Adult Female	Underage Female	Total
Afghanistan	7	0	0	0	7
Mongolia	2	1	2	2	7
Syria	3	0	0	0	3
Somalia	1	0	0	0	1
Bangladesh	1	0	0	0	1
Cameroon	1	0	0	0	1
<b>Total</b>	<b>15</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>20</b>

Source: Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

Readmission from Hungary to Serbia from 1 January 2024 to 31 December 2024					
Country	Adult Male	Underage Male	Adult Female	Underage Female	Total
China	0	0	3	0	3
Türkiye	2	0	0	0	2
<b>Total</b>	<b>2</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>5</b>

Source: Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

Readmission from Croatia to Serbia from 1 January 2024 to 31 December 2024					
Country	Adult Male	Underage Male	Adult Female	Underage Female	Total
Türkiye	145	22	26	16	209
Syria	27	13	3	0	43
China	14	0	0	17	31
Afghanistan	13	1	2	1	17
Russian Federation	5	0	1	2	8
Others	39	1	1	2	43
<b>Total</b>	<b>243</b>	<b>37</b>	<b>33</b>	<b>38</b>	<b>351</b>

Source: Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

Readmission from Montenegro to Serbia from 1 January 2024 to 31 December 2024					
Country	Adult Male	Underage Male	Adult Female	Underage Female	Total
Syria	17	0	0	0	17
Nepal	11	0	2	0	13
Afghanistan	6	0	0	0	6
India	6	0	0	0	6
Pakistan	3	0	0	0	3
Others	1	0	1	0	2
<b>Total</b>	<b>44</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>47</b>

Source: Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

Readmission from North Macedonia to Serbia in the period from 1 January 2024 to 31 December 2024					
Country	Adult Male	Underage Male	Adult Female	Underage Female	Total
<b>India</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>
<b>Total</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>

Source: Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).



Readmission from Bosnia-Herzegovina to Serbia from 1 January 2024 to 31 December 2024					
Country	Adult Male	Underage Male	Adult Female	Underage Female	Total
Türkiye	2	3	2	1	8
Afghanistan	5	0	0	0	5
Syria	2	0	0	0	2
India	0	0	2	0	2
Algeria	1	0	0	0	1
Egypt	1	2	0	0	3
Bangladesh	1	0	0	0	1
Pakistan	1	0	0	0	1
<b>Total</b>	<b>13</b>	<b>5</b>	<b>4</b>	<b>1</b>	<b>23</b>

Source: Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

Readmission from Bulgaria to Serbia in the period 1 January 2024 to 31 December 2024					
Country	Adult Male	Underage Male	Adult Female	Underage Female	Total
China	7	1	3	0	11
Afghanistan	1	0	0	0	1
Syria	3	0	0	0	3
Guinea	1	0	0	0	1
<b>Total</b>	<b>12</b>	<b>1</b>	<b>3</b>	<b>0</b>	<b>16</b>

Source: Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

In 2024, a total of 462 persons were subjected to the readmission procedure, and most were readmitted to Serbia from Croatia (351). The most represented nationalities were Türkiye (219), followed by Syria (68) and Afghanistan (70). Serbia also returned 137 foreign nationals, mostly to Bulgaria and who were mostly from Syria (63) and Afghanistan (35).

The fact that most of the people returned to Bulgaria could be in need of international protection (e.g., Syria and Afghanistan) gives serious reasons for concern because none of their expulsion orders were challenged through an appeal.<sup>148</sup> Also, the manner in which expulsion orders are rendered and served clearly indicates that these people were sent back without any assessment of the risk of *refoulement*. In addition, considering that only two persons were issued with a registration certificate at the three Immigration Detention Centres,<sup>149</sup> it is clear that access to the asylum procedure for persons that are in need of international protection and who are detained for the purpose of forcible removal is highly questionable.

<sup>148</sup> Mol-Border Police Administration, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 17 February 2025).

<sup>149</sup> UNHCR Office in Serbia and Ministry of Interior of the Republic of Serbia - Border Police Department - Asylum Office.

### 1.2.1.2 Readmission from Serbia to neighbouring countries

Readmission from Serbia to Bulgaria from 1 January 2024 to 31 December 2024					
Country	Adult Male	Underage Male	Adult Female	Underage Female	Total
Syria	60	2	0	0	62
Afghanistan	34	0	0	0	34
Morocco	11	0	0	0	11
Pakistan	3	0	0	0	3
Palestine	2	0	0	0	2
Iraq	2	0	0	0	2
Other	5	0	0	0	5
<b>Total</b>	<b>117</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>119</b>

Source: Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

Readmission from Serbia to North Macedonia from 1 January 2024 to 31 December 2024					
Country	Adult Male	Underage Male	Adult Female	Underage Female	Total
Pakistan	2	0	0	0	2
Algeria	1	0	0	0	1
Syria	1	0	0	0	1
<b>Total</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4</b>

Source: Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

Readmission from Serbia to Montenegro in the period from 1 January 2024 to 31 December 2024					
Country	Adult Male	Underage Male	Adult Female	Underage Female	Total
Tunis	3	0	0	0	3
Palestine	1	0	0	0	1
Türkiye	2	0	0	0	2
<b>Total</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>6</b>

Source: Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

Readmission from Serbia to Bosnia and Hercegovina in the period from 1 January 2024 to 31 December 2024					
Country	Adult Male	Underage Male	Adult Female	Underage Female	Total
Nepal	4	0	0	0	4
Türkiye	3	0	0	0	3
Afghanistan	1	0	0	0	1
<b>Total</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>8</b>

Source: Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

In 2024, Serbia did not readmit foreign nationals to Hungary, Croatia Romania and Albania.<sup>150</sup>

Given the very low numbers of readmissions compared to arrivals and pushbacks, the conclusion that is drawn by the author of this report is that formal cooperation on returns of refugees, asylum seekers and migrants between the States in the Western-Balkan region and countries which form the external borders of the EU is almost non-existing. Border policies are mainly based on unlawful forms of expulsions which are contrary to the safeguards against *non-refoulement* and the prohibition of collective expulsions.

### 1.2.2 Refusal of entry under the Foreigners Act

Article 15 of the Foreigners Act foresees that the Border Police should refuse entry into the Republic of Serbia to a foreigner if that person:

- ❖ Does not have a valid travel document or visa, if required;
- ❖ Does not have sufficient means of subsistence for their stay in the Republic of Serbia, for return to their country of origin or transit to another country, or is not in other ways provided with subsistence during their stay in Serbia;
- ❖ Is in transit, but does not meet the criteria for entry into the next country of transit or country of final destination;
- ❖ Has been issued a protective measure of removal, security measure of expulsion, or a ban on entry into the Republic of Serbia, which is in effect;
- ❖ Does not have a certificate of vaccination or other proof of good health, if coming from areas affected by an epidemic of infectious diseases;
- ❖ Does not have travel medical insurance for the intended period of stay in Serbia.

Entry should be refused by issuing a decision on refusal of entry on a prescribed form,<sup>151</sup> unless it is established that there are humanitarian reasons or interest for the Republic of Serbia to grant entry, or if the international commitments of the Republic of Serbia indicate otherwise.<sup>152</sup> The foreigner can lodge an appeal to the Mol – Border Police Administration against the decision within 8 days.<sup>153</sup>

In practice, however, foreigners at Nikola Tesla airport are taken to the detention room and are cut off from the outside world. In other words, their treatment amounts to arbitrary detention in terms of the ECtHR jurisprudence established in the *Amuur v. France* judgment.<sup>154</sup> They typically are not able to draft and send the appeal against the refusal of entry decisions as they do not know domestic legal provisions and often do not speak Serbian or English (the decision on refusal of entry is issued in Serbian and

<sup>150</sup> Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 4 (delivered on 21 February 2025).

<sup>151</sup> Article 15(2) Foreigners Act.

<sup>152</sup> Article 15(3) Foreigners Act.

<sup>153</sup> Article 15(6) Foreigners Act.

<sup>154</sup> Application no 19776/92, Judgment of 25 June 1996, EDAL, available at: <http://bit.ly/2TayPpz>.

English).<sup>155</sup> Moreover, they have to pay a fee of 12,470 dinars (approx. €105) before they can send the appeal to the Administrative Court.<sup>156</sup> It remains unclear if foreign nationals are even provided with a pen and paper to draft an appeal, which then has to be translated for the Mol-BPD as the second instance body. There is no post office in the transit zone, nor any other way to access the second instance body. The appeal does not have automatic suspensive effect.<sup>157</sup> This means that, even if the foreigner manages to lodge an appeal, they will have to wait for the decision on their appeal in the country to which they are expelled, which suggests that this remedy is theoretical and illusory.<sup>158</sup> The refusal of entry decision is mainly applied at the airport, as discussed in the next section, but also at the official border crossing points. In 2022, 2023 and 2024 the Mol provided a statistical overview of the refusal of entry decisions rendered on the land border crossing points, and which will be outlined in the ensuing parts of this chapter. However, they were mainly applied to foreigners who are not in need of international protection.

The Foreigners Act contains the entire set of principles which aim to guarantee the respect of *non-refoulement* in all forcible removal procedures, including regarding the decision on refusal of entry. Article 75 provides that the competent authority should take into consideration the specific situation of vulnerable persons, family and health status of the person being returned, as well as the best interests of a child,<sup>159</sup> specific position of people with disabilities,<sup>160</sup> family unity,<sup>161</sup> etc. If necessary, during the return procedure, an interpreter should be provided for a language that the foreigner understands, or is reasonably assumed to understand.<sup>162</sup> Additionally, the competent authority should, at the foreigner's request, provide written translation of the provision of the decision on return, translation of the ban on entry if issued, and translation of the information on the right to lodge a legal remedy into a language that the foreigner understands or may be reasonably assumed to understand.<sup>163</sup> Furthermore, Article 83 envisages that a foreigner may not be forcibly removed to a territory where they would be under threat of persecution on the grounds of their race, sex, sexual orientation or gender identity, religion, nationality, citizenship, membership of a particular social group or their political views, unless they represent a threat for national security or public order.<sup>164</sup> Regardless of the existence of such exceptions, Article 83(3) strictly prohibits foreigners' removal to a territory in which they would be at risk of the death penalty or torture, inhuman or degrading treatment or punishment.

Notwithstanding all the prescribed guarantees against *refoulement*, the introduction of the concept of refusal of entry into the new Foreigners Act still gives a lot of reasons for concern. This concern is derived from the current practice of the Mol at the airport transit zone and in the border areas with **Bulgaria, North Macedonia and Montenegro**, which is based on regular pushbacks which are being praised by the highest state officials, as discussed below. Thus, after the Foreigners Act came into force, the practice of denial of access to territory partially took a different shape, which is equally harmful as the one that existed before. In other words, denial of access to the territory is now based on pushbacks, but also on legal decisions that cannot be effectively challenged before the competent judicial authority since the appeal does not have automatic suspensive effect.<sup>165</sup>

The guarantees against *refoulement* that are introduced in the Foreigners Act existed in the Serbian legal framework before this Act came into force.<sup>166</sup> However, they were not applied properly, and there are plenty of documented cases where *prima facie* refugees were denied access to territory regardless of the risks in the receiving states (most notably in Bulgaria and North Macedonia).

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<sup>155</sup> Practice based observation by IDEAS, January 2024.

<sup>156</sup> Annex 1 to the Rulebook on Refusal of Entry available at: <https://bit.ly/3zaq6KS>.

<sup>157</sup> Annex 1 Regulation on the Refusal of Entry.

<sup>158</sup> ECtHR, *Čonka v. Belgium*, Application No 51564/99, Judgment of 5 February 2002, EDAL, available at: <https://bit.ly/2STSScH>; *Muminov v. Russia*, Application No 42502/06, Judgment of 11 December 2008, para 10, available at: <https://bit.ly/3R270gH>.

<sup>159</sup> Article 75(1) Foreigners Act.

<sup>160</sup> Article 75(2) Foreigners Act.

<sup>161</sup> Article 75(3) Foreigners Act.

<sup>162</sup> Article 75(5) Foreigners Act.

<sup>163</sup> Article 75(6) Foreigners Act.

<sup>164</sup> Article 83(2) Foreigners Act.

<sup>165</sup> ECtHR, *M.A. v. Lithuania*, Application No. 59793/17, 11 December 2018, paras 83-84, available at: <https://bit.ly/40Kz3Er>.

<sup>166</sup> See e.g., the Constitution of the Republic of Serbia and legally binding case law of the ECtHR.

Refusals of entry in relation to North Macedonia from 1 January 2024 to 31 December 2024		
Nationality	Number of Persons	Country of Removal
Türkiye	53	North Macedonia
Nepal	11	North Macedonia
Albania	7	North Macedonia
Others	31	North Macedonia
<b>Total</b>	<b>102</b>	

Source: Ministry of Interior - Border Police Administration, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

Refusals of entry in relation to Bulgaria from 1 January 2024 to 31 December 2024		
Nationality	Number of Persons	Country of Removal
Syria	15	Bulgaria
Türkiye	13	Bulgaria
Romania	12	Bulgaria
Others	111	Bulgaria
<b>Total</b>	<b>151</b>	

Source: Ministry of Interior - Border Police Administration, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

Refusals of entry in relation to Romania from 1 January 2024 to 31 December 2024		
Nationality	Number of Persons	Country of Removal
Romania	74	Romania
Türkiye	46	Romania
Other	116	Romania
<b>Total</b>	<b>236</b>	

Source; Ministry of Interior - Border Police Administration, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

Refusals of entry in relation to Hungary from 1 January 2024 to 31 December 2024		
Nationality	Number of Persons	Country of Removal
Unknown	89	Hungary
Ukraine	26	Hungary
Other	249	Hungary
<b>Total</b>	<b>364</b>	

Source: Ministry of Interior - Border Police Administration, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

Refusals of entry in relation to Croatia from 1 January 2024 to 31 December 2023		
Nationality	Number of Persons	Country of Removal
Ukraine	81	Croatia
Others	354	Croatia
<b>Total</b>	<b>435</b>	

Source: Ministry of Interior - Border Police Administration, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

Refusal of entry in relation to Bosnia and Herzegovina from 1 January 2024 to 31 December 2024		
Nationality	Number of Persons	Country of Removal
Türkiye	913	BiH
Other	169	BiH
<b>Total</b>	<b>1,082</b>	

Source: Ministry of Interior - Border Police Administration, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

Refusal of entry in relation to Montenegro from 1 January 2024 to 31 December 2024		
Nationality	Number of Persons	Country of Removal
Türkiye	363	Montenegro
Other	127	Montenegro
<b>Total</b>	<b>490</b>	

Source: Ministry of Interior - Border Police Administration, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

Refusal of entry at the Belgrade 'Nikola Tesla' from 1 January 2024 to 31 December 2024		
Nationality	Number of Persons	Country of Removal
Türkiye	877	Unknown
Unknown	120	Unknown
Afghanistan	7	Unknown
Syria	6	Unknown
Other	747	Unknown
<b>Total</b>	<b>1,757</b>	

Source: Ministry of Interior - Border Police Administration, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

Refusal of entry at Niš International Airport from 1 January 2024 to 31 December 2024		
Nationality	Number of Persons	Country of Removal
Türkiye	51	Unknown
Other	23	Unknown
<b>Total</b>	<b>74</b>	

Source: Ministry of Interior - Border Police Administration, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

Refusal of entry at Kraljevo International Airport from 1 January 2024 to 31 December 2024		
Nationality	Number of Persons	Country of Removal
Türkiye	15	Unknown
<b>Total</b>	<b>15</b>	

Source: Ministry of Interior - Border Police Administration, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

The figures outlined above indicate that refusal of entry decisions are mainly rendered in relation to foreign nationals who are most likely not in need of international protection and especially in the land border area. Those who might be in need of protection are simply subjected to pushback practices. However, the nationalities of people refused entry at the Belgrade airport (Syria, Afghanistan, Türkiye and others) give serious reasons for concern as several violations of refugees' rights - and more generally of fundamental rights - are reported<sup>167</sup> in the receiving states (mainly Türkiye, but also UAE, Lebanon or Qatar).<sup>168</sup> In particular, the persons returned to these countries are exposed to both risk of *refoulement* and *chain-refoulement*.<sup>169</sup> The data obtained by the Mol provides several interesting and contentious details:

- ❖ A total of 126 persons of unknown nationality were returned to neighbouring countries, including from the airport and to Hungary which does not provide access to the international protection procedure to foreigners who have not applied through the embassy procedure,<sup>170</sup>
- ❖ Afghan and Syrian nationals were returned back from Belgrade airport to Türkiye or other countries which is also contentious taking in consideration such countries' return policies to Afghanistan, but also to Syria;<sup>171</sup>
- ❖ Refusal of entry from Serbian airports for Turkish nationals, in a manner which cannot be considered as adequate due to the lack of assessments of the risks of *refoulement* is also worrying, especially when taking into consideration the numerous instances in which people

<sup>167</sup> None of these three countries are parties to the 1951 Refugee Convention. Regarding the UAE's treatment of Afghan refugees awaiting resettlement: BBC, *UAE arbitrarily detaining 2,400 Afghan asylum seekers – report*, 16 March 2023 available [here](#) and Infomigrants, *Thousands of Afghans 'in limbo' in United Arab Emirates: Human Rights Watch*, 15 March 2023, available [here](#).

Regarding Lebanon, see Mixed Migration Centre, *Selective and Strategic indifference: Lebanon's migration and refugee landscape*, 25 January 2024, available [here](#); UNHCR, *Protection Monitoring Findings - Lebanon - 4th Quarter 2023*, 22 March 2024, available [here](#); Amnesty International, *Lebanon: Authorities must halt unlawful deportations of Syrian refugees*, 24 April 2024, available [here](#).

Regarding Qatar, both the situation of refugees and the overall human rights situation, especially for women, migrants and LBGTQIA+, see: US Department of State, *2023 Country Reports on Human Rights Practices: Qatar*, available [here](#); Human Rights Watch, *Qatar*, 2019, available [here](#); Amnesty International, 'Qatar: 2023', available [here](#).

<sup>168</sup> Practice-informed observation of IDEAS, January 2024.

<sup>169</sup> Mol, *Response on the request for the information of public importance of the Mol no. 07-34/24 of 15 April 2024*.

<sup>170</sup> See AIDA, *Country Report: Hungary – 2023 Update*, July 2024, available [here](#).

<sup>171</sup> AP, *Turkish Airlines resumes flights to Afghanistan nearly 3 years after the Taliban captured Kabul*, 21 May 2024, available at: <https://bit.ly/3zjtH9O> and HRW, *Turkey: Hundreds of Refugees Deported to Syria*, 24 October 2022, available at: <https://bit.ly/3zf0BIF>.



fleeing persecution (journalists, political activists and others) from Türkiye were treated in the transit zone (arbitrarily detained, asylum claims ignored, etc.).<sup>172</sup>

Following are examples of flawed application of refusal of entry decisions in the period 2021-2024:<sup>173</sup>

- ❖ In February 2021, a political refugee of Kurdish origin from **Türkiye** was refused entry, while A11 lawyers were denied access to the transit zone. Since it was the weekend, it was not possible to address the ECtHR and submit the Rule 39 request for interim measures. Another similar situation happened the following weekend, and it is obvious that Kurdish refugees from Türkiye are at a very high risk of *refoulement* at the airport.
- ❖ On 15 September 2021, IDEAS and A11 lawyers lodged a request for interim measures from the ECtHR in order to prevent the expulsion of a Kurdish political activist from Türkiye to his country of origin where he would face a life sentence without parole. The request was granted on the same day and the man decided to flee Serbia upon his release.<sup>174</sup> This was the fourth Rule 39 request which was granted, since 2013, with regards to persons arbitrarily detained at the airport who face expulsion to a third country or to their country of origin where they would face treatment contrary to Article 2 or 3 of the ECHR.<sup>175</sup>
- ❖ On 15 October 2021, a victim of SGBV from Burundi, X., and her daughter were arbitrarily detained at the transit zone of the airport. They were kept there for more than 48 hours and were forced to sleep on the chairs. The mother was automatically served with a decision on refusal of entry and was about to be sent back to Istanbul, and then further to Addis Ababa and Bujumbura. Her cousin contacted IDEAS, and its lawyers intervened and secured her access to Serbia. Prior to her arrival to Serbia, X. had been raped by the members of Imbonerakure – a paramilitary force close to the Government of Burundi. Ms. X only spoke Kirundi language and understood French. She wrote 'I want asylum' on a tissue but contact with the border police was impossible. She claimed that the police addressed her in a disrespectful and violent manner shouting, 'there is no asylum in Serbia'. Ms. X. explained that border police officers apprehended a group of Burundian men at the very exit of the plane and took them 'somewhere'. Most likely, they were taken to the detention room at the airport. She was not taken there because she was with a young child. She was never served her copy of the decision on refusal of entry, but IDEAS subsequently obtained the copies, which stated that she had refused to sign the decision. This represents the most flagrant example of automatic practice of refusing entry to persons who are in need of international protection.<sup>176</sup>
- ❖ On 10 December 2021, IDEAS intervened in the case of Mr. K. from Burundi, who was arbitrarily detained at the airport for more than 7 days. He claimed that he was punched several times when he tried to explain that he wanted asylum. At one point, he was electrocuted with a device that he describes as a mini battery. He witnessed ill-treatment of other persons from Tunisia, Burundi and India, who were crammed into the detention room. Mr. K. fled political persecution from the Burundi secret service *Documentation*. He also claimed that he was never served with a decision on refusal of entry and that he was offered some documents to sign but he refused. His cell phone was taken as well, and he only managed to enter Serbia thanks to his cousin who was in the Asylum Centre in Krnjača and contacted IDEAS.<sup>177</sup>

<sup>172</sup> See the bellow examples and practice-informed observation by IDEAS and author of this Report.

<sup>173</sup> For individual cases from previous years please see AIDA, *Country Report: Serbia – Update on the year 2022*, May 2023, available [here](#), 44-45.

<sup>174</sup> ECtHR, *Ozen v. Serbia*, Application No. 45794/21, granted on 15 September 2021.

<sup>175</sup> ECtHR, *P. v. Serbia*, Application No. 80877/13, granted on 23 December 2013 – *refoulement* from the Belgrade airport 'Nikola Tesla' to Greece as a country that could not had been considered as a safe for Iranian political activist; Ahmed Ismail (Shiine Culay) v Serbia, Application No. 53622/14, granted on 29 July 2014 – *refoulement* from the Belgrade airport 'Nikola Tesla' to Somalia where the applicant would have faced persecution as a journalist who was targeted by al-Shabab and H.G.D. v. *Serbia*, Application No 3158/20, granted on 30 November 2016 – *refoulement* to Iran of a man who converted from Islam to Christianity.

<sup>176</sup> The author of this Report intervened in the case.

<sup>177</sup> *Ibid.*



- ❖ On 10 December 2021, a family of 4 from Burundi arrived at the airport and tried to express their intent to submit an asylum application in Serbia. Their family contacted IDEAS after they had been returned to Istanbul. The family claimed that they were deprived of their liberty at the very exit of the plane and that their cell phones were taken. Later, with several other citizens of Burundi, they were taken to detention premises where they remained for two days. They could not communicate with the outside world, nor were they provided with food.
- ❖ On 25 December 2021, Mr. X. arrived from Istanbul to Belgrade airport. At the exit from the plane, his cell phone, passport and other personal belongings were taken away from him. He was detained with around 25 more people in the detention premises at the airport. He stayed there until the morning of 29 December 2021. Alongside 12 other Burundians, he was expelled back to Istanbul. The police came into the room and handcuffed them. Those who opposed the police, including Mr. X, were hit with rubber truncheons. They were forcibly put in the police car and were driven to the plane of Istanbul Airlines on the runway. He remained at the Istanbul airport for more than 10 days, without his passport and without food. IDEAS attempted to alarm UNHCR and CSOs in Türkiye, but without avail. Upon his landing in Bujumbura on 12 January, he was arrested and taken to the building of the Burundian secret service.
- ❖ On 1 January 2022, Ms. Y. from Burundi landed at Belgrade airport and was subjected to the above-described practice. She was taken to the detention room where she was crammed with more than 20 male detainees. Ms. Y. alleges that she was sexually assaulted by Tunisian nationals but was defended by other Burundian boys. On 4 January in the morning, the police came to the detention premises and took Ms. Y. and another woman from Burundi to the police car with several other boys from the same country. The boys were handcuffed and boarded onto the plane, while the two Burundian women laid on the ground and screamed. According to their testimonies, the crew from the plane refused their boarding. In the afternoon, IDEAS addressed the Ombudsman office, and the women were allowed to access the territory and the asylum procedure.
- ❖ Between 14 and 15 February, Afghan national M.Z. was refused entry and denied access to the asylum procedure. He was about to be sent back to Türkiye, but after intervention of IDEAS, he was allowed to access the territory and the asylum procedure. In his testimony collected later, he claimed that he addressed the border police in English, but that he was just served with 'some papers' (refusal of entry) which he refused to sign.
- ❖ On 16 February, Cuban Y.A.E. national whose brother-in-law is a political dissident from San Isidro, was arbitrarily detained and served with the decision of refusal of entry at the Belgrade airport. Since he only spoke Spanish, he could not elaborate on the risk of persecution that he faces in Cuba. He was denied access to the territory and the asylum procedure and was forced to sign a refusal of entry decision. Only after IDEAS intervention he issued with the registration certificate.
- ❖ On 30 May 2022, the ECtHR granted a Rule 39 request in relation to Narin Capan, Turkish journalist of Kurdish origin who fled Türkiye and Kurdistan in Iraq after she was sentenced for spreading terrorist propaganda and after she avoided assassination in Erbil. She spoke excellent English and was clearly outlining to BPSP officers that she cannot go back due to the above-mentioned reasons. However, her claims were ignored, she was detained for three days and was about to be boarded onto a plane, when the Strasbourg Court issued interim measures.<sup>178</sup> In her testimony, which was recorded for the purpose of procedure before the ECtHR, she explained in details the BPSP *modus operandi* and the manner in which people are forced to sign refusal of entry decisions, without interpretation and access to legal aid and while their arguable claims are

<sup>178</sup> ECtHR, *Capan v. Serbia*, Application No. 26005/22, Request for Interim Measures granted on 30 May 2022, see more at: Radio Free Europe, *Disidenti iz Turske prepušteni na milost Srbiji*, 30 May 2022, available at: <http://bit.ly/3YLeJQG>.

ignored. The testimony will be used for the purpose of her arbitrary detention as well and another attempt of forcible removal without any risk assessment regarding refoulement being carried out in line with Article 83 of the Foreigners Act.

- ❖ On 9 December 2022, a 3-member family from Iran was refused entry and arbitrarily detained.<sup>179</sup> M.B. and his family fled political persecution and criminal proceedings in which one of the prescribed penalties, in line with the Iranian Criminal Code, was the death sentence. The BPSB officers attempted several times to board the family onto a plane, but the family provided physical resistance including in the bus taking them to the plane on a runway, on the morning of 9 December 2022. BPSB ignored IDEAS emails and phone calls, lawyers were denied access to the transit zone and the ECtHR interim measure request was used as a last resort. The Rule 39 request was granted on the same day. During the testimony collection in IDEAS' office, after M.B. and his family were allowed to access territory, the family described in detail their treatment at the airport, mental and milder versions of physical violence, treatment of other detainees (including from Afghanistan), but also the interview with the FRONTEX officer. IDEAS informed FRONTEX fundamental officers about the case.
- ❖ On 12 February 2024, a woman, claiming to be a SGBV survivor from DRC, was removed to Türkiye even though she claimed that she survived rape and other forms of persecution in her country of origin. She tried to apply for asylum at the airport. IDEAS was contacted by the doctor from one of the hospitals in Belgrade, where she was allegedly taken for the purpose of verifying her allegation with the gynaecologist. Due to lack of information on individual data, the Rule 39 request to the ECtHR was declined. The BPSB ignored emails from IDEAS and put the woman back on a plane even before the ECtHR decided upon the Rule 39 request. This example perfectly illustrates the *modus operandi* of the BPSB, denying contact with the outside world to people who were (according to the doctors) clearly in distress, practices which eventually lead to denial of access to the territory and the asylum procedure.
- ❖ On 21 August 2024, the ECtHR granted IDEAS' request for interim measures and prevented the forcible removal of N.Y., a Turkish citizen who fled political persecution and who was denied access to asylum, allegedly physically ill-treated and automatically refused entry. Only after the Rule 39 request was granted was Mr. N.Y. allowed to access the territory, and officers of border police administration were adamant that the applicant did not want to apply for asylum.
- ❖ On 25 September 2024, the ECtHR granted another interim measure lodged by IDEAS which was related to a mother and two children of Kurdish origin, who also fled political persecution in Türkiye. They were arbitrarily detained in the detention area of Nikola Tesla airport from 23 to 26 September 2024, being denied access to the territory and the asylum procedure. Moreover, when they addressed IDEAS, they provided pictures on which they were holding tissues on which it was written that they wanted asylum. BPSB ignored their request and only after the ECtHR granted the Rule 39 request where they allowed to access the territory.

In 2023 there were at least 20 interventions at the Belgrade airport performed by IDEAS.<sup>180</sup> In 2024, IDEAS provided assistance to 10 persons arbitrarily detained at the airport transit zone, including two unaccompanied boys from Egypt who were refused entry automatically without the presence of the competent worker of the CSW. Legal aid was required via phone or through (a) family members or friends who contacted IDEAS directly, or (b) UNHCR and its other partners.

The question that remains open is what the destiny of those persons in need of international protection who were not able to contact legal aid providers was, especially when it comes to nationals of Syria, Afghanistan, Türkiye, but also Cuba, Burundi, Iran or Stateless people. It is also important to note that

<sup>179</sup> ECtHR, *Moazen and Others v. Serbia*, Application No. 56318/22, Request for Interim Measure granted on 9 May 2022.

<sup>180</sup> A total of 11 interventions in relation to 14 persons originating from Cuba, Pakistan and India, Practice-informed observation by IDEAS.

people who were highlighted as stateless in the Mol response were most likely not even assessed as such,<sup>181</sup> as the Mol did not even attempt to identify them.<sup>182</sup> In other words, these could have been people who destroyed their travel documents and who originated from countries where they could face persecution. All of these problems were briefly outlined in the EU Progress Report in 2022 and 2023,<sup>183</sup> but the 2023 Report still does not reflect the seriousness of the clandestine and unpredictable practice of the BPSB based on the author's field experience. In the 2024 Progress Report, the European Commission failed to underline the systemic issue of arbitrary detention and forcible removals without any risk assessment of *refoulement*, nor are there reports of Frontex or FRO on the issues continuously reported for more than a decade.

The UN Human Rights Committee published the following findings and issued very specific recommendations applicable to the flawed practice of BPSB:

'32. [...] the Committee is concerned by reports failure to provide access to asylum procedures for persons refused entry at international airports and their subsequent *de facto* detention in airport transit zones [...]

33. The State party should ensure respect for the principle of non-refoulement by ensuring that:

(a) asylum-seekers and any persons in need of international protection are not [...] expelled or to a country in which there are substantial grounds for believing that there is a real risk of irreparable harm, such as that set out in articles 6 and 7 of the Covenant;

(b) Asylum-seekers receive information about their right to seek asylum in a language they understand [...]

(c) Asylum-seekers have effective access to an appeal process that is in line with international standards, including ensuring that the lodging of appeals has a suspensive effect on [...] expulsion;

(d) All relevant officials, including border guards, receive adequate training on international standards, including the principle of *non-refoulement* [...] <sup>184</sup>

Still, the number of refusals of entry decisions in 2023 significantly decreased after Serbia (starting from December 2022) re-introduced visa regimes for citizens of Burundi, Cuba, India, Tunisia and other countries from which asylum seekers were coming in previous years.<sup>185</sup> The number of refusal of entries remained similar in 2024 (4,716). Thus, the decrease in numbers of decisions does not mean that the practice has improved, but that the number of arrivals from countries which were mainly exposed to arbitrary refusal of entry decreased.

In order for the Foreigners Act to be applied fully in line with the principle of *non-refoulement*, it is necessary to conduct a thorough training of all the border officials entitled to render a decision on refusal of entry, but also to develop standard operational procedures which would help border officers to recognise different vulnerable categories of persons on the move. Additionally, all the Regional Border Centres should have among their staff interpreters for Arabic, Farsi, Urdu, Pashtu, Turkish, Kurdish, Kirundi and other languages that foreigners who might be in need of international protection understand.

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<sup>181</sup> Serbia does not have a law according to which stateless people are treated through specially designed procedures.

<sup>182</sup> Mol, *Response on the request for the information of public importance of the Mol no. 07-34/24 of 15 April 2024*.

<sup>183</sup> European Commission, *Serbia: Progress Report*, SWD(2022) 338 final 12 October 2022, available at: <https://bit.ly/3LedaYB>, 63 and see also European Commission, *Serbia: Progress Report*, SWD (2023) 695 final, 8 November 2023, available at: <https://bit.ly/4bRUaJU>, 68.

<sup>184</sup> HRC, *Concluding observations on the fourth periodic report of Serbia\**, 3 May 2024, CCPR/C/SRB/CO/4, available at: <https://bit.ly/3W1s0qn>, paras. 32-33.

<sup>185</sup> European Commission, *Serbia: Progress Report*, SWD (2023) 695 final, 8 November 2023, available at: <https://bit.ly/4bRUaJU>, 69-70.

In practice, however, interpreters do not seem to be hired. Additionally, a person who is about to be denied access to the territory should be afforded adequate and free of charge legal assistance. Finally, the implementation of the Foreigners Act should be made transparent and border monitoring activities, as recommended by the CAT, should dispel any existing doubts on the flawed practices of border authorities. Relevant standards of the European Committee for the Prevention of Torture and Inhumane and Degrading Treatment or Punishment (CPT) include that the detaining authority should serve foreign nationals deprived of their liberty with multi-lingual forms which outlines their rights, obligations and applicable procedures in a language which the foreigner understands.<sup>186</sup>

It is also worth mentioning that in light of the ECtHR judgment in *M.A. v. Lithuania*,<sup>187</sup> the Foreigners Act should be amended to introduce the automatic suspensive effect of the appeal against the decision on refusing the entry. The recent Strasbourg Court jurisprudence in cases such as *A.I. and Others v. Poland*,<sup>188</sup> or *A.B. and Others v. Poland*,<sup>189</sup> further confirms the above-highlighted necessity. The findings in these judgments also indicate that the practice at Serbian airports can also amount to collective expulsion in terms of the Article 4 of Protocol 4 ECHR.

## 1.3 Informal pushbacks

### 1.3.1 Pushbacks from Serbia

Access to the territory for persons in need of international protection remained a serious concern in 2024. The pattern of multiple human rights violations which occur through the practice of pushbacks and other forms of collective expulsions includes:

1. short term unlawful and arbitrary deprivation of liberty,<sup>190</sup> according to both the subjective and objective criteria of the ECtHR and contrary to material and procedural norms of the Serbian Police Act;<sup>191</sup>
2. arbitrary deprivation of liberty without individual custody record;<sup>192</sup>
3. denial of access to a lawyer, right to inform a third person on their situation and whereabouts and right to an independent medical examination;<sup>193</sup>
4. failure to inform refugees and migrants on the reasons for deprivation of their liberty, as well as procedures which are applicable to them, and in a language they understand in writing and verbally;<sup>194</sup>
5. denial of access to the asylum procedure or other residential procedure;<sup>195</sup>

<sup>186</sup> CPT, *Immigration detention*, CPT/Inf (2017)3, March 2017, available at: <https://bit.ly/3sL4rWK>.

<sup>187</sup> ECtHR, *M.A. v. Lithuania*, Application No 59793/17, Judgment of 11 December 2018, EDAL, available at: <https://bit.ly/2txDq72>, paras 83-84.

<sup>188</sup> ECtHR, *A.I. and Others v. Poland*, Application No. 39028/17, Judgment of 14 November 2022, EDAL, available at: <http://bit.ly/3l67o0m>.

<sup>189</sup> ECtHR, *A.B. and Others v. Poland*, Application No. 42907/17, Judgment of 14 November 2022, EDAL, available at: <https://bit.ly/3l67o0m>.

<sup>190</sup> ECtHR, *Creangă v. Romania*, Application No. 29226/03, Judgment of 23 February 2012, available at: <https://bit.ly/3BjU8bl>, para. 84.

<sup>191</sup> ECtHR, *Guzzardi v. Italy*, Application No 7367/76, Judgment of 6 November 1980, available at: <https://bit.ly/3tS73Al>, para. 95; *Z.A. and Others v. Russia*, Application Nos. 61411/15, 61420/15, 61427/15 and 3028/16, Judgment of 21 November 2019 [GC], EDAL, available at: <https://bit.ly/3JB0Hdu>, para. 138, but see also, CPT, *Report to the Croatian Government on the visit to Croatia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 14 August 2020*, CPT/Inf (2021) 29, 3 December 2021, available at: <https://bit.ly/3978tyQ>, para. 10.

<sup>192</sup> CPT, *The prevention of ill-treatment of foreign nationals deprived of their liberty in the context of forced removals at borders*, Extract from the 32nd General report of the CPT Published on 30 March 2023, CPT/Inf (2023) 7 - part, available at: <https://rm.coe.int/1680aabe68>, para. 26.

<sup>193</sup> CPT, *Extract from the 2nd General Report [CPT/Inf (92) 3]*, p. 6, para. 36, available at: <https://bit.ly/3GVD4KU>.

<sup>194</sup> ECtHR, *Khlaifia and Others v. Italy*, App. Nos. 16483/12, Judgment of 15 December 2016, EDAL, available at: <https://bit.ly/2BojevU>, para. 92.

<sup>195</sup> ECtHR, *Hirsi Jamaa and Others v. Italy*, Application no 27765/09, Judgment of 23 February 2012 [GC], EDAL, available at: <http://bit.ly/2R5G6Em>, paras. 156, 157 and 185.

6. ill-treatment including kicks, slaps, punches, dropping off at locations where refugees and asylum seekers cannot fulfil their basic needs (food, water, medical assistance), destroying of cell phones, stripping, verbal abuse (threatening, swearing, etc), etc.;<sup>196</sup>
7. forcible removal without examination of individual circumstances of each person or outside any legal procedure;<sup>197</sup>
8. lack of assessment on any risks of *refoulement* and *chain-refoulement*<sup>198</sup> in the receiving states and complete disregard of special needs e.g., age, mental or medical state, trauma caused by torture, human trafficking, sexual or gender-based violence (SGBV);
9. denial of access to effective legal remedy for the above-listed violations cumulatively and under Article 13 ECHR.<sup>199</sup>

The Status Agreement on border management cooperation between the European Union and Serbia entered into force in June 2021, and in June 2024 was followed by the Agreement on Operational Cooperation in border management.<sup>200</sup> The agreement allows Frontex to carry out joint operations in Serbia, especially in the event of sudden border management challenges. The former European Commissioner for Home Affairs and Migration, Ylva Johansson, visited Serbia to launch the first Frontex joint operation at the Serbian border with Bulgaria.<sup>201</sup> FRONTEX officers are dispatched at the border with Bulgaria. As of April 2025, the author of this report is not aware of allegations of human rights violations made against FRONTEX officers.

IDEAS has addressed FRONTEX's fundamental rights officers with regards to the case from September 2022 of the attempted forcible removal from Belgrade airport of an Iranian refugee family to Türkiye and further to Iran. Even though the allegations were not made against FRONTEX, the collected testimony indicated that the family briefly spoke with one of the FRONTEX officers who assured them that they would not be returned. However, there were no allegations that FRONTEX officers took part in the removal procedure or any other contentious practice. According to the observations of the author of this report, the conclusion that can be drawn, and especially the fact that people who might be in need of international protection are more or less detained without communication at the Belgrade airport, is that Frontex presence at the airport did not improve safeguards of fundamental rights.

### 1.3.1.1 Arrivals

In 2024, the number of arrivals to Serbia remained similar to the previous year, but it is necessary to consult different sources such as UNHCR, CRM, and Frontex in order to get the clearest picture possible.

It is not possible to determine the exact number of arrivals to Serbia for several reasons:

- ❖ The Mol, CRM and UNHCR apply different methods to collect and compile data on refugees and migrants entering and residing on Serbian soil;
- ❖ A significant number of refugees and migrants are not registered (fingerprinted and photographed) by the Mol in line with the Foreigners or Asylum Act. Thus, they are not introduced into the database with fingerprints and pictures of foreigners - *Afis*. This is the only way to properly

<sup>196</sup> ECHR, Article 3.

<sup>197</sup> ECtHR, *Čonka v. Belgium*, Application no 51564/99, Judgment of 5 February 2002, available at: <http://bit.ly/2YJEZ1y>, para. 59.

<sup>198</sup> ECtHR, *Hirsi Jamaa and Others v. Italy*, Application no 27765/09, Judgment of 23 February 2012 [GC], EDAL, available at: <http://bit.ly/2R5G6Em>.

<sup>199</sup> The issue of pushbacks and various forms and layers of human rights violations was addressed by different bodies for the protection of human rights. See, *inter alia*, CPT, The prevention of ill-treatment of foreign nationals deprived of their liberty in the context of forced removals at borders, available at: <https://bit.ly/3QKc4oq>, paras. 69-107 and Special Rapporteur on the Human Rights of Migrants, Human rights violations at international borders: trends, prevention and accountability, A/HRC/50/31, 26 April 2022, available at: <https://bit.ly/3JzQgtu>. <https://bit.ly/46kqDF3>

<sup>200</sup> European Commission, *EU signs agreement with Serbia to strengthen migration and border management cooperation*, 25 June 2024, available at: <https://bit.ly/4cyPYyA>.

<sup>201</sup> Frontex, *Frontex expands presence in Western Balkans with operation in Serbia*, 16 June 2021, available at: <https://bit.ly/3H2aG9X>.



identify persons without any ID and which can further prevent the recording of one person several times using a different name or when their name is not properly typed into one of the databases.<sup>202</sup>

- ❖ It is not clear if FRONTEX data on the number of irregular crossings to the EU from the Western-Balkan countries also includes those foreigners who were pushed-back.

Until 2020, the UNHCR office in Serbia kept its own statistics on the number of new arrivals which in e.g., 2019 and 2020, were based on the initial interviews that UNHCR staff and its partners conducted with newly arrived foreigners. By using this method, 29,704 persons were recorded as newly arrived in 2019 and 25,003 in 2020.<sup>203</sup> On the other hand, in 2020, CRM recorded 63,408 refugees and migrants who passed through governmental reception facilities, which is almost 40% more than figures collected by UNHCR.<sup>204</sup> However, according to the European Commission Progress Report for 2021, which contains data delivered by the State, the number of persons who passed through asylum and reception centres in 2019 was around 12,000, which is 40% less than the number of arrivals registered by the UNHCR in the same year (29,704).<sup>205</sup>

In 2021, UNHCR and CRM harmonised their respective methodologies and now apply the CRM approach, which is based on the number of refugees and migrants who were accommodated at asylum or reception centres.

According to that criterion, a total of 60,338 refugees and migrants were registered as new arrivals in 2021.<sup>206</sup> This number almost doubled in 2022, reaching 119,670. Additionally, in 2022, FRONTEX detected 145,600 cases of irregular border crossings into the EU from Serbia and Bosnia, mainly from, Afghanistan, Türkiye, Burundi, India and Tunisia.<sup>207</sup>

In 2023, according to FRONTEX, the number of crossings reached 99,068 and the majority of foreign nationals originated from Syria, Türkiye and Afghanistan:

'The number of irregular border crossings at the EU's external border in 2023 reached a total of approximately 380,000, driven by a rise in arrivals via the Mediterranean region, according to preliminary calculations by Frontex. This marks the highest level since 2016 and constitutes a 17% increase from the figures in 2022, indicating a consistent upward trend over the past three years. The Central Mediterranean was the most active migratory route into the EU, accounting for two out of every five irregular crossings (41%) in 2023, followed by the Western Balkans (26%) and Eastern Mediterranean (16%).'<sup>208</sup>

In 2024, the number of arrivals via the Western Balkan route decreased by 78% (21,520 detected irregular border crossings) related mainly to citizens of Türkiye, Syria and Afghanistan.<sup>209</sup>

<sup>202</sup> Precisely, this might lead to a situation in which CRM registers one person in different camps under different names, including persons who were introduced in Afis because CRM workers do not have access to this database in reception facilities.

<sup>203</sup> This data is extracted from UNHCR data portal, available: <https://bit.ly/3rYbS9O>.

<sup>204</sup> European Commission, *Serbia 2021 Report*, 19 October 2021, SWD(2021) 288 final, available at: <https://bit.ly/3Byi8IQ>, 49.

<sup>205</sup> *Ibid.*

<sup>206</sup> UNHCR data portal, available at: <https://bit.ly/3rYbS9O>.

<sup>207</sup> 'In 2022, there were 145 600 irregular border crossings reported on the Western Balkans route, 136% more than in 2021. This is the highest number of crossings reported on this route since 2015 and about half of all reported irregular entries in 2022. Citizens of Syria, Afghanistan and Türkiye accounted for the largest number of detections. Nationalities that previously had been little on this route were also reported, such as Tunisians, Indians and Burundians.' FRONTEX, *EU's external borders in 2022: Number of irregular border crossings highest since 2016*, available at: <http://bit.ly/3ZWZAwm>; for the past year see also: Frontex, *EU external borders in 2021: Arrivals above pre-pandemic levels*, 11 January 2022, available at: <https://bit.ly/49H2Ba4>.

<sup>208</sup> FRONTEX, *Significant rise in irregular border crossings in 2023, highest since 2016*, 26 January 2024, available at: <https://bit.ly/4cHNbDr>.

<sup>209</sup> ECRE, *Balkan Route: NGO warning about Frontex data showing major fall in irregular crossings*, available at: <https://ecre.org/balkan-route-ngo-warning-about-frontex-data-showing-major-fall-in-irregular-crossings-%E2%80%95-agreement-on-frontex-deployment-in-bosnia-and-herzegovina-%E2%80%95-agreement-on-border-control-co-oper/>.

According to Frontex's information, numbers of irregular border crossings correspond to a large extent to the number of people residing in Serbian camps. However, in its 2021 Report, FRONTEX outlined that these are persons who repeatedly try to reach their target country in the EU.<sup>210</sup> The word 'repeated' was not used in the 2022 Report, but it is reasonable to assume that the 2022 number does not imply that there were 145,600 different persons, but also persons who attempted to cross the EU external borders on numerous occasions, but who were pushed back. In other words, one person can try several irregular crossings to the EU, and one person can be registered in several different camps in Serbia. Thus, it can be assumed that a realistic number of new arrivals in Serbia is closer to the numbers obtained through UNHCR's methodology from the previous years (i.e., based on the initial interviews), than the one which is applied by the CRM.

In 2023 Progress Report, the European Commission outlined the following:

'Serbian authorities have established solid cooperation links with the European Border and Coast Guard Agency (Frontex). The joint operation with the Serbian border police at the Serbian-Bulgarian border that started in 2021 was extended to include the Serbian-Hungarian border. The aim of this cooperation is to control irregular immigration flows, to tackle cross-border crime and to strengthen European cooperation. Progress has been made in the negotiations on the new status agreement between the EU and Serbia. Its conclusion will, in line with the new mandate of Frontex, enable deployment also at third-country borders, such as at the border with North Macedonia. Based on the Police Cooperation Convention for Southeast Europe (PCC SEE), the Ministry of the Interior established a cooperation with all neighbouring countries.

Joint patrols with neighbouring countries are ongoing with Hungary, North Macedonia and Romania. Information exchange takes place through joint contact centres. Serbia receives capacity building and border management assistance from EU Member States.'<sup>211</sup>

In 2024 Progress Report, the European Commission stated:

'Serbia launched a large-scale police operation in the last quarter of 2023, targeting smugglers and migrants illegally present in the country. In August 2024, due to the significantly lower number of migrants present in the country, the Commissariat for Refugees and Migration decided to reduce the capacity of the reception and asylum system. Seven out of 17 centres are operational at the southern and western borders and near Belgrade. A contingency plan is in place in case of a sudden increase. Overall, reception capacities are adequate. The police operation and the intensified control of movements continued in the first quarter of 2024.'<sup>212</sup>

Regardless of Frontex and European Commission findings, which are mostly obtained from Serbian authorities, the most striking deficiency in the data they publish is related to the lack of any information on harmful border practices committed by Serbian border authorities but also border forces of neighbouring States. According to the author of this report, the only explanation for the drop in the number of arrivals or irregular crossings is the so called 'combat against smuggling'. Thus, the 2024 Progress Report does not contain a single information from which it can be determined to what extent Serbia has the capacity to maintain the rule of law at its borders and to safeguard access to the territory and the asylum procedure. Moreover, the 2024 Progress Report has failed to reflect credible sources which indicate the involvement of some segments of Serbian security forces in smuggling operations.<sup>213</sup> All of these issues have significant impact on the effectiveness of Serbian asylum system and its legislative and practical alignment with the CEAS.

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<sup>210</sup> *Ibid.*

<sup>211</sup> European Commission, *Serbia 2023 Report*, SWD (2023) 695 final, 8 November 2023, available [here](#), 71.

<sup>212</sup> European Commission, *Serbia 2024 Report*, SWD(2024) 695 final, 30 October 2024, available at: [https://enlargement.ec.europa.eu/document/download/3c8c2d7f-bff7-44eb-b868-414730cc5902\\_en?filename=Serbia%20Report%202024.pdf](https://enlargement.ec.europa.eu/document/download/3c8c2d7f-bff7-44eb-b868-414730cc5902_en?filename=Serbia%20Report%202024.pdf), p. 49.

<sup>213</sup> See for example BIRN, *Serbian Police Translator, Named in BIRN Report, Held for People-Smuggling*, 16 January 2024, available at: <https://balkaninsight.com/2024/01/16/serbian-police-translator-named-in-birn-report-held-for-people-smuggling/>.



Certainly, the most reliable way to determine the most accurate arrival numbers is recording by the Mol in the Afis, which cannot be expected in the near future due to lack of capacity of the Border Police Administration.

The above conclusion can also be drawn from figures published in 2023 and especially given the discrepancy between UNHCR monthly numbers of arrivals which in total amount to 87,252 compared to numbers provided by the CRM, who state that the number of arrivals in 2023 was 108,808. Still, UNHCR reports do not contain data for August. Thus, in order for CRM numbers (108,808 arrivals) to match the UNHCR's, around 21,556 different foreign nationals should have resided in reception facilities in August 2023. In conclusion, it is reasonable to consider that the number of arrivals was around 100,000 persons. In 2024, the total number of arrivals to Serbia was estimated by UNHCR and CRM to be 19,603, which represents a 82% decrease in comparison to 2023.

The number of arrivals per month was as follows:

Observed Arrivals in the period 2019-2024								
Month	Arrivals 2019		Arrivals 2020		Arrivals 2021	Arrivals 2022	Arrivals 2023	Arrivals 2024
	UNHCR	CRM	UNHCR	CRM	UNHCR and CRM	UNHCR and CRM	UNHCR and CRM	
January	629	/	1,700	/	3,180	2,644	5,957	2,782
February	819	/	2,633	/	2,273	3,236	3,782	1,687
March	1760	/	1,649	/	3,832	1,238	6,477	1,290
April	1,826	/	583	/	4,344	6,132	4,144	830
May	2,512	/	270	/	3,182	8,019	7,506	1,073
June	2,366	/	2,108	/	4,111	10,039	10,083	1,168
July	2,726	/	3,197	/	5,762	13,425	13,571	1,653
August	3,673	/	4,146	/	7,101	17,997	Missing data	1,879
September	3,686	/	2,981	/	8,978	19,345	13,036	1,947
October	4,123	/	2,703	/	6,570	14,519	9,223	2,090
November	3,871	/	2,022	/	6,027	11,916	8,532	1,901
December	1,713	/	1,011	/	4,978	11,160	5,391	1,303
<b>Total</b>	<b>29,704</b>	<b>10,145</b>	<b>25,003</b>	<b>63,408</b>	<b>60,338</b>	<b>119,670</b>	<b>108,808 (missing August)</b>	<b>19,603</b>

Source: Data provided by the UNHCR office in Serbia.

In 2022, a record number of arrivals from Tunisia, Cuba, Burundi, India and Türkiye was recorded. What is also important to mention is that citizens of Tunisia, Cuba, Burundi and India, as well as several other countries, were using the air route, flying directly to Belgrade. The reason for this has been the visa policy of Serbia which was established in relation to the countries which have not recognised independence of Kosovo, or who withdrew recognition. With some countries, such as Cuba or Tunisia, Serbia has had a free visa regime since early 1970s.

In its 2022 Progress Report, the European Commission outlined the following:

'Serbia's visa policy is not fully aligned with the EU list of third countries whose nationals are visa exempt or visa required. The following countries that are on the EU list of visa required countries enjoy visa-free travel to Serbia: Armenia, Azerbaijan, Bahrain, Belarus, Bolivia, Burundi, China,

Cuba, Guinea Bissau, India, Indonesia, Jamaica, Kyrgyzstan, Kuwait, Kazakhstan, Mongolia, Oman, Qatar, Russia, Suriname, Tunisia and Türkiye.<sup>214</sup>

Thus, and due to the increased number of irregular entries to the EU of Indian, Burundian, Guinea Bissau and Tunisian citizens, Serbia was pressured to reintroduce visa regime with these countries.<sup>215</sup> This decision was preceded with the shift in policies at the airport, when several thousand citizens of India (4,516 in total in 2022) and Tunisia (2,787 in total in 2022) were refused entry. The free visa regime with Cuba and Türkiye, as well as with Russia.

The new visa policy resulted in a complete stop in arrivals of the above-outlined nationalities. In 2023 the European Commission highlighted that:

'In October 2022, the Serbian government decided to abolish the visa exemptions for Tunisia and Burundi nationals, and, in December 2022, this was likewise decided for Guinea Bissau, India, Cuba and Bolivia. The President of India visited Serbia in June 2023 and a visa simplification mechanism was announced. In June 2023, the President of Cuba visited Serbia and an agreement on a visa-free regime for holders of official and diplomatic passports was signed.'<sup>216</sup>

The number of arrivals outlined in the table above is not related to people who were impacted by the armed conflict in Ukraine. In June 2023, it was reported that around 370,000 Russian citizens have resided in Serbia since February 2022, but this does not mean that all of them remained.<sup>217</sup> In August 2023, it was reported that around 36,500 Ukrainian citizens resided in Serbia.<sup>218</sup> In 2024, some media reported that around 200,000 citizens of the Russian Federation and Ukraine have entered Serbia.<sup>219</sup> Still, and due to the fact that many citizens of said countries can come to Serbia without visa, and are often entering and exiting Serbia, it is not possible to determine their exact number.

### 1.3.1.2 Pushbacks to North Macedonia, Bulgaria and Montenegro

The so-called Western Balkan route represents a region in which refugees, asylum seekers and migrants are systematically subjected to collective expulsions and very often ill-treatment at the hands of border authorities. In 2024, the presence of civil society organisations at the borders with **North Macedonia**, **Bulgaria** and **Montenegro** continued to be limited.<sup>220</sup> There is no effective border monitoring mechanism established in Serbia with an aim to closely and frequently observe the situation at entry borders.

It is important to note that there are not many recent reports on pushbacks and collective expulsions committed by Serbian border authorities at the green border with **Bulgaria** and **Montenegro**. This does not exclude a very high likelihood that such practice still exists. It only indicates that the presence of CSOs at these borders has essentially ceased to exist. Official statistics of the MoI indicate that collective expulsions are still carried out towards Bulgaria, as can be seen from the data delivered by the MoI but also from an Ombudsman report:

'According to official data of the RBPCs, in 2020 [...] 434 [persons/refugees and migrants] on the border with Bulgaria gave up trying to illegally enter the Republic of Serbia. According to police

<sup>214</sup> European Commission, *Serbia: Progress Report*, SWD(2022) 338 final 12 October 2022, available at: <https://bit.ly/3LedaYB>, 64.

<sup>215</sup> Balkan Insight, *Serbia Ends Visa-Free Regimes with Tunisia and Burundi*, 25 October 2022, available at: <https://bit.ly/400dcav> and Schengen Visa, *Serbia Introduces Visas for Nationals of India & Guinea-Bissau From January 1, 2023*, 23 December 2022, available at: <https://bit.ly/42aQP3Z>.

<sup>216</sup> European Commission, *Serbia: Progress Report*, SWD (2023) 695 final, 8 November 2023, available at: <https://bit.ly/4bRUaJU>, 70.

<sup>217</sup> Bloomberg Adria, *Deset najzastupljenijih biznisa Rusa u Srbiji*, 26 June 2024, available at: <https://bit.ly/3LmXdyd>.

<sup>218</sup> 021 Portal, *U Srbiji se trenutno nalazi više od 43.000 Ukrajinaca*, 31 August 2023, <https://bit.ly/3L0Mb1e>.

<sup>219</sup> Vreme, *Da li Rusi napuštaju ili naseljavaju Srbiju?*, 30 September 2024, available at: <https://vreme.com/drustvo/da-li-rusi-napuštaju-ili-naseljavaju-srbiju/>.

<sup>220</sup> More than 95% of persons in need of international protection are entering Serbia from these three countries.

officers, these are foreigners who, after noticing the presence of border police patrols, gave up entering the country.<sup>221</sup>

BVMN reported one instance of pushback to Bulgaria in January 2024 when the Police took clothes, shoes and other belongings from a man from Morocco and smashed his phone. Afterwards, he and other people from his group were kicked, punched and pepper sprayed, and ultimately returned to Bulgaria.<sup>222</sup> A similar case occurred in May 2024.<sup>223</sup> A collective expulsion, which corresponds to the pattern of behaviour of Serbian border police operating in the border area with Bulgaria and determined in the 2021 landmark judgment of the Constitutional Court (see below),<sup>224</sup> was reported by BVMN in September 2024 when 31 Afghan men were expelled from Serbia to Bulgaria.<sup>225</sup> BVMN also reported a violent and forcible removal of an Afghan man from Serbia to North Macedonia in October 2024.<sup>226</sup>

What is important to highlight is that instances of pushbacks are portrayed by Serbian authorities as situations in which refugees, asylum seekers and migrants are deterred from attempting to cross the border after they realise that border patrols of Serbia are on the other side. However, the Mol's argument that refugees and migrants are discouraged from irregular crossings when they encounter border police is misleading and is the long standing position repeated since 2016, when mixed patrols of army and police were introduced with the aim 'to suppress illegal migration'.<sup>227</sup> This argument was publicly used for the first time by Mr. Jovan Krivokapić from the Ministry of Defence, who stated on national television that refugees and migrants are discouraged when they spot border patrol forces.<sup>228</sup> A month before that statement, a group of 17 Afghan refugees were collectively expelled back to Bulgaria. This incident was declared as a violation of prohibition of collective expulsions by the Constitutional Court in December 2020.<sup>229</sup> Three months before, a Kurdish family of 7 was left in the forest to freeze to death and only because of CSO InfoPark's reaction, was a search and rescue mission carried out and the family saved.<sup>230</sup> Accordingly, the credibility of such statements can be verified only if an independent border monitoring mechanism is established, as recommended by the Committee against Torture in 2015<sup>231</sup> and 2021,<sup>232</sup> while the Human Rights Committee outlined that all pushback allegations should be promptly, thoroughly and independently investigated and perpetrators, if found guilty, punished appropriately.<sup>233</sup> Thus, the recorded cases of pushbacks imply that refugees and migrants are initially put under the effective control (deprived of their liberty) and then forcibly removed back to one of the neighbouring States. In particular, the description labelled as 'discouragement' is misleading as it does not correspond to reality and is aimed at avoiding of the responsibility for the set of violations [listed above](#). Still, it cannot be excluded that such instances exist, but the recorded cases and judicial and other findings of [domestic and international bodies clearly corroborate the existence of informal and forcible removals](#).

<sup>221</sup> Ombudsman, *Serbia: National Report on the situation of human rights of migrants at the borders*, ENNHRI, July 2021, available here, 21.

<sup>222</sup> BVMN, *They were beating us severely, as if they were beating animals*, available at: <https://bit.ly/3zmNpBt>.

<sup>223</sup> BVMN, *He had been kicked in the face after having fallen on the ground due to the heavy beating he received*, available at: <https://borderviolence.eu/testimonies/may-8-2024-slivnica-serbia/>.

<sup>224</sup> Constitutional Court of Serbia, Decision No. UZ 1823/2017, Decision of 29 December 2020, EDAL, available at: <https://www.asylumlawdatabase.eu/en/content/serbia-constitutional-court-decision-expulsions-bulgaria>.

<sup>225</sup> BVMN, *Shot at, beaten with 'wooden tools', fingers bent backwards*, available at: <https://borderviolence.eu/testimonies/september-25-2024-pirot-serbia/>.

<sup>226</sup> BVMN, *People shouldn't behave like this with us. Treat us like humans*, available at: <https://borderviolence.eu/testimonies/october-14-2024-presevo-serbia/>.

<sup>227</sup> AIDA, *Country Report: Serbia – Update on the year 2016*, February 2017, available [here](#), 15 and 19.

<sup>228</sup> RTS, *Migrantsko proleće*, 29 March 2017, 12:40, available at: <https://bit.ly/3sQtUdq>.

<sup>229</sup> Constitutional Court, Decision No. UŽ 1823/2017, Decision of 29 December 2020, EDAL, available at: <http://bit.ly/2YJXJhi>.

<sup>230</sup> N1, *Patrola vojske i policije ostavila migrante da umru u šumi*, 19 December 2016, available in Serbian at: <https://bit.ly/34SBIZA>.

<sup>231</sup> CAT, *Concluding observations on the second periodic report of Serbia*, 3 June 2015, CAT/C/SRB/CO/2\*, para 15, available at: <https://bit.ly/3ujDBFX>.

<sup>232</sup> CAT, *Concluding observations on the third periodic report of Serbia\**, 20 December 2021, CAT/C/SRB/CO/3, para. 34(e), available at: <https://bit.ly/3MLqTGh>.

<sup>233</sup> HRC, *Concluding observations on the fourth periodic report of Serbia\**, 3 May 2024, CCPR/C/SRB/CO/4, available at: <https://bit.ly/3W1s0qn>, para. 33.

In a 2022 report, Klikaktiv Reports emphasises that:

'In the end of September, the Klikaktiv team spoke to a group of four men from Morocco who stated they had been pushed back to Bulgaria by the Serbian police on the green border near the city of Pirot: the police did not issue them with any documentation or provided information on asylum procedure, but allegedly had beat them, took away their personal belongings (3 mobile phones and 350 euros) and made them walk back to Bulgaria.'<sup>234</sup>

Klikaktiv reported the following in 2023:

'In December 2023, people on the move also reported that they were pushed-back from the Serbian territory back to Bulgaria and that they were victims of police violence during these actions. The cases of push-backs from the Serbian territory were also happening in the past but they were rarely violent. Towards the end of December, Klikaktiv spoke to two men from Syria who claimed to be pushed-back from Serbian territory back to Bulgaria. According to their testimony, they crossed from Bulgaria to Serbia via river Timok (for the 15km of its run the River Timok is a natural border between two countries) in a rubber boat, but the Serbian police caught them and confiscated the boat. The police officers then forced them into a freezing river and they had to swim back to the Bulgarian shore'.<sup>235</sup>

The 2022 Progress Report from 2021 indicates that 14,806 foreign nationals were prevented from entering Serbia, and it is reasonable to assume that some of these people were prevented to enter from Bulgaria and Montenegro.<sup>236</sup> The very fact that this data was included in Progress Report but without critical observation is concerning and should be criticised. Moreover, the fact that issues related to pushback operations on North Macedonian and Bulgarian border have never been critically reflected in the Progress Report clearly indicates that such practice, which clearly undermines access to territory and asylum procedure, is not of the European Commission's concern. The 2021 data was likely obtained by the Mol, which keeps this kind of records but does not always disclose it publicly. In the past, these numbers were usually disclosed by State officials in the context of assuring the public that Serbia is successfully combating organised crime, smuggling, human trafficking and illegal migration.<sup>237</sup> The latest Progress Report corroborates this standing because it does not contain a single sentence on unlawful border practices of Serbia which are contrary to the EU acquis and Charter of Fundamental Rights.

The Mol stated that in 2023, a total of 37,403 'illegal entries' were prevented.<sup>238</sup> The number in 2024 reached 15,583.<sup>239</sup> This number does not include foreign nationals who were refused entry or were readmitted to one of the neighbouring countries. Thus, according to the author of this report, it is safe to assume that many of these prevented illegal entries implied unlawful and in most of the cases collective expulsions to neighbouring States deprived of any risk assessment of *refoulement*. Lastly, the author does not exclude that significant number of refugees and migrants were deterred by very appearance of border police patrols.

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<sup>234</sup> Klikaktiv, *The Third Quarterly Report in 2022 (July-August-September)*, available at: <https://bit.ly/3Ld2pFU>, 20.

<sup>235</sup> Klikaktiv, *From migration to criminalization - growing oppressive treatment against people on the move in Serbia, Annual report for the year 2023*, May 2024, available at: <https://bit.ly/3VGpzYH>, 15.

<sup>236</sup> European Commission, *Serbia: Progress Report*, SWD(2022) 338 final 12 October 2022, available at: <https://bit.ly/3LedaYB>, 61.

<sup>237</sup> See, e.g. , Government of the Republic of Serbia, *Меморандум о сарадњи Србије, Мађарске и Аустрије у борби против илегалних миграција*, 16 November 2022, available in Serbian at: <https://bit.ly/3SLf8U8>.

<sup>238</sup> Mol, *Response on the request for the information of public importance of the Mol no. 07-34/24 of 15 April 2024*.

<sup>239</sup> Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 17 February 2025).

## The border with North Macedonia

As in previous several years, in 2024, the presence of civil society organisations at the border with **North Macedonia** continued to be limited.<sup>240</sup> UNHCR and its partners stopped reporting on incidents involving pushbacks and other forms of collective expulsions to North Macedonia.<sup>241</sup> APC published its last report containing allegations and statistics on pushbacks to North Macedonia for the period of the first six months of 2021.<sup>242</sup> Klikaktiv highlighted that towards the end of 2023, people on the move started reporting pushbacks from Serbian territory back to Bulgaria/ North Macedonia more frequently and in many cases, these push-backs also involved use of violence.<sup>243</sup> However, there were no CSO reports on such practices in 2024.

## The fence at the border with North Macedonia

On 15 May 2020, the Ministry of Defence announced a public procurement for the purchase of 2.5 tons of barbed wire for the purpose of fencing asylum and reception centres.<sup>244</sup> Several CSOs, including A11 and PIN, swiftly reacted to the public statement, condemning the idea and declaring it to be contrary to international human rights law.<sup>245</sup> Soon after the announcement of the public procurement, an online Portal *Direktno* announced that the Government of Serbia was planning to build a barbed wire fence at its borders with **Northern Macedonia** and **Bulgaria**.<sup>246</sup> At the time, it was not possible to confirm the news, but UNHCR partners noticed that, during the state of emergency, the military had started clearing the land in the border area with **North Macedonia**.<sup>247</sup> On 22 May 2020, the Ministry of Defence selected a private company (*Žica Best*) to build fences around asylum and reception centres. However, on 31 May 2020, the Ministry stopped the public procurement stating that the need for such a measure had ceased to exist after the state of emergency was lifted.<sup>248</sup> In August 2020, *the Radio Free Europe* reported that Serbia had built a fence alongside the border with **North Macedonia**.<sup>249</sup> No state official commented on this act, except for the Commissar for Refugees, Mr. Vladimir Cucić, who stated in the documentary '*Pushbacks and Dangerous Games*' that the building of the fence is nothing more but 'a late reaction of Serbia' which has an aim to slow down new arrivals to Europe.<sup>250</sup>

In July 2022, Klikaktiv reported the following:

'The construction of the fence on the border between Serbia and North Macedonia continues: between June 2021 and June 2022 a minimum of additional 10-15 km were built. The fence has three layers, one of which is made of barbed wire. Unfortunately, the fence has been notably increased, both in its length and size. The fence is approximately 3 to 4 meters high; between the double fence, there is a space for patrolling army and police vehicles. At the top of the fence, there is barbed wire. At the moment it is tens of kilometres long and is situated on the hills along the border. Due to the fence and in-creased presence of border police, including Frontex

<sup>240</sup> Most of persons who might be in need of international protection enter Serbia from North Macedonia.

<sup>241</sup> INDIGO acts as an implementing partner of UNHCR at the south of Serbia.

<sup>242</sup> APC, *Migracije na jugu Srbije*, 29 December 2021, available at: <https://bit.ly/33xTxHm>.

<sup>243</sup> Klikaktiv, *From migration to criminalization - growing oppressive treatment against people on the move in Serbia*, *Annual report for the year 2023*, May 2024, available at: <https://bit.ly/3VGpzYH>, 12.

<sup>244</sup> Ministry of Defence – Public Procurement, *Material for Building the Barbed Wire Fence*, 15 May 2020, available in Serbian at: <https://bit.ly/2VzOTI6> [accessed on 10 January 2021]; Radio Free Europe, *Ministarstvo odbrane Srbije kupuje žilet žicu za ograđivanje centara za migrante*, 20 May 2020, available in Serbian at: <https://bit.ly/2NGM51c> [accessed on 10 January 2021].

<sup>245</sup> Radio Free Europe, *Grupa NVO u Srbiji: Obustaviti tender za žilet žicu*, 21 May 2020, available in Serbian at: <https://bit.ly/38ibYOc> [accessed on 10 January 2021].

<sup>246</sup> *Direktno*, *Srbija zbog migranata diže zid prema Bugarskoj i Makedoniji!*, 10 June 2020, available at: <https://bit.ly/3gdzOgS> [accessed on 10 January 2021].

<sup>247</sup> Most probably in line with Article 3 (a) of the Decree on the State of Emergency.

<sup>248</sup> Radio Free Europe, *Ministarstvo odbrane Srbije obustavilo kupovinu žilet-žice*, 20 May 2020, available at: <https://bit.ly/31Ax3II> [accessed on 10 January 2021].

<sup>249</sup> Radio Free Europe, *Srbija diže žičanu ogradu na granici sa Severnom Makedonijom*, 18 August 2020, available at: <http://bit.ly/3iDWyce> [accessed on 10 January 2021].

<sup>250</sup> Bojana Lekić, *Pushback and Dangerous Games*, Brendon Production, at 36:14, available at: <https://bit.ly/368FJkK>.



(European Border and Coast Guard Agency, in control of the European Schengen Area), some of the refugees have tried to enter Serbia via an alternative route through Kosovo.<sup>251</sup>

## Pushbacks

The findings of the Border Violence Monitoring Network (BVMN) from 2020 and of UNHCR and APC in 2021, indicate that refugees and asylum seekers arriving from **North Macedonia** were subject to short-term deprivation of liberty, searches, occasional ill-treatment and a denial of access to basic rights.<sup>252</sup> Next, they were removed and forced back to **North Macedonia** without an assessment of their special needs, e.g. age, mental or medical state, risks of *refoulement*, but also risks of chain *refoulement* to **Greece** or **Türkiye**. They did not have the possibility to apply for a remedy with suspensive effect in order to challenge their forcible removal.<sup>253</sup>

According to UNHCR, at least 773 refugees and migrants were pushed back to **North Macedonia** in 2019, 977 in 2020, 210 in 2021, 576 in 2022 and 59 in 2023. More detailed reports on pushbacks to North Macedonia were solely published by the BVMN in 2020 and APC in 2021, while there were no comprehensive reports published by CSOs in 2022, 2023 and 2024, but only individual testimonies available at BVMN online database. Moreover, UNHCR has stopped reporting on such practices in their monthly statistical snapshots.

UNHCR data on pushbacks to North Macedonia 2019-2024						
	2019	2020	2021	2022	2023	2024
January	78	74	0	4	23	N/A
February	87	150	31	8	33	N/A
March	96	112	2	6	3	N/A
April	35	9	7	85	0	N/A
May	49	9	22	20	0	N/A
June	19	88	5	6	0	N/A
July	59	10	21	2	0	N/A
August	28	154	46	301	0	N/A
September	159	142	14	6	0	N/A
October	67	159	57	0	0	N/A
November	90	30	0	103	0	N/A
December	6	40	5	35	0	N/A
<b>Total</b>	<b>773</b>	<b>977</b>	<b>210</b> <sup>254</sup>	<b>576</b> <sup>255</sup>	<b>59</b>	N/A

Source: UNHCR data portal.<sup>256</sup>

One case from 2020 deserves particular attention as it was documented by several CSOs and demonstrates the practice of collective expulsions from the mainland, not at the very border line. It relates to a group of 16 persons from **Morocco**, **Iran** and **Algeria** who were collectively expelled from the asylum centre (AC) in **Tutin** to **North Macedonia**. Allegedly, the police told them that they were being transferred to the reception centre (RC) in **Preševo**. Instead, they were dropped off near the Macedonian village of **Lojane**. They were crammed into the police van and after they had arrived at the drop off point, several of them were threatened, slapped and punched. Later on, the same group was arrested by Macedonian

<sup>251</sup> Klikaktiv, *The Second Quarterly Report in 2022 (April-May-June)*, available at: <http://bit.ly/3yx2dcX>, pp. 7-8.

<sup>252</sup> Right to a lawyer, right to inform a third person on their situation and whereabouts and right to an independent medical examination.

<sup>253</sup> ECtHR, *M.A. v. Lithuania*, Application No 59793/17, Judgment of 11 December 2018, EDAL, available at: <https://bit.ly/2txDq72>, paras 83-84.

<sup>254</sup> UNHCR data portal, available at: <https://bit.ly/3rYbS9O>.

<sup>255</sup> *Ibid.*

<sup>256</sup> UNHCR data portal, available at: <https://bit.ly/3rYbS9O>.

police and collectively expelled to **Greece**.<sup>257</sup> The group addressed several NGOs, including BVMN and IDEAS.<sup>258</sup> The case was later on referred to the Ombudsman.<sup>259</sup> The Ombudsman issued an extremely contentious Recommendation, stating that the MoI and Commissariat for Refugees and Migration (CRM) had failed to prevent ‘uncontrolled movement’ of migrants who were, according to the report, left in front of the RC in **Preševo** and then went in an ‘unknown direction’. This finding implies that the Ombudsman rejected as not credible the allegations of collective expulsion, even though he was provided with the phone number and location of the victims.<sup>260</sup> However, the body never tried to collect testimony from these people, even though they managed to return to Serbia after several weeks and the Ombudsman was aware of their whereabouts.<sup>261</sup> This case displays a similar pattern as the case of collective expulsion reported by the APC in 2019.<sup>262</sup>

BVMN described in detail four more pushbacks to **North Macedonia** in 2020, involving a total of 54 persons from **Afghanistan, Algeria, Morocco, Pakistan, Tunisia** and **Syria**. The first two incidents refer to April 2020, when 26 residents of RC in **Preševo** were taken from the camp and collectively expelled to North Macedonia close to the Serbian border village **Miratovac**.<sup>263</sup> Two other reports were published in October 2020 outlining that refugees and migrants were taken respectively from AC **Tutin**,<sup>264</sup> and the town **Preševo**,<sup>265</sup> to the green border area with North Macedonia close to **Miratovac** village. APC reported pushbacks to **North Macedonia** in November 2020.<sup>266</sup> All these cases included different forms of ill-treatment, such as: slapping, kicking, hitting with a rubber truncheon, use of police dogs, etc. These reports suggest that collective expulsions continued to take place, regardless of the COVID-19 pandemic, and that particularly vulnerable foreigners in that regard are those who are placed in RC **Preševo** and AC **Tutin**.

One of the reports published by a coalition of CSOs in April 2021 gives a detailed account of push backs of 4 persons to North Macedonia in the first four months. The report further outlines that pushbacks from Serbia and particularly from North Macedonia to Greece are likely to be happening on a much larger scale.<sup>267</sup>

An encouraging sign in 2021 was a border initiative of the Ombudsman office. When it comes to pushbacks to North Macedonia committed by Serbian authorities, the Ombudsman recorded numerous testimonies.<sup>268</sup>

Thus, 5 testimonies which encompass several dozen persons were collected in only 2-3 days in the border area with North Macedonia. This data clearly demonstrates the widespread or even systematic extent of the pushback practice. These testimonies reflect others collected by the BVMN from 2020. Still, apart from BVMN in 2020 and APC in 2021, other CSOs present on a daily basis at reception centres in border areas have not published reports on border practices or testimonies collected by those who might have

<sup>257</sup> BVMN, *Pushed-back from a Camp in Serbia to N. Macedonia, and then to Greece*, 3 April 2020, available at: <https://bit.ly/2SRhfWJ>.

<sup>258</sup> IDEAS, *Hod po žici - uticaj epidemije zarazne bolesti COVID-19 na sistem azila u Republici Srbiji - U susret „drugom talasu” - preliminarni nalazi*, March 2020, available in Serbian at: <https://bit.ly/46kqDF3>, p. 34.

<sup>259</sup> BCHR, *Right to Asylum in the Republic of Serbia Periodic Report for January – June 2020*, July 2020, available at: <https://bit.ly/2Y8WDeA>, 21-25.

<sup>260</sup> Ombudsman, Recommendation No. 4232/127/2020, 7 October 2020, available in Serbian at: <http://bit.ly/36nVVPp>.

<sup>261</sup> The author of this report informed the Deputy Ombudsman for Persons Deprived of Liberty on the whereabouts and the contact of victims since he was not able to visit them during the state of emergency and the curfew which implied official permission to move and reside outside the place of regular residency.

<sup>262</sup> AIDA, *Country Report: Serbia, Update on the year 2019*, May 2020, available [here](#), 19-20.

<sup>263</sup> BVMN, *The Officers Encouraged the Dogs to Attack*, 17 April 2020, available at: <https://bit.ly/39ZgGSo> and *Serbian Authorities Place us 500m above the Border, they Beat you and Bring to the Border*, 17 April 2020, available at: <http://bit.ly/3iG53np>.

<sup>264</sup> BVMN, *This gateway has been used to carry out pushbacks from north Macedonia to Greece repeatedly*, 22 October 2020, available at: <https://bit.ly/2LRrcTM>.

<sup>265</sup> BVMN, ‘They told us to leave van one by one and all of them together beat us’, 20 October 2020, available at: <http://bit.ly/3iC1Oxa>.

<sup>266</sup> APC Twitter, available at: <https://bit.ly/3tnylGK>.

<sup>267</sup> Protection Rights at Borders, *Pushing Back Responsibility*, April 2021, available at: <https://bit.ly/3RMSZmP>, 7.

<sup>268</sup> Ombudsman, *Serbia: National Report on the situation of human rights of migrants at the borders*, ENNHRI, July 2021, available [here](#), 21.



been informally expelled to one of the neighbouring states. The same can be said for CSOs in the neighbouring/receiving states, who so far have not disclosed any major findings or testimonies by refugees and asylum seekers on this issue in 2019, 2020, and 2021.<sup>269</sup>

APC reported that in the first half of 2021, 410 pushbacks were documented by their field teams, and estimation of this CSO is that every day, at least 50 refugees and migrants are collectively expelled to North Macedonia.<sup>270</sup>

On 16 February 2024, IDEAS's legal team was in contact with two men from Syria who were transported to the North Macedonian border. They called the IDEAS hotline and video call was established at the moment they were apprehended by Serbian border police - two officers in civilian clothes and two uniform police officer who arrived with the police van. They were talking in English asking for asylum, but the line was cut off and they were boarded to the back of the van. On the road from the vicinity of Preševo town where they were deprived of their liberty, to the green border area in Miratovac field, close to the North Macedonian village Lojane, they continuously sent GPS locations. Afterwards, they were ordered to leave towards North Macedonia and the police dogs were released at them. Contact was then lost.<sup>271</sup>

On 22 February 2024, a group of stripped foreign nationals was video recorded while walking on the highway towards Reception Centre in Tabanovci in North Macedonia. According to their testimonies, as well as testimonies collected from foreign nationals who managed to enter Serbia, Serbian police arrested several dozens of nationals of Syria and Iraq. One group was taken to the police facility in the vicinity of border with North Macedonia where they were allegedly ill-treated: kicks, slaps, punches, hitting with belts and rifle butts. Others, who were captured right after they crossed the border were also ill-treated in similar manner, stripped and ordered to go back to North Macedonia. Several testimonies were collected by MYLA in North Macedonia and CSOs in Serbia and which contain pictures of bruised bodies.<sup>272</sup>

All pushback allegations are further supported by Serbian officials who continuously publicly present 'the positive results' of Serbian border authorities as they successfully combat 'illegal entries' from neighbouring states.<sup>273</sup> In June 2020, it was published in the media that up to June 2020, 532 migrants had been prevented from 'illegally' crossing the border.<sup>274</sup> In a report by the Ombudsman, it was stated that in 2020, 14,390 people gave up trying to illegally enter Serbia from North Macedonia after they spotted border police forces.<sup>275</sup> This part of the Ombudsman's report contradicts the Ombudsman's own findings based on the above-cited testimonies compiled in the same document.

Klikaktiv reported in October 2022 that *'some of the refugees interviewed here [Serbia] stated they had been pushed back by the Serbian police back to North Macedonia, with no physical violence committed during the pushback'*.<sup>276</sup>

Beyond North Macedonia, in the Report on the implementation of the Strategy for Combating Irregular Migration for the period 2018-2020, the Mol outlined the following:

'During 2019, a total of 20,221 people were prevented from attempting to cross the state border illegally, of which 4,990 were caught trying to cross the state border illegally, while 15,231 people gave up after being spotted by the state border security authorities, while in 2020, a total of 38,226

<sup>269</sup> AIDA, *Country Report: Serbia – Update on the year 2018*, March 2019, available [here](#), 16.

<sup>270</sup> APC, *Migracije na jugu Srbije*, 29 December 2021, available at: <https://bit.ly/33xTxHm>, 2.

<sup>271</sup> IDEAS internal report, 16/17 February 2024 and WhatsApp correspondence from 16 February 2024.

<sup>272</sup> Guardian, *Videos show migrants stripped of clothing in freezing temperatures at Serbian border*, 22 February 2024, available at: <https://bit.ly/3XIsPFG>.

<sup>273</sup> AIDA, *Country Report: Serbia – Update on the year 2018*, March 2019, available [here](#), 16-18 and AIDA, *Country Report: Serbia, Update on the year 2019*, May 2020, available [here](#), 20-21.

<sup>274</sup> Blic, *Migranti i među lubenicama: carinici otkrili 532 "ilegalca", samo juče sprečeno 45 da uđe u Srbiju*, 18 June 2020, available in Serbian at: <https://bit.ly/3Hlly1f> [accessed on 10 January 2021].

<sup>275</sup> Ombudsman, Serbia: National Report on the situation of human rights of migrants at the borders, ENNHRI, July 2021, available [here](#), 21.

<sup>276</sup> Klikaktiv, *The Third Quarterly Report in 2022 (July-August-September)*, available at: <https://bit.ly/3Ld2pFU>, 15.

persons were prevented, of which 22,572 were directly prevented from attempting to cross the state border illegally, while 15,654 were the results of preventive action by the state border security authorities.<sup>277</sup>

On 15 December 2022, president of Serbia Aleksandar Vucic outlined that, in 2022, a total of 45,965 illegal entries from North Macedonia were prevented.<sup>278</sup> He did not disclose such numbers in relation to arrivals from Bulgaria.

Once again, it remains unclear what the following terms mean: 'prevented from attempting to cross the state border', 'were caught while trying to cross the state border', 'gave up after being spotted', 'directly prevented from attempting to cross' and 'results of preventive action.' What is clear is that these people are not issued a decision on refusal of entry,<sup>279</sup> which is the formal way to prevent someone from unlawfully entering Serbia.

**Number of persons prevented from 'illegally crossing the border' (data extracted from the statements of the state officials and official reports of the Mol)**

Year	Number of persons denied access to the territory
2016	(at least) 18,000 <sup>280</sup>
2017	(at least) 21,000 <sup>281</sup>
2018	(at least) 23,000 <sup>282</sup>
2019	20,221 <sup>283</sup>
2020	38,226 <sup>284</sup>
2021	14,806
2022	45,965 (until 15 December 2022 from North Macedonia)
2023	37,403
2024	14,080
<b>Total</b>	<b>(at least) 232,701</b>

<sup>277</sup> Mol, *Извештај о спровођењу Стратегије супротстављања ирегуларним миграцијама за период 2018-2020. година*, June 2021, available in Serbian at: <https://bit.ly/3Dtss4r>, 10.

<sup>278</sup> YouTube, Вучић: Предузимамо важне мере за сигурност наших грађана, 15 December 2022, available at: <http://bit.ly/3l6xtwi>.

<sup>279</sup> Article 15 Foreigners Act.

<sup>280</sup> Danas, *Migrants unhappy with conditions of life*, 27 December 2016, available in Serbian at: <http://bit.ly/2koDcN7>.

<sup>281</sup> Alo, *Da nije vojske i policije - Vulin: Sad bi bilo u Srbiji 20.000 migranata, zamislite to!*, 22 July 2017, available in Serbian at: <http://bit.ly/2DGDgRx>.

<sup>282</sup> Serbian Army, *Престанак ангажовања Заједничких снага Војске Србије и МУП*, 2 April 2018, available in Serbian at: <https://bit.ly/2EolHol>.

<sup>283</sup> BETA, *MUP: Na dnevnom nivou spreči se ilegalni ulazak 2'0 do 50 ilegalnih migranata*, 26 November 2019, available (in Serbian) at: <http://bit.ly/2TdLuYL>.

<sup>284</sup> Danas, *Vučić: There are currently 3,977 migrants in Serbia, last year we prevented more than 38,000 illegal crossings*, 17 June 2021, available (in Serbian) at: <https://bit.ly/3koFNV0> and Ministry of Interior, *Извештај о спровођењу Стратегије супротстављања ирегуларним миграцијама за период 2018-2020. година*, available at: <https://bit.ly/3Dtss4r>, 10.

In this year's response, the MoI delivered the following data:

Reginal Border Centre	Number of prevented 'illegal entries'
North Macedonia	10,487
Bulgaria	3,437
Hungary	8
Bosnia and Hercegovina	58
Croatia	45
BPS Belgrade (Belgrade airport)	89
Romania	28
Montenegro	20
BPS Kraljevo (Kraljevo airport)	6
BPS Niš (Niš airport)	1
<b>Total</b>	<b>14,179</b>

Source: Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

To conclude, it is clear that denial of access to the territory represents the State policy which has remained unchanged in 2024. This practice is most prominent at the borders with North Macedonia (10,487) and Bulgaria (3,437), but from the MoI response it can be seen that in addition to the refusal of entry practice as a form of forcible removal governed by the Foreigners Act, there is the practice of informal returns, outside the scope of Foreigners Act is applied at airports.

### International and judicial reactions

Thus, although reports of collective expulsions to North Macedonia and Bulgaria have been decreasing in the past several years, data published by the highest state authorities (MoI, but also the Ombudsman) indicate that pushbacks are still a reality. This was confirmed in the decision of the Constitutional Court of Serbia, as well as in findings of the CAT in its latest Concluding Observations, but also findings of the HRC from the end of 2024.<sup>285</sup> This data represents a continuation of the previous findings of relevant CSOs and international bodies for the protection of human rights and can be considered as evidence that collective expulsions are widespread and systematic.

The practice of pushbacks has been criticised by the UN Human Rights Committee already back in 2017 when it expressed its concerns related to 'collective and violent' denial of access to territory.<sup>286</sup> These concerns have also been shared by the CAT<sup>287</sup> and Amnesty International,<sup>288</sup> while UNHCR had reported this problem for the first time in 2012.<sup>289</sup> In 2015, the CAT recommended that Serbia establish 'formalised border monitoring mechanisms, in cooperation with the Office of the United Nations High Commissioner for Refugees and civil society organisations.'<sup>290</sup> To date, Serbia has failed to establish an independent border monitoring mechanism. The CAT reiterated its recommendation in 2021 and urged Serbia to:

<sup>285</sup> HRC, *Concluding observations on the fourth periodic report of Serbia\**, 3 May 2024, CCPR/C/SRB/CO/4, available at: <https://bit.ly/3XFyRT>, paras. 32-33.

<sup>286</sup> HRC, *Concluding observations on the third periodic report of Serbia\**, 10 April 2017, CCPR/C/SRB/CO/3, available at: <https://bit.ly/46njRy9>, para. 32,

<sup>287</sup> CAT, *Concluding observations on the second periodic report of Serbia*, 3 June 2015, CAT/C/SRB/CO/2\*, para 15, available at: <https://bit.ly/3uj15La>.

<sup>288</sup> Amnesty International, *Europe's Borderlands: Violations against refugees and migrants in Macedonia, Serbia and Hungary*, July 2015, available at: <https://bit.ly/1dLK66T>, pp. 31-34.

<sup>289</sup> UNHCR, *Serbia as country of asylum*, August 2012, available at: <https://bit.ly/2SevotT>, para 13.

<sup>290</sup> CAT, *Concluding observations on the second periodic report of Serbia*, 3 June 2015, CAT/C/SRB/CO/2\*, para 15, available at: <https://bit.ly/3uj15La>.

'Introduce a border monitoring mechanism that includes representatives of independent entities, such as international Organisations and civil society with expertise in international refugee law and international human rights law, to ensure that border authorities are acting in line with the principle of *non-refoulement* and the prohibition of collective expulsion, as well as for the purpose of collecting accurate data'.<sup>291</sup>

Similar findings were outlined in 2024 Concluding observations of the HCR:

'[...] 32. [...] the Committee is concerned by reports of failures to ensure effective access to asylum procedures, including: alleged pushbacks and ill-treatment at land borders; failure to provide access to asylum procedures for persons refused entry at international airports and their subsequent *de facto* detention in airport transit zones;

[...] (d) All relevant officials, including border guards, receive adequate training on international standards, including the principle of *non-refoulement*, and that all allegations of pushbacks and ill-treatment are promptly, thoroughly and independently investigated and perpetrators, if found guilty, are punished appropriately';<sup>292</sup>

In 2021, the Constitutional Court (CC) confirmed that illegal border practices have been a state practice.<sup>293</sup> This decision is the first official recognition that relevant State authorities denied access to the territory and asylum procedure and carried out collective expulsions.<sup>294</sup> On 29 December 2020, the CC adopted the constitutional appeal submitted by 17 refugees from Afghanistan who complained to have been collectively expelled to **Bulgaria** in February 2017.<sup>295</sup> The case concerned the forcible removal of 25 Afghan refugees (including 9 children) who entered Serbia from Bulgaria. The group was arrested by the border police officers and was detained for 12 hours in the basement of the Border Police Station **Gradina** in inhumane and degrading conditions.<sup>296</sup> Later on, they were taken to the misdemeanour court to face trial for illegal entry on Serbian territory. An acting judge dropped the charges stating that the defendants were in need of international protection, that they should not be removed to **Bulgaria** due to poor living conditions in reception centres and because 'they might be victims of human trafficking.' The judge ordered the police to issue the applicants with registration certificates and to take them to asylum centres. Right after the trial, and upon being issued asylum certificates, the applicants were put in a truck and, instead of being taken to the camp, were taken to the green border area and collectively expelled to Bulgaria.

The Constitutional Court found that Gradina officers had violated the applicants' right to liberty and security (Article 27 (3) and Article 29 (1) of the Constitution)<sup>297</sup> by denying them the possibility to challenge the lawfulness of their detention with the assistance of a competent legal representative. The Court dismissed the applicants' claim that the material conditions in the basement amounted to inhumane and degrading treatment, stating that a period of 12 hours is not lengthy enough to reach the threshold of Article 25 of the Constitution (Article 3 of ECHR).<sup>298</sup> The Court further found that it is an undisputable fact that the applicants were expelled to **Bulgaria**. By applying the standards established in the ECtHR

<sup>291</sup> CAT, *Concluding observations on the third periodic report of Serbia\**, 20 December 2021, CAT/C/SRB/CO/3, available at: <https://bit.ly/3vd0s4r>, para. 34.

<sup>292</sup> HRC, *Concluding observations on the fourth periodic report of Serbia\**, 3 May 2024, CCPR/C/SRB/CO/4, available at: <https://bit.ly/3XFyfRT>, paras. 32-33.

<sup>293</sup> Constitutional Court, Decision No. UŽ 1823/2017, Decision of 29 December 2020, EDAL, available at: <http://bit.ly/2YJXJhi>.

<sup>294</sup> AIDA, *Country Report: Serbia, Update on the year 2019*, May 2020, available [here](#), 21.

<sup>295</sup> Constitutional Court, Decision No. UŽ 1823/2017, Decision of 29 December 2020, EDAL, available at: <http://bit.ly/2YJXJhi>.

<sup>296</sup> DW, *Serbia: Court confirms illegal pushbacks into the EU*, 22 January 2021, available at: <http://bit.ly/3699fH8>.

<sup>297</sup> Which corresponds to Article 5 (4) of ECHR.

<sup>298</sup> Which will be further examined by the ECtHR, *O.H. and Others v. Serbia*, Application No. 57185/17, 1 August 2017, available at: <https://bit.ly/3JyPhXo>.

jurisprudence in *Čonka*,<sup>299</sup> *Hirsi Jamaa*<sup>300</sup> and *Georgia v. Russia*,<sup>301</sup> the Court determined that the applicants were expelled to Bulgaria outside any legal procedure, without examining the individual circumstances of every applicant and without the possibility for them to provide arguments against their expulsion. The Court also awarded EUR 1,000 to each of the applicants.<sup>302</sup>

This case was further appealed to the ECtHR. On 12 July 2021, the ECtHR communicated the case to the Government of Serbia so it could answer on the issues raised by the Court in its questions, related to Article 3, Article 13 read in conjunction with Article 3, Article 4 of Protocol 4, Article 13 read in conjunction with Article 4, Article 5, Article 5 (2) and Article 5 (4).<sup>303</sup> The communication phase was concluded at the end of 2022, and the judgment of the Court is pending.

On 14 June 2021, another case referring to informal expulsions to North Macedonia and then further to Greece was communicated to the Governments of Serbia and North Macedonia (*A.H. v. Serbia and North Macedonia*, and *A.H. v. Serbia*). The case concerns a Sudanese applicant who attempted to seek international protection in Serbia. Instead of being registered, he was allegedly subject to several summary removals to North Macedonia by the authorities of Serbia and to Greece by the authorities of North Macedonia, respectively. A formal removal decision was never issued. The case refers to Article 3 and Article 13 read in conjunction with Article 3 in terms of the risk assessment of *refoulement* and *chain-refoulement*.<sup>304</sup>

#### 1.4 Pushbacks towards Serbia and their consequences

Wide-spread pushbacks towards Serbia have been documented along the green border between with **Bosnia, Croatia, Hungary and Romania**, where refugees and asylum seekers are systematically denied access to the territory and the asylum procedure, and are often subjected to various forms of ill-treatment, some of which might amount to torture.<sup>305</sup>

This state of affairs indicates that Serbia's geographical position puts the country in a difficult situation. Namely, the Serbian asylum system cannot be considered as fair and effective, and thus, it is not attractive to refugees and asylum seekers.<sup>306</sup> For that reason, most persons in need of international protection who arrive to Serbia strive to leave to one of the three neighbouring States which form the so-called external borders of the EU – Romania, Hungary and Croatia. One of the exit routes is also towards Bosnia and Herzegovina.

The will to reach an EU country implied in the past that refugees, asylum seekers and migrants were staying in border areas, in one of six Reception Centres or in one of the over 20 informal settlements which used established in abandoned facilities or tent settlements formed in forests and fields.<sup>307</sup> Apart from food, water and a roof over their heads, refugees, asylum seekers and migrants in reception centres were faced with conditions that can only be described as inhumane and degrading due to overcrowding, lack of privacy, poor hygiene, insecurity and others. Even more appalling conditions were registered in

<sup>299</sup> ECtHR, *Čonka v. Belgium*, Application no 51564/99, Judgment of 5 February 2002, available at: <http://bit.ly/2YJEZ1y>.

<sup>300</sup> ECtHR, *Hirsi Jamaa and Others v. Italy*, Application no 27765/09, Judgment of 23 February 2012 [GC], EDAL, available at: <http://bit.ly/2R5G6Em>.

<sup>301</sup> ECtHR, *Georgia v Russia*, Application no 13255/07, Judgment of 3 July 2014, EDAL, available at: <https://bit.ly/49BWp3b>.

<sup>302</sup> Insajder, *Odluka Ustavnog suda potvrda da se migranti proteruju iz Srbije*, 22 January 2021, available in Serbian at: <http://bit.ly/39Wgl2U> [accessed on 24 January 2021].

<sup>303</sup> ECtHR, *O.H. and Others v. Serbia*, Application No. 57185/17, 1 August 2017, available at: <https://bit.ly/3JyPhXo>.

<sup>304</sup> ECtHR, *A.H. v. Serbia and North Macedonia*, and *A.H. v. Serbia*, Application Nos. 60417/16 79749/16, 19 October and 27 December 2016 respectively, available at: <https://bit.ly/3oVp8dz>. The case is litigated by Ms. Olga Đurović, attorney at law from Asylum Protection Center.

<sup>305</sup> Nikola Kovačević, *Documenting ill-treatment and collective expulsions of refugees and migrants, January 2019*, IAN, available at: <https://bit.ly/2T8kEI5>.

<sup>306</sup> European Commission, *Serbia: Progress Report*, SWD(2022) 338 final 12 October 2022, available at: <https://bit.ly/3LedaYB>, 48.

<sup>307</sup> Klikaktiv, *From migration to criminalization - growing oppressive treatment against people on the move in Serbia, Annual report for the year 2023*, May 2024, available at: <https://bit.ly/3VGpzYH>, 19.



the informal settlements where there is no access to the most basic needs, especially during the hot summer or cold winter days. According to the APC, between 2,000 and 3,000 refugees and migrants were residing in informal settlements every day in 2021.<sup>308</sup> In 2022, Klikaktiv and BVMN regularly reported on the appalling conditions which people on the move experience.<sup>309</sup> The same reports were published in relation to 2023, where Klikaktiv reported:

'In 2023, the Klikaktiv team visited 33 squats out of 42 squats which were identified through the Klikaktiv's work from 2019 until the end of 2023. The number of new squats alongside the border area continued to increase, having in mind that at the end of 2022 Klikaktiv had identified 31 squats in total. The squats that Klikaktiv visited in 2023 have accommodated on average 100 people on the move at all times: in some squats there can be from 30 to up to 600 refugees and migrants. People on the move in the squats tend to group themselves along the lines of nationality, both by location (so one can find a squat with just Afghan or just Syrian refugees) or within the same squat (such as an abandoned factory near Subotica, in the vicinity of border with Hungary where our team spoke with people on the move from: Morocco, Tunisia, Afghanistan, Pakistan, India, Syria, Iraq, Egypt and others).'<sup>310</sup>

In 2024, the situation significantly changed due to the fact that almost all reception facilities were closed at the end of 2023, meaning that persons pushed back from EU countries to Serbia cannot find official shelters (see more in [Reception Conditions](#)).

Thus, illegal border practices enacted by neighbouring countries are not only contentious from the perspective of domestic laws and international standards but also disregard Serbia's lack of capacity to accommodate victims of pushbacks in a manner which respects their physical and mental integrity. Serbia does not have the capacity to address basic needs of refugees, asylum seekers and migrants staying in border area, nor does it have the capacity to establish the system which can handle hundreds of informal returns from Romania, Hungary and Croatia outside readmission procedures or any other formal cooperation.

One of the consequences of illegal border policies, very often explained as a 'necessity' in the combat against organised crime, irregular migration, human trafficking and smuggling, was the increased number of operations from organised smuggling groups.<sup>311</sup> The state of affairs on the field indicates the failure of such approach.

In 2022, according to the work of investigative journalist Saša Dragojlo from BIRN, organised smuggling groups comprised refugees and migrants, the local population, but also local police and interpreters like Alen Dayoub Basil, Syrian-Serbian national hired by the police for the purpose of raids and questioning. The report also contains allegations on the involvement of employees of BIA and Military-Security Agency (VBA).<sup>312</sup> A day after BIRN's story about criminal groups was published, armed clash and stabbings happened in the RC Sombor and in areas around the RC between opposed smuggling groups. According to BIRN, organised criminal groups intended to discover journalist sources.<sup>313</sup> Similar incidents occurred in the small town Horgoš, located at the very border with Hungary, when a 20-year-old man was shot from by an automatic weapon (Kalashnikov).<sup>314</sup> The next day, police raids were conducted and the Mol

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<sup>308</sup> APC, *Report on pushbacks on the northern borders of Serbia in 2021*, 8 December 2021, available in Serbi at: <https://bit.ly/3ui6HW5>, 1-4.

<sup>309</sup> See for example BVMN, *Violence Within State Border: Serbia*, 26 September 2022, available at: <https://bit.ly/3Fi3ys6>.

<sup>310</sup> Klikaktiv, *From migration to criminalization - growing oppressive treatment against people on the move in Serbia, Annual report for the year 2023*, May 2024, available at: <https://bit.ly/3VGpzYH>, 19.

<sup>311</sup> Firstost, *LIVE: Austria's Nehammer Briefs Media With Orban, Vucic Following Discussion on Illegal Immigration*, 7 July 2023, available at: <https://bit.ly/3XNbiMy>.

<sup>312</sup> BIRN, *With Police Connections, Serbian-Syrian Translator Turned People-Smuggler*, 22 June 2022, available at: <https://bit.ly/3A9SBqf>.

<sup>313</sup> BIRN, *Shootings, Stabbing Reported Near Serbian Migrant Camp*, 24 June 2022, available at: <https://bit.ly/3l4f17l>.

<sup>314</sup> Infomigrants, *Serbia: Man shot in border town clash between migrants and smugglers*, 28 November 2022, available at: <https://bit.ly/3yAIYR4>.

informed the public that weapons such as guns, automatic rifles and knives were seized.<sup>315</sup> The final outcome of the armed clash was that one person was killed while the other one wounded.

On 19 February 2023, the N1 television published the documentary 'Below the surface – the Network' authored by the investigative journalist Ksenija Pavkov, who covered the work of another smuggling group on the border with Hungary governed by a Moroccan national under the alias of 'the king of Horgoš', Mohamad Tetuania, who metaphorically formed the State of Harabu.<sup>316</sup> The Documentary provides testimonies of the operations of smuggling groups, ill-treatment they inflict on refugees and migrants who are not able to pay for services, the scheme and prices of services, the hierarchy within groups, relationship and distribution of territories among different groups, etc. The testimonies also clearly indicate that RC Sombor and RC Subotica are run by organised smuggling groups in which foreigners have to pay to stay in State-established camps, in which people who do not abide by informal rules are expelled from the camp or physically ill-treated. Also, the Documentary analyses the content of social networks in which these services are publicly offered, and several interviews outlined the link which heads of smuggling groups have with Serbian and Hungarian police. The statements from representatives of local population also imply that armed clashes have been happening on a daily basis but were not publicised.<sup>317</sup>

These, and many other media stories would always trigger reaction from the MoI, which would carry out raids and massive arrests filmed with cameras. These images included hundreds of refugees and migrants kneeling in the fields with their hand behind their head, surrounded with police special forces with balaclavas and automated weapons.<sup>318</sup> This kind of treatment, which undoubtedly amounts to a degrading one, also bore the deeper consequences of presenting refugees and migrants as security threat to the wider public. Thus, in 2022, the actions of the police in north of Serbia undoubtedly incited further animosity towards refugees and migrants who are exclusively portrayed as security threat. The Minister of Police at that time, Aleksandar Vulin, formed 'the special task force for combating crimes committed by migrants'.<sup>319</sup>

All these events, taken cumulatively, further incited actions from right-wing groups such as Citizens Patrols (*Narodne patrola*),<sup>320</sup> Leviathan,<sup>321</sup> but also opposition parties such as Dveri.<sup>322</sup> The Insider TV work has shown that there is not a single criminal case pending against members of these groups for the acts which are based on hate speech, physical attacks and discrimination.<sup>323</sup> The BVMN outlined the following:

'People-on-the-move in Serbia are subjected to violence from far-right groups of civilians within the country. These groups seem to have grown in structure, geographical scope and membership in the past years. This type of non-institutionalized violence can take different forms and intensities. One of them is the rise of anti-migrant messages in public spaces, including posters inside public buses or the increasing appearance of hostile graffiti such as 'Migrants go home', especially around the areas usually inhabited and transited by people-on-the-move. Though more subtle and less immediately dangerous than direct physical violence, these messages contribute to the creation of an even more hostile environment for people-on-the-move in the cities and can further impact the general public's opinion and attitudes. The anti-migrant rhetoric takes a particularly virulent shape on Facebook and other social media platforms, tools that have become integral to the growth and Organisation of these groups all around the world. On Facebook,

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<sup>315</sup> Reuters, *Serbian police find 600 migrants after shootout near Hungarian border*, 28 November 2022, available at: <http://bit.ly/3JBdm2W>.

<sup>316</sup> N1, 'Below the surface – the Network', Ksenija Pavkov, 20 February 2023, available at: <http://bit.ly/3YH2epp>.

<sup>317</sup> *Ibid.*

<sup>318</sup> YouTube, *Ministar Vulin-Subotica akciji usmerena na suzbijanju krivičnih dela i prekršaja koje čine migranti*, 14 July 2022, available at: <https://bit.ly/3TahUjO>.

<sup>319</sup> *Ibid.*

<sup>320</sup> YouTube, *Narodna patrola razgovara sa Ahmedom*, 27 March 2022, available at: <https://bit.ly/3TemAFh>.

<sup>321</sup> YouTube, *Pavle Bihali o odnosu prema migrantima*, 23. November 2020, available at: <http://bit.ly/3T9aoWe>.

<sup>322</sup> YouTube, *Boško Obradović Migranti stvorili autonomnu oblast u AP Vojvodini*, 23 November 2022, available at: <https://bit.ly/427HbPF>.

<sup>323</sup> Insajder, *Postupci u tužilaštvu protiv Narodnih patrola i dalje bez epiloga*, 11 January 2023, available at: <http://bit.ly/3ywQvyT>.



Narodna Patrola ('People's Patrol) and STOP Naseljavanju migranata ('STOP Settlement of migrants'), constitute two of the biggest groups each with daily posts and 1,700 and 318,100 followers, respectively. Outside of the online sphere, and as their name suggests, Narodna Patrola has become increasingly well-known for organizing patrolling vigilante groups in a growing number of cities in the country.<sup>324</sup>

In June and October 2023, more shootings were reported in the vicinity of Horgoš town. In an armed fight in October 2023 3 persons were killed and one was wounded. All of them were foreign nationals who allegedly belonged to organised criminal groups involved in smuggling.<sup>325</sup> The reports from Saša Dragojlo continued, indicating that organised criminal groups were supplied with rifles by Albanian criminal clans.<sup>326</sup> The article shows pictures of armed persons from Morocco, Afghanistan and how they pose and smile, including in front but also on the top of Serbian Border Police vehicles, corroborating further suspicions that at least members of border police were involved in illegal activities revolving around smuggling. In January 2024, it was reported that Alen Dayoub Basil was deprived of his liberty and charged with numerous criminal offences including human smuggling.<sup>327</sup> These investigative journalism articles also clearly indicate that there could be a strong link between transnational criminal groups involved in smuggling and other illegal activities with some parts of Serbian authorities, but to the date of the conclusion of this Report relevant prosecutorial authorities have remained silent.<sup>328</sup>

After the October shootings, the police facilitated actions in which hundreds of refugees and migrants were deprived of their liberty and persecuted for the misdemeanour of illegal entry or illegal stay on Serbian soil.<sup>329</sup> Most of them were sentenced to short terms prison sentences (between 10 and 30 days) and transferred to penitentiary institutions all around Serbia. Also, all reception facilities were closed for several weeks, depriving in that way all foreign nationals who were not asylum seekers of their liberty.<sup>330</sup> The regime to which they were subjected is reminiscent of the regime introduced during the COVID-19 lockdown when people were deprived of their liberty without individual and reasoned decision against which they can lodge remedy to the judicial body and where they were deprived of the possibility to access legal aid.<sup>331</sup> CSOs in Serbia have received higher number of distress calls from families of people who were apprehended and were missing from several days to several weeks - serving their prison sentence or being detained in one of the reception facilities.<sup>332</sup> This form of behaviour can only be described as arbitrary and contrary to the right to liberty and security.<sup>333</sup>

Eventually, RCs in Principovci, Adaševci, Kikinda, Sombor and Subotica were closed, and they remained closed as of February 2025.<sup>334</sup>

In 2023, Serbian police organised frequent transfers of people staying in appalling conditions in border areas to the Reception Centre in Preševo, especially during the winter times,<sup>335</sup> but also in summer times after the above-described incidents. Again, many of these transfers were described as violent, degrading,

<sup>324</sup> BVMN, *Violence within State Border: Serbia*, available at: <https://bit.ly/4eMnfZ6>.

<sup>325</sup> RSE, *Uhapšena šestorica migranata posle pucnjave u Horgošu*, 27 October 2023, available at: <https://bit.ly/45Orhfo>.

<sup>326</sup> BIRN, *Albanian-Supplied AKs Fuel Violence on Refugee Route through Serbia*, 4 September 2023, available at: <https://bit.ly/45OrC1E>.

<sup>327</sup> BIRN, *Serbian Police Translator, Named in BIRN Report, Held for People-Smuggling*, 16 January 2024, available at: <https://bit.ly/45KhqXO>.

<sup>328</sup> *Ibid.*

<sup>329</sup> Practice-informed observation of IDEAS, January 2024.

<sup>330</sup> Practice-informed observation of IDEAS, January 2024.

<sup>331</sup> See more in IDA, *Country Report: Serbia – Update on the year 2020*, March 2021, available [here](#), 122-126.

<sup>332</sup> Klikaktiv, *From migration to criminalization - growing oppressive treatment against people on the move in Serbia, Annual report for the year 2023*, May 2024, available at: <https://bit.ly/3VGpzYH>, 20-21.

<sup>333</sup> *Ibid.*, 9-10.

<sup>334</sup> The number of residents in the enlisted reception facilities was zero in the second half of December, information provided by the UNHCR office in Serbia, but see also BVMN, *Illegla pushback and border violence reports*, period December 2023-January 2024, available at: <https://bit.ly/3VP538v>, 21-23.

<sup>335</sup> Večernje Novosti, *МИГРАНТИ ПРЕБАЧЕНИ СА СЕБЕРА НА ЈУГ: Више од 300 избеглица транспортовано из Сомбора у Прешево*, 4 February 2021, available at: <https://bit.ly/36ql0uF>; see also, Tweet from APC, available at: <https://bit.ly/36k5v8x>.

and ineffective. These locations are far from the EU external borders, which means that people typically come back to the same locations from which they were removed.

In 2023 Klikaktiv reported:

'The actions of the police from the end of October are not a new thing, they show a well known pattern in which the government of Serbia managed the response to armed conflicts between organised criminal groups of smugglers: responding with mass police raids of all people on the move indiscriminately, with populist media coverage and anti-migrant statements from high-ranking officials. What has changed compared to some previous periods is the expansion of the scope of action, from the northern and eastern borders and the area of Pirot, and the duration of these actions, which have been extended until the end of 2023, to a greater or lesser extent. During police raids, all refugees found in squats were transferred to some of the reception centers within the country.'<sup>336</sup>

In October 2023, BVMN outlined the following:

'This month, the situation for people on the move in Northern Serbia has become increasingly difficult. On October 28th, the Serbian Minister of the Interior, Bratislav Gašić, held a press conference announcing a sweeping military and policing campaign focusing on Northern Serbia. This so-called 'special operation' brings together police units from Serbia and Hungary, and includes the involvement of heavily armed Serbian Gendarmerie special military units. During the televised press conference, Gašić stated that the special operation will not stop 'until the last perpetrator of any criminal act, causing any incidents, shootings and everything, is removed from the territory of Subotica, Kikinda, and Sombor.' The public facing reason for the special operation was a shooting that took place on October 27th in the area of Horgoš resulting in the deaths of three people. The shooting is reported to have occurred between rival smuggling groups - there have been multiple shootings in the past few months, the previous deadly one in the area reported a month prior. This recent event has been heavily utilised by the Serbian Government to carry out actions against people on the move. The upcoming elections can be understood as another motive for this special operation. Serbian president Aleksandar Vučić set up a snap parliamentary election for December 17th, 2023, the third such vote in Serbia in the past four years. With the idea to re-consolidate power in the wake of the formation of the 'Serbia against Violence' alliance - stemming from the movement in response to a pair of deadly school shootings in May, in Belgrade. It is inferred that the policing actions in the north are part of the PR for Vučić's SNS party campaign, aligning with rhetoric across local and national news which frequently describe all displaced people in Serbia as being part of violent criminal groups. Within the special operation, people were forcibly removed from temporary informal living sites and transferred to official reception and transit centers (RTC's), which are under the control of the Commissariat for Refugees and Migration. The conditions of Serbia's RTC's are well documented to be commonly overcrowded, unsanitary and well below the standards reported within the joint UNHCR and Serbia's Commissariat for Refugees monthly site profiles. Since the announcement of the special operation, all known temporary informal living sites were repeatedly and violently evicted. Despite involving multiple violations of rights, this style of eviction is not rare along the northern border - as detailed in the October 2023 Balkan Regional Report. However, what is new within the special policing operation is the frequency and effectiveness of evictions.'<sup>337</sup>

All of the above-described actions have led to the situation in which people on the move take more dangerous ways to cross borders to neighbouring countries, being crammed in back of the vans or trucks or crossing the rivers during the night. There were two serious traffic accidents recorded in February and

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<sup>336</sup> Klikaktiv, *From migration to criminalization - growing oppressive treatment against people on the move in Serbia, Annual report for the year 2023*, May 2024, available at: <https://bit.ly/3VGpzYH>, 9.

<sup>337</sup> BVMN, *Illegal pushback and border violence reports*, November 2023, available at: <https://bit.ly/3TRdfnwpp>, 6-7.

July 2024. In the first one, 3 people died,<sup>338</sup> while in the other one many passengers were seriously injured.<sup>339</sup> The most tragic incident occurred in August 2024 when at least 10 unaccompanied boys drowned in Drina river trying to cross to Bosnia and Herzegovina.<sup>340</sup>

In 2022, the UNHCR collected testimonies on 5,554 persons who claimed to be pushed back to Serbia – BiH (2), Croatia (297), Hungary (3,929) and Romania (1,326). In 2023, this number decreased to 1,730: Hungary (1,596), Croatia (60), Bosnia Herzegovina (48) and Romania (26). In 2024, UNHCR has stopped to record and publish this kind of data.<sup>341</sup>

Klikaktiv reported the following:

'Out of 8,438 Klikaktiv's beneficiaries throughout the year 2023, 1,622 of them reported to be pushed-back at least once. Most of the push-backs were happening from the Hungarian territory back to the Serbian territory, since this was the most active border in 2023. However, people on the move continued reporting push-backs from the Croatian border and to a smaller extent also the push-backs from the Romanian border. Most of those push-backs involved severe forms of physical and psychological violence (beatings with police batons, kicks while wearing heavy police boots, slaps, dog bites, different forms of humiliation, curses, etc.). People on the move were never able to apply for asylum, even when they expressed their intention to seek asylum and were in need of international protection.'<sup>342</sup>

Additional information on push-back practices to Serbia can be found in the other AIDA country reports on [Croatia](#), [Hungary](#) and [Romania](#).

#### 1.4.1 Pushbacks from Hungary to Serbia and Embassy Procedure

Since the contentious changes in the Hungarian legal framework in the period 2015-2020,<sup>343</sup> including the legalisation of a practice which is considered to be in violation of the prohibition of collective expulsions, the Hungarian authorities have reported that 388,753 refugees, asylum seekers and migrants were expelled back to Serbia. Due to such practice, but also Hungary's failure to comply with a judgement of the Court of Justice of the European Union (CJEU),<sup>344</sup> FRONTEX suspended its operational activities in Hungary.<sup>345</sup> Moreover and due to the failure to comply with the judgment, Hungary was ordered to pay a lump sum of 200 million euros and a penalty payment of 1 million euros per day of delay for failure to comply with the CJEU judgment.<sup>346</sup>

In 2020, BVMN published 3 testimonies encompassing 30 people who were pushed back from **Hungary to Serbia**.<sup>347</sup> This number significantly increased in 2021 amounting to 30 documented pushback cases encompassing 347 persons. Only in 5 out of 30 cases allegations of violence were not reported, while in the other 25 cases the following forms of ill-treatment by the Hungarian authorities were outlined: kicks, slaps, punches, hitting with police buttons, forcing to undress, handcuffing in painful positions, arbitrary detention, pushing to the ground, forcing to lie or sit on the ground, dog attacks, insulting, threatening, pepper

<sup>338</sup> Radio Slobodna Evropa, *Troje migranata poginulo u teškom udesu na jugu Srbije*, 20 February 2024, available at: <https://www.slobodnaevropa.org/a/srbija-nesreca-migranti/32827372.html>.

<sup>339</sup> Blic, *HAOS NA PUTU KOD BELE PALANKE Prevrnuo se kombi pun migranata, svi povređeni zbrinuti*, 26 July 2024, available at: <https://www.blic.rs/vesti/hronika/saobracajna-nesreca-kod-bele-palanke-prevrnuo-se-kombi-sa-migrantima-svi-povredjeni/7wb80mx>.

<sup>340</sup> BBC, *Najmanje 10 migranata se utopilo u Drini, među njima i beba*, 22 August 2024, available at: <https://www.bbc.com/serbian/lat/srbija-69287751>.

<sup>341</sup> See AIDA, *Country report: Serbia, 2022 and 2023 Update*.

<sup>342</sup> Klikaktiv, *From migration to criminalization - growing oppressive treatment against people on the move in Serbia, Annual report for the year 2023*, May 2024, available at: <https://bit.ly/3VGpzYH>, 12.

<sup>343</sup> See AIDA, *Country report: Hungary, Updates on the years 2016-2020*, available [here](#).

<sup>344</sup> CJEU, Case C-808/18, 17 December 2020, available at: <https://bit.ly/3MNe8uR>.

<sup>345</sup> FRA, *Migration: Key fundamental rights concerns*, Bulletin 2 for 2021, available at: <https://bit.ly/3BwONyt>, 6.

<sup>346</sup> CJEU, *Asylum policy: Hungary is ordered to pay a lump sum of 200 million euros and a penalty payment of 1 million euros per day of delay for failure to comply with a judgment of the Court of Justice*, press release, 13 June 2024, available at: <https://bit.ly/45KWPCG>.

<sup>347</sup> The testimonies are available at: <https://borderviolence.eu/testimonies/>.

spraying, etc.<sup>348</sup> The same trend continued in 2022, when BVMN compiled 77 reports encompassing 1,337 persons who were pushed back from Hungary.<sup>349</sup> In 2023, BVMB compiled 36 reports containing testimonies related to violent pushbacks of 613 persons on the move.<sup>350</sup> In 2024, BVMN collected 4 testimonies which were related to 64 persons from Syria, Afghanistan, Iraq, Pakistan and other countries, and which implied different forms of physical ill-treatment.<sup>351</sup>

Particularly worrying examples of push-back practices from Hungary to Serbia are related to individuals who had never been in Serbia beforehand. There are probably dozens of cases of foreigners subjected to such practice. The first such case was recorded in 2016.<sup>352</sup> In April 2021, an SGBV survivor who arrived from Senegal to Budapest airport was expelled to Serbia.<sup>353</sup> In September 2021, an Afghan student in Hungary was expelled to Serbia.<sup>354</sup> On 31 December 2021, a woman from Cameroon who was traveling from Romania towards Austria was apprehended by Hungarian immigration authorities and expelled to Serbia. In February 2022, she obtained the status of victim of human trafficking in Serbia.<sup>355</sup> One such case resulted in Hungary being found responsible by the Strasbourg Court for expelling to Serbia a Kurdish UASC who was expelled from Austria to Hungary and then by Hungarian authorities to Serbia, even though he had never been in Serbia before.<sup>356</sup>

It is worth to note that, since 2020, access to the territory and the asylum procedure in **Hungary** was made possible only through a consulate in **Belgrade**.<sup>357</sup> The new procedure in practice implies that persons in need of international protection have to send an email and schedule an appointment at the Consulate and wait to be summoned in order to submit the Declaration of Intent for Lodging an Application on Asylum ('Dol').<sup>358</sup> The new procedure is described in detail in the AIDA report on **Hungary**. According to the data obtained by IDEAS, several hundred applicants (individuals and families) have sent an email to the Consulate asking for an appointment. Only few received the response stating that they are included on the list, and even less were invited to the Consulate premises to lodge the Dol. So far, only 3 families from Iran (12 persons in total) have entered Hungary.<sup>359</sup> IDEAS and InfoPark have been providing technical assistance to the foreigners interested in applying for asylum in Hungary. The problems that were detected are the following:

1. Dol forms are in English, which represents a serious obstacle for most of the applicants
2. filling out of the Dol forms requires at least basic knowledge of refugee and asylum law
3. many of the applicants do not know how to use emails and how to communicate with the Consulate in order to schedule the Dol appointment or to lodge the Dol submission
4. the communication with the Consulate is in English and most of the applicants do not understand this language
5. several applicants have failed to appear at the scheduled meeting since they did not understand the message received *via* email from Consulate or because they did not know how to use an email
6. there is no clear criterion on the basis of which an applicant will be invited to submit the Dol as opposed to another, which creates distress and conflicts among applicants who are aware of each other's applications

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<sup>348</sup> BVMN, Testimony Database, available at: <https://bit.ly/3Jvmhjs>.

<sup>349</sup> *Ibid.*

<sup>350</sup> BVMN, Testimonies, 1 January 2023-31 December 2023, available at: <https://bit.ly/3QldJg1>.

<sup>351</sup> BVMN, Testimonies, 1 January 2024-31 December 2024, available at <https://borderviolence.eu/testimonies/HHC>, *World Refugee Day – 1 out of 40,000: Karox*, 20 June 2020, available at: <https://bit.ly/3h2z0Oe>.

<sup>352</sup> BCHR, *Mađarska - ovde se ne traži azil*, 16 November 2021, available at: <https://bit.ly/3JDXSbj>.

<sup>353</sup> Telex, He had never been to Serbia in his life, he did not know anyone there, and yet he was pushed-back there, 30 September 2021, available at: <https://bit.ly/3l83gmN>.

<sup>354</sup> The author of this Report acts as her legal representative.

<sup>355</sup> ECtHR, *K.P. v. Hungary*, Application No. 82479/17, Judgment of 18 January 2024, available at: <https://bit.ly/4dfbjOS>.

<sup>356</sup> ECRE, *Hungary: New Law on the Lodging of Asylum Applications at Embassies*, 19 June 2020, available at: <http://bit.ly/2MRn0mX>.

<sup>357</sup> Available at: <https://bit.ly/3jiyD2h>.

<sup>358</sup> See AIDA, *Country report: Hungary*, 2024 Update, available at [https://asylumineurope.org/wp-content/uploads/2025/05/AIDA-HU\\_2024-Update.pdf](https://asylumineurope.org/wp-content/uploads/2025/05/AIDA-HU_2024-Update.pdf), p. 9.

7. persons who are informed that they are rejected are not advised that they are entitled to lodge an appeal and are not familiar with the Hungarian legal framework governing the appeal stage, neither are Serbian lawyers
8. applicants who are rejected are not legally competent to legally challenge the negative decision/response of the Consulate

Additional issues on the new procedure are documented in the AIDA report on [Hungary](#). To conclude, persons interested in submitting the DoI at the Hungarian consulate do not have effective access to the asylum procedure, and it is clear that this mechanism has showed to be close to impossible to activate in practice, as attested by the fact that only three families from Iran who were allowed to access Hungarian territory. Many people who sent an email to the Consulate are without any legal status but are allowed to reside in the asylum or reception centres. They are in the same situation as thousands of other foreigners who do not enjoy any legal status and whose stay in Serbia is tolerated.

In June 2025, the ECtHR rendered a judgment in which it declared the above-described Embassy Procedure as a non-effective means of legal entry, and concluded that the expulsion of three citizens of Afghanistan to Serbia constituted a violation of the prohibition of collective expulsions. The ECtHR also found that the failure to examine the access to adequate asylum procedure in Serbia constituted violation of the procedural limb of Article 3 ECHR.<sup>360</sup>

Finally, it is important to outline that the above-described practice of automatic expulsions to Serbia was declared contrary to Article 4 of Protocol 4 of the ECHR in the case of *Shahzad v. Hungary*.<sup>361</sup> The ECtHR outlined that the Hungarian authorities removed the applicant without identifying him and examining his situation and that he was denied effective access to means of legal entry, which amounted to an expulsion of collective nature contrary to Article 4 of Protocol 4.<sup>362</sup> An identical Judgment as *Shahzad* was rendered in the case of *H.K. v. Hungary*.<sup>363</sup> Also, three more applications lodged against Hungary were upheld by the court in the case of *W.A. and Others v. Hungary*, where three Syrian refugees were expelled back to Serbia on the basis of the automatic application of the safe third country.<sup>364</sup> In October 2023, another judgment of the Strasbourg Court found a violation of the Article 4 of Protocol 4, but also of the procedural limb of Article 3 of ECHR,<sup>365</sup> while in September 2024, the Court again found violation of Article 4 of Protocol 4 to the ECHR.<sup>366</sup>

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<sup>360</sup> ECtHR, *H.Q. and Others v. Hungary*, Application Nos. 46084/21 40185/22 53952/22, Judgment of 24 June 2025, available at: <https://hudoc.echr.coe.int/eng?i=001-243779>.

<sup>361</sup> ECtHR, *Shahzad v. Hungary*, Application No. 12625/17, Judgment of 8 July 2021, available at: <https://bit.ly/3BwQH1U>.

<sup>362</sup> *Ibid.*, para. 67.

<sup>363</sup> ECtHR, *H.K. v. Hungary*, Application No. 18531/17, Judgment of 22 September 2022, available at: <http://bit.ly/3LhVaMI>.

<sup>364</sup> ECtHR, *W.A. and Others v. Hungary*, Applications Nos. 64050/16 64558/16 and 66064/16, Judgment of 15 December 2022, available at: <http://bit.ly/427BS2z>.

<sup>365</sup> *S.S. and Others v. Hungary*, Application Nos. 56417/19 44245/20, Judgment of 12 October 2023, available at: <https://bit.ly/4fAyrbK>.

<sup>366</sup> ECtHR, *M.D. and Others v. Hungary*, Application No. 60778/19, Judgment of 19 September 2024, available at: <https://hudoc.echr.coe.int/?i=001-236076>.



Official statistics on pushbacks from Hungary to Serbia 2016-2024	
Year	Number of people pushed back
2016	8,466
2017	9,259
2018	4,151
2019	11,101
2020	25,603
2021	71,470
2022	158,565
2023	100,138
2024	5,713
<b>Total</b>	<b>394,466</b>

Source: Hungarian Ministry of Interior official data.

As showcased by the table above, the Hungarian immigration authorities have been transparent about the number of persons expelled back to Serbia under their domestic framework, outside of any readmission procedure, and without the knowledge of Serbian border authorities. According to the data delivered by the Mol, only 6 foreigners were officially readmitted from Hungary to Serbia in 2023 while in 2024 this number was 5 (see [Hindering of access through legal ways – Readmission](#)).

#### 1.4.2 Pushbacks from Romania to Serbia

Due to increasing violence at the Croatian border and taking into consideration that the Hungarian barbed wire fence carries significant risks to the life and physical integrity of people, in 2018, refugees and migrants started to use the Romanian border route. According to the UNHCR, the number of pushbacks from this country have been increasing gradually, from at least 700 persons in 2018, to 1,857 in 2019 and then 13,459 in 2020. In 2021, the number of people who reported pushbacks from Romania was at least 8,206, while that number in 2022 dropped to 1,326. In 2023, UNHCR reported only 26 pushbacks from Romania. No such cases were reported in 2024.

In 2021, Frontex initiated a joint operation with the Romanian Border Police aimed at preventing and combating irregular migration at the EU border with Serbia.<sup>367</sup> Moreover, the European Commission reported that:

'Based on the Police Cooperation Convention for Southeast Europe (PCC SEE), the Ministry of the Interior [of Serbia) established a cooperation with all neighbouring countries. Joint patrols with neighbouring countries are ongoing with Hungary, North Macedonia and Romania. Information exchange takes place through joint contact centres. Serbia receives capacity building and border management assistance from EU Member States.'<sup>368</sup>

In March 2023, Romania started implementing a six-month pilot project initiated by the European Commission, particularly focused on the land border with Serbia which is 'considered of critical importance' by the Commission. This included common patrols with Serbian authorities, deployment of Frontex, etc. In October, at the end of the 6-month pilot, the European Commission reported<sup>369</sup> 'solid results' and 'best practices identified', notably, the joint patrol missions, joint 'ad hoc' patrols: and general international cooperation and information sharing with Serbia.

<sup>367</sup> FRA, *Migration: Key fundamental rights concerns*, Bulletin 3 for 2021, available at: <https://bit.ly/41yNuLz>, 9.

<sup>368</sup> European Commission, *Serbia: Progress Report*, SWD (2023) 695 final, 8 November 2023, available at: <https://bit.ly/4bRUaJU>, 71.

<sup>369</sup> European Commission, *Reporting on progress made the Pilot Project for fast asylum and return procedures with Romania*, October 2023, available [here](#).

At a public event, an official from the Ministry of Internal Affairs described the pilot as enabling Romanian authorities to identify groups of migrants approaching the Serbian-Romanian border and thus to notify Serbian authorities ‘long before they reach the border’. According to him, the Serbian authorities then have an obligation to intervene, and manage to do so most of the time. These preventive activities contribute to reducing ‘illegal’ flows. Given the ‘positive achievements’ according to the Commission, continued cooperation in the framework of the pilot project was decided.<sup>370</sup>

In 2021, 20 pushback incidents encompassing 238 persons were reported. Every single report contained allegations on ill-treatment by Romanian authorities: kicks, slaps, punches, hits with rubber truncheons, electric shocks, forcing to undress and other.<sup>371</sup> In 2022, BVMN reported 17 pushback testimonies encompassing 126 persons.<sup>372</sup> In 2023, there were no BVMN reports on such practice.

The European Union Agency for Fundamental Rights (FRA) highlighted that the Romanian police reported that in just the first six months of 2021, 28,737 refugees and migrants were ‘prevented’ from entering from Serbia. Thus, this number shows that the pushback practice represents an official state policy in Romania as well.<sup>373</sup> The total number of persons who were ‘prevented from entering’ from Serbia by 2021 was almost 75,000.<sup>374</sup>

And finally, it is interesting to note that in 2021 1,243 persons were officially readmitted to Serbia from Romania,<sup>375</sup> while Kikaktiv published the analysis in which it described individual cases in which people returned to Serbia were denied access to the asylum procedure.<sup>376</sup> In 2023, only 20 people were officially readmitted to Serbia, while that number in 2024 was also 20.

It is also important to outline that there is no cross-border cooperation between Serbian and Romanian CSOs and individuals, which could help legal initiatives to legally challenge Romanian border practice.

UNHCR statistics on pushbacks from Romania to Serbia in the period 2018-2024	
Year	Minimum No. of persons pushed back
2018	At least 700
2019	At least 1,857
2020	At least 13,459
2021	At least 8,206
2022	At least 1,326
2023	At least 26
2024	N/A
<b>Total</b>	<b>At least 25,574</b>

Source: UNHCR data portal, available at: <https://bit.ly/3rYbS9O>.

### 1.4.3 Pushbacks from Croatia to Serbia

The number of pushbacks from Croatia to Serbia has been decreasing since 2018.

BVMN documented 33 cases involving 92 refugees and migrants being denied access to Croatian territory in 2021. Each and every case implied some form of ill-treatment such as: punches, kicks, undressing,

<sup>370</sup> For detailed information see AIDA, *Country Report: Romania – Update on the year 2023*, July 2024, available [here](#).

<sup>371</sup> BVMN, Testimony Database, available at: <https://bit.ly/3Jvmhjs>.

<sup>372</sup> *Ibid.*

<sup>373</sup> FRA, *Migration: Key Fundamental Rights Concerns*, available at: <https://bit.ly/3BwONyt>.

<sup>374</sup> *Ibid.*

<sup>375</sup> Information provided by the Mol.

<sup>376</sup> Klikaktiv, *Formalizing Pushbacks – The use of readmission agreements in pushback operations at the Serbian-Romanian border*, available at: <https://bit.ly/3yyttru>.



hitting with rubber truncheon and others.<sup>377</sup> In 2022, only 7 testimonies encompassing 41 persons were recorded by the BVMN, which further indicates that this route has been less frequent.<sup>378</sup> In 2023, BVMN published 8 testimonies regarding 31 persons who were pushed-back to Serbia, which also included instances of physical and psychological ill-treatment.<sup>379</sup> In 2024, Klikaktiv outlined that many people on the move alleged of being pushed back from Croatia, highlighting the testimony which implies that man from Afghanistan was pushed-back 6 times.<sup>380</sup>

It should further be noted that the ECtHR found multiple violations of the Convention in the case *M.H. and Others v. Croatia*. The case concerned the death of a six-year-old Afghan girl, M.H., who was hit by a train after she and her family were denied the opportunity to seek asylum by the Croatian authorities and ordered to return to Serbia via the tracks. The Court found that the investigation into the death had been ineffective, the applicant children's detention had amounted to ill-treatment, and the decisions on the applicants' detention had not been dealt with diligently. It also held that some of the applicants were subjected to a collective expulsion from Croatia and that the State had hindered the effective exercise of the applicants' right to an individual application by restricting access to their lawyer among other issues.<sup>381</sup>

In March 2021, a Kurdish political activist was denied access to the asylum procedure and expelled back to Serbia. IDEAS and Center for Peace Studies (CMS) documented the case and CMS addressed the ECtHR. The case was communicated to the Croatian authorities in December 2021.<sup>382</sup>

The systemic practice of pushbacks in Croatia was widely exposed in the European Committee for the Prevention of Torture and Inhumane or Degrading Treatment or Punishment (CPT)'s 2021 report.<sup>383</sup>

UNHCR statistics on pushbacks from Croatia to Serbia 2018 - 2024	
Year	Minimum No. of persons pushed back
2018	At least 6,200
2019	At least 3,280
2020	At least 1,975
2021	At least 1,000
2022	At least 297
2023	At least 60
2024	N/A
<b>Total</b>	<b>At least 12,812</b>

Source: UNHCR data portal, available at: <https://bit.ly/3rYbS9O>.

## 1.5 Access to the territory at the Nikola Tesla Airport in Belgrade

The contentious work of the Border Police Station Belgrade (BPSB) at the **Nikola Tesla Airport** remained unchanged in 2023.<sup>384</sup> In the period between 2021 and 2022, an increasing number of ill-treatment allegations were made by people who were refused entry at the airport and addressed CSOs in Serbia

<sup>377</sup> BVMN, Testimony Database, available at: <https://borderviolence.eu/testimonies/>.

<sup>378</sup> *Ibid.*

<sup>379</sup> BVMN, Testimony Database, available at: <https://borderviolence.eu/testimonies/>.

<sup>380</sup> Klikaktiv, *The Annual Report for the Year 2024 The Annual Report for the Year 2024*, available at: [https://static1.squarespace.com/static/5e3766f903c72c513a16796c/t/67fe5aaf94d91e2066859997/1744722623203/Klikaktiv\\_The-annual-report-2024\\_PAGES.pdf](https://static1.squarespace.com/static/5e3766f903c72c513a16796c/t/67fe5aaf94d91e2066859997/1744722623203/Klikaktiv_The-annual-report-2024_PAGES.pdf), pp. 53.

<sup>381</sup> ECtHR, *M.H. and Others v. Croatia*, Application Nos 15670/18 43115/18, Judgment of 18 November 2021, available at: <https://bit.ly/3LO77b5>.

<sup>382</sup> ECtHR, *Y.K. v. Croatia*, Application No. 38776/21, lodged on 24 July 2021, available at: <https://bit.ly/3sSP0YT>.

<sup>383</sup> CPT, Report to the Croatian Government on the visit to Croatia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 14 August 2020, available at: <https://bit.ly/3ICJEbS>.

<sup>384</sup> AIDA, *Country Report: Serbia – Update on the year 2018*, March 2019, available [here](#), 18-20 and AIDA, *Country Report: Serbia – Update on the year 2020*, March 2021, available [here](#), 26.

<sup>384</sup> AIDA, *Country Report: Serbia, Update on the year 2019*, May 2020, available [here](#), 22.

upon their return to their country of origin, or after their admission into Serbia which ensued after CSOs interventions. Allegations of ill-treatment were particularly worrying in the last quarter of 2022, when free visa regimes with Tunisia and India were cancelled and when BPSB was issuing hundreds of refusal of entry decisions per week, which was the reason why NPM conducted the visit.<sup>385</sup> The use of violence towards persons who might be in need of international protection was recorded on numerous occasions by CSOs in Serbia. Violent incidents reportedly include punches, slaps, kicks, hits with rubber truncheons and handcuffing in painful position. Ill-treatment occurred in situations where refugees and asylum seekers were forced to go to the detention premises at the airport or forced to board the plane (see [Refusal of entry under the Foreigners Act](#)). The number of reported incidents dropped in 2023 and 2024, likely due to the decrease in the number of arrivals from countries for which the visa regime was changed (Burundi, Cuba, Tunisia, etc.).

In 2021, BPSB issued 146 certificates of intention to submit an asylum application ('registration certificate'). In 2022, a total of 689 asylum certificates were issued at Serbian airports. In 2023, this number reached 519, while in 2024 this number sharply dropped to 27.

Even though the number of issued certificates in 2024 is the lowest in the past 5 years, the practice of BPSB remained unpredictable, inconsistent and deprived of any clear criteria.<sup>386</sup> In fact, BPSB continued with contentious practices including one consisting of the following steps and in relation to certain nationalities who arrive mainly from Türkiye, which was manifested through two Rule 39 requests granted in the second half of 2024:<sup>387</sup>

- ❖ the police wait at the exit of the plane with decisions on refusal of entry forms already filled out with all the available details (flight details, arrival time in Serbia, reasons for refusal of entry, etc.) except for the personal details of the travellers which are later on taken from their passports;
- ❖ Foreigners, including persons that might be in need of international protection, are then apprehended right after they leave the plane and are invited to sign the forms, without knowing what they contain;
- ❖ their cell phones and passports are frequently taken away and the personal details from the passport are filled out on the decisions on refusal of entry;
- ❖ if the flight immediately flies back to Istanbul or other destination, foreigners can be boarded back onto the plane, threatened with the use of force;
- ❖ if individuals manage to decline to board this immediate boarding or there is no immediate return flight, they are taken to detention premises at the transit zone with the use of force or the threat of the use of force (except for the women and young children);
- ❖ their arbitrary detention can then last from several hours to several days, as long as a seat on a return flight to Istanbul does not become available;
- ❖ when a seat on a return flight becomes available, detainees are forcibly taken to the side exit, forced into police cars and driven across the runway to the plane which is already boarded with regular travellers.
- ❖ decisions on refusal of entry in English and Serbian are served to detained individuals prior to their forced boarding onto the plane, regardless of whether they have been signed or not by detainees.

Regardless of the number of persons recognised by airport border authorities as individuals who might be refugees, the most concerning issues which remain are the following:

- ❖ unlawful and arbitrary deprivation of liberty at the transit zone;
- ❖ the manner in which decisions on refusal of entry are being issued;<sup>388</sup>

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<sup>385</sup> NPM, *НПМ у ненајављеној посети Аеродрому „Никола Тесла, проверавао услове боравка*, 22 November 2022, available at: <https://bit.ly/3RSGJl0>.

<sup>386</sup> Practice based observation of IDEAS, March 2024.

<sup>387</sup> This pattern of behaviour was drawn on the basis of 27 interviews which the author of this report has conducted with Burundians nationals who managed to access Serbian territory, but also interviews with other foreign nationals who continued to arrive via Belgrade airport asking for the assistance.

<sup>388</sup> Article 15 Foreigners Act.

- ❖ lack of capacity of BPSB officers to recognise persons who might be in need of international protection and those who are not (in line with Article 35 of Asylum Act and Article 83 of Foreigners Act).

Thus, the foreigners who, according to the assessment of BPSB, do not meet the requirements to enter Serbia are deprived of their liberty in the transit zone in an unlawful and arbitrary manner. They remain in that status for as long as the air carrier with which they travelled secures a place for their flight back to the departing destination, regardless of it being the country of origin or a third country.<sup>389</sup> Detention can last from several hours to several weeks. However, BPSB does not consider them as persons deprived of their liberty since there are no legal grounds in the current legal framework which governs foreigners' stay in the transit zone. Thus, BPSB denies them all the rights they should be entitled to, such as: right to a lawyer, right to inform a third person of their whereabouts, the right to an independent medical examination, the right to be served with the decision on deprivation of liberty and the right to lodge an appeal against such decision. Moreover, police officers do not have at their disposal interpreters for the languages which foreigners who might be in need of international protection usually understand, which means that they cannot properly inform them on said rights, including the right to apply for asylum.<sup>390</sup>

The critical consequence of this practice is that people who might be in need of international protection could be denied access to the territory and sent back to third countries or countries of origin where they could face persecution or torture and other cruel, inhumane or degrading treatment or punishment. In other words, they are denied access to the territory and the asylum procedure in an arbitrary manner and without examining the risks of *refoulement*.<sup>391</sup> More precisely, since the new Foreigners Act entered into force in October 2018, foreigners are issued a decision on refusal of entry in a procedure that lacks any guarantees against *refoulement*,<sup>392</sup> without the possibility to use services of a lawyer and an interpreter, and to lodge an appeal with a suspensive effect.<sup>393</sup>

In June 2019, the Constitutional Court (CC) dismissed as manifestly unfounded constitutional appeal submitted on behalf of Iranian refugee H.D.<sup>394</sup> In November 2016, H.D. was detained at the airport transit zone for 30 days, in the manner described above. The CC's reasoning gives serious reason for concern and indicates the lack of capacity of this body to examine violations of Article 5 of ECHR,<sup>395</sup> in line with the criteria established in the jurisprudence of the ECtHR.<sup>396</sup> Namely, the Court outlined that the legal framework that had been in force at the time of the applicant's stay at the airport did not envisage the procedure in which a foreigner can be deprived of liberty in the transit zone. For that reason, H.D.'s claims about unlawful and arbitrary detention could not be considered as well founded. In other words, the Court failed to conduct an independent test on the existence of a deprivation of liberty in the applicant's case,<sup>397</sup> using the subjective and objective criteria,<sup>398</sup> such as the type, duration, effects and manner of implementation of the measure in question.<sup>399</sup> It disregarded completely the fact that H.D. had been locked in premises at the airport transit zone for 30 days, with limited access to the outside world, without interpretation services and the possibility to hire a lawyer, inform his family on his whereabouts and understand the procedures that was being applied to him. H.D. was also denied access to the

<sup>389</sup> Article 13(2) Foreigners Act.

<sup>390</sup> CAT, *Concluding observations on the second periodic report of Serbia*, 3 June 2015, CAT/C/SRB/CO/2, para 15, available at: <https://bit.ly/3uj15La>.

<sup>391</sup> ECtHR, *Gebremedhin (Gaberamadhien) v France*, Application No. 25389/05, Judgment of 26 April 2007, EDAL, available at: <http://bit.ly/2RwU82a>, paras 66-67.

<sup>392</sup> Article 15 Foreigners Act.

<sup>393</sup> See by analogy ECtHR, *M.A. v. Lithuania*, Application No 59793/17, Judgment of 11 December 2018, EDAL, available at: <https://bit.ly/2txDq72>, paras 83-84, see also CAT, *Concluding observations on the second periodic report of Serbia*, 3 June 2015, CAT/C/SRB/CO/2, para 15, available at: <https://bit.ly/3uj15La>.

<sup>394</sup> Constitutional Court, Constitutional appeal no 9440/16, Decision of 13 June 2019.

<sup>395</sup> Article 27 Constitution.

<sup>396</sup> ECtHR, *Z.A. and others v. Russia* [GC], Application nos. 61411/15, 61420/15, 61427/15, 3028/16, Judgment of 21 November 2019, EDAL, [Chamber judgment] available at: <http://bit.ly/2R5G6Em>.

<sup>397</sup> ECtHR, *Nolan and K. v. Russia*, Application No. 2512/04, Judgment of 12 February 2009, EDAL, available at: <http://bit.ly/36NVSdx>, para. 96.

<sup>398</sup> ECtHR, *Guide on Article 5 of the European Convention on Human Rights – Right to liberty and Security*, 2019 Update, available at: <http://bit.ly/2FHSLbl>, paras 9-10.

<sup>399</sup> ECtHR, *Amuur v. France*, Application no 19776/92, Judgment of 25 June 1996, EDAL, available at: <http://bit.ly/2TayPpz>, para. 42.

asylum procedure. The applicant faced *refoulement* to Türkiye, and further [*chain-refoulement*] to Iran. Eventually, the ECtHR granted the Rule 39 request.<sup>400</sup> The case was communicated to the Government of Serbia on 12 July 2021 and the questions which will be examined are the following:

- ❖ Was the applicant's confinement by the immigration officers in the transit zone of Belgrade International Airport, in the period between 31 October and 25 November 2016, in breach of Article 5-1 of the Convention?
- ❖ Was the applicant's confinement 'in accordance with a procedure prescribed by law'?
- ❖ Was the applicant informed promptly, in a language which he understood, of the reasons for his deprivation of liberty, as required by Article 5-2 of the Convention?
- ❖ Did the applicant have at his disposal an effective and accessible procedure by which he could challenge the lawfulness of his confinement, as required by Article 5-4 of the Convention?
- ❖ Did the applicant have an effective and enforceable right to compensation for his unlawful detention, as required by Article 5-5 of the Convention?

There is no available data on the number of decisions on refusal of entry issued at the airport 'Nikola Tesla'. However, CRM has been publishing data on the number of refusal of entries on an annual basis in their annual reports entitled 'Migration Profile of the Republic of Serbia'.<sup>401</sup> According to reports, Mol refused entry to 6,096 foreigners in 2018, 5,214 in 2019 and 3,866 in 2020. In 2022, the BPSB issued the record of 8,682 refusal of entry decisions, while Border Police Station at Niš airport issued 229 decisions. In 2023, BPSB issued 1,498 refusal of entry decisions mainly in relation to Turkish citizens, but also nationals of Iran (34), stateless persons (28), Syria (27) and Afghanistan (13). In 2024, this number was 1,757.

Refusal of entry decisions issued in 2024		
Nationality	Number of Persons	Country of Removal
Türkiye	323	Unknown
Unknown	37	Unknown
Afghanistan	7	Unknown
Syria	6	Unknown
Other	245	Unknown
<b>Total</b>	<b>1,757</b>	

Source: Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

During 2024, CSOs (APC, BCHR, IDEAS or Klikaktiv) lawyers were not denied access to the airport transit zone but there were no instances in which lawyers actually entered the zone, as people were sent back before lawyers came or were informed. However, the practice from previous years remained unchanged and it is still necessary that the person who wishes to apply for asylum explicitly asks for CSO support.

Still, since April 2018, the Mol has been issuing temporary entry cards for the transit zone to CSOs lawyers who were contacted via email or cell phone by foreigners detained at the airport. The main condition for access to the transit zone was that lawyers have to know the exact name of the person detained, their passport number and arrival flight details. This means that the BPSB would not allow unimpeded access to a person who claimed to be in need of international protection but who could not directly contact CSOs.

Most of the asylum seekers who contacted CSOs are allowed to enter Serbia after the phone call or an email sent by CSOs' lawyers. At the same time, not all persons who are denied access to the territory at the airport are provided with legal counselling since not all of them speak English, nor do they all have access to phones or internet. Accordingly, very often, the people receiving counsel from CSOs at the

<sup>400</sup> ECtHR, *Arons v. Serbia*, Application no 65457/16, Decision on Interim Measures of 24 November 2016.

<sup>401</sup> CRM, *Migration Profile of the Republic of Serbia*, available at: <https://bit.ly/3H0ILah>.

airport state that there are dozens of others who are detained and wish to apply for asylum or receive additional information on their legal possibilities in Serbia. The European Commission highlighted this problem.<sup>402</sup> Additionally, most of the interventions made by CSOs are conducted over the phone and there are almost no instances in which lawyers go directly to the transit zone in order to provide legal counselling. Thus, it cannot be claimed with certainty that asylum seekers are actually allowed to enter Serbia nor that the lawyers in general are able to stay touch with these people to ensure that they entered Serbia and to challenge their arbitrary detention at the transit zone. Deeper communication is only established with foreigners who decide to submit an asylum application.

In 2021, the CAT recommended that Serbia should:

‘Ensure access to territory and sufficient and effective protection from *refoulement* at the Belgrade International Airport by ensuring that persons detained in the transit zone of the airport receive information about their right to seek asylum, including effective access to asylum procedure, immediately and in language they understand’

It is important to reiterate that the only way to secure the respect for human rights of all the foreigners who arrive at Nikola Tesla Airport and who claim to be in need of international protection would be to grant APC, IDEAS, KlikAktiv or other CSOs or independent lawyers unhindered access to the entire transit zone, including the detention premises. Additionally, BPSB should start providing multi-lingual information leaflets containing the list of rights and obligations that foreigners have in Serbia. These leaflets should also include a short description of the procedures that could be possibly applied to them, including the expulsion procedure. By combining these two, BPSB would guarantee the respect for the principle of *non-refoulement*, maintain control of entry and stay on Serbian territory,<sup>403</sup> and establish a partnership with the qualified lawyers who could assist them in making the right decision in every individual case.

To conclude, it is clear that there is an obvious need to establish a border monitoring mechanism at the airport, which should be managed jointly by UNHCR, CSOs and representatives of the Mol.

## 2. Preliminary checks of third country nationals upon arrival

### Indicators: Preliminary checks at the arrival point

1. Are there any checks that are applied systematically or regularly at the point of entry when a person enters the territory? ☐ Yes ☒ No
2. Is the person considered under law to have entered the territory during these checks? N/A  
☐ Yes ☐ No

The national legislation does not foresee preliminary checks to third country nationals at the point of entry, apart from those checks which are related to grounds for refusal of entry envisaged in the Article 15 of the Foreigners Act, as outlined in the [Chapter](#) on access to territory at airport. This kind of checks, especially when refusal of entry decision is rendered, imply *de facto* deprivation of liberty. In line with Article 35 of the Asylum Act, they are entitled to express their intention to lodge an asylum application in Serbia at any time, even though there are many problems in practice. During all of the assessments, all foreign nationals are considered to be under the effective control of the State authorities and thus entitled to an entire set of safeguards, including against *refoulement*.

<sup>402</sup> European Commission, *Progress Report: Serbia*, 6 October 2020, SWD (2020) 352 final, available at: <https://bit.ly/2YaPjPJ>, 48-49.

<sup>403</sup> ECtHR, *Chahal v. United Kingdom*, Application No 22414/93, Judgment of 15 November 1996, EDAL, available at: <https://bit.ly/2U22cYJ>, para 73.



### 3. Registration of the asylum application

#### Indicators: Registration

- ❖ Are specific time limits laid down in law for making an application? ☐ Yes ☒ No
- ❖ If so, what is the time limit for making an application?
- ❖ Are specific time limits laid down in law for lodging an application? ☒ Yes ☐ No
- ❖ If so, what is the time limit for lodging an application? 15 days and 8 days
- ❖ Are making and lodging an application distinct stages in the law or in practice? ☒ Yes ☐ No
- ❖ Is the authority with which the application is lodged also the authority responsible for its examination? ☒ Yes ☐ No
- ❖ Can an application for international protection for international protection be lodged at embassies, consulates or other external representations? ☐ Yes ☒ No

#### 3.1 Expression of the intention to seek asylum and registration

##### 3.1.1 The procedure

The Asylum Act envisages that foreigners within the territory of Serbia have the right to express the intention to lodge an asylum application.<sup>404</sup> Foreigners may express the intention to lodge an asylum application to the competent police officers at the border or within the territory either verbally or in writing,<sup>405</sup> including in places such as prisons, the Detention Centres for Foreigners in **Padinska Skela, Dimitrovgrad and Plandište**, as well as the airport transit zones or during extradition proceedings or court proceedings, e.g., misdemeanour proceedings.<sup>406</sup> Unaccompanied children cannot express the intention to seek asylum until a social welfare centre appoints a temporary legal guardian.<sup>407</sup>

An authorised police officer shall photograph and fingerprint the person (identification),<sup>408</sup> who will thereafter be issued a certificate on registration as a foreigner who has expressed their intention to lodge an asylum application in the Republic of Serbia ('registration certificate - registration').<sup>409</sup> The manner and the procedure of registration, as well as the content of the registration certificate are defined in the Rulebook on Registration.<sup>410</sup> This Rulebook prescribes the design and content of registration certificates.

Pursuant to the Rulebook, registration certificates shall be issued in two copies, one of which is handed to the foreigner and the second one to be archived in the MoI organisational unit where the officer who issued the registration certificate is employed.<sup>411</sup> Registration certificates issued to foreigners who expressed their intention are in Serbian and in Cyrillic alphabet. Given that the majority of foreigners do not understand Serbian and do not use the Cyrillic alphabet as well as the fact that interpreters are almost never present when the certificate is issued, the possibility of the certificates being issued in English, Arabic, Farsi or some other languages should be considered in order to avoid potential misunderstandings related to the rights and obligations specified therein.<sup>412</sup> There were instances in practice where UASCs were issued registration certificates as adults, but were later identified as minors and registration certificates were corrected upon the request of Social Welfare Centre. This is a consequence of the lack of age assessment procedure.

<sup>404</sup> Article 4(1) Asylum Act.

<sup>405</sup> Article 35(1) Asylum Act.

<sup>406</sup> Article 35(2) Asylum Act.

<sup>407</sup> Article 11 Asylum Act.

<sup>408</sup> Article 35(5) Asylum Act.

<sup>409</sup> Article 35(12) Asylum Act.

<sup>410</sup> Rulebook on the Procedure of Registration, Design and Content of the Certificate on Registration of a Foreigner Who Expressed Intention to Seek Asylum, Official Gazette, no. 42/2018, available in Serbian at: <https://bit.ly/2U3A3AE>.

<sup>411</sup> Article 8 Rulebook on Registration.

<sup>412</sup> See also BCHR, *Right to Asylum in the Republic of Serbia 2019, 2020*, available at: <https://bit.ly/46mtBJ0>, 22-24.



In 2022, the Mol issued the total of 4,181 registration certificates to the citizens of: Afghanistan (1,452), Burundi (943), Syria (574), Pakistan (263), Morocco (191), Egypt (81), India (77), Iran (72), Congo (72), Guinea-Bissau (64), Cuba (49), DR Palestine (40) Iraq (36), Russia (34), Tunisia (31), Ghana (23), Bangladesh (23), Türkiye (15), Somalia (13), Cameroon (12), Congo (12), Guinea (9), Ukraine (8), Algeria (6), Sudan (5); as well as 4 registration certificates to citizens of Sierra Leone, Libya, BiH and Bulgaria; 3 to citizens of China, Comoros, Eritrea, Germany, Gambia and Cote d'Ivoire; 2 to citizens of Angola, Belarus, Georgia, Kyrgyzstan, Mauritania, Nigeria, Poland, Senegal, Tanzania and Yemen; and 1 to citizens of Albania, Benin, Bolivia, Canada, Croatia, Ecuador, Equatorial Guinea, France, UK, Jamaica, Kazakhstan, Myanmar, Mongolia, North Macedonia, Slovakia, Slovenia, Togo and the US.<sup>413</sup>

In 2023, the Mol issued 1,654 registration certificates to the citizens of Syria (444), Afghanistan (188), India (120), Morocco (120), Iran (97), Pakistan (81), Iraq (78), Cuba (75), Tunisia (56), Burundi (42), Russian Federation (42), Egypt (37), DRC (35), Palestine (30), Türkiye (28), Sierra Leone (25), Congo (13), Mongolia (9), Algeria (8), Cameroon (8), China (8), Nepal (8), Croatia (6), Nigeria (6), Romania (6), Somalia (5), Bangladesh (5), Jamaica (5), Armenia (4), BiH (4), Bulgaria (4), Guinea (4), Kyrgyzstan (4), Libya (4), Sudan (4), Ecuador (3), Ethiopia (3), Lebanon (3), Moldova (3), Senegal (3), Uzbekistan (3), USA (3), Togo (2) and 1 registration certificate to citizens of Azerbaijan, Benin, Brazil, Canada, Eritrea, Gambia, Ghana, Germany, Greece, Kazakhstan, Mexico, North Macedonia, South Sudan, Sweden, Tanzania, Uganda, Ukraine and Zambia.<sup>414</sup>

In 2024, the Mol issued 850 certificates to the citizens of Syria (325), Afghanistan (86), Türkiye (41), Morocco (38), DR Congo (37), Pakistan (33) Russian Federation (31), Iraq (31), Iran (29), State of Palestine (25), Cuba (25), Egypt (24), Burundi (16), Armenia (11), Algeria (8), Uzbekistan (7), Belarus (7), Bangladesh (6), Sierra Leone (6), Ukraine (5), India (4), Nigeria (4), Sri Lanka (4), Guinea (3), Cameroon (3), China (3), Kazakhstan (3), Lebanon (3), Somalia (3), Albania (2), Croatia (2), Gambia (2), Germany (2), Nepal (2) and 1 registration certificate to citizens of Eritrea, Georgia, Ireland, Jamaica, Djibouti, Kyrgyzstan, Moldova, Mongolia, North Macedonia, Senegal, Slovakia, Tunisia and Yemen.

The registration certificate in Serbia is not considered an asylum application and thus, an individual who possesses one is not considered an asylum seeker, but a person who intends to become one.<sup>415</sup> Therefore, expressing the intention to seek asylum does not constitute the initiation of the asylum procedure. It is, however, a precondition for lodging the asylum application.

After the foreigner is registered, they are referred to an Asylum Centre or another facility designated for accommodation of asylum seekers, usually other Reception Centres. The foreigner is obliged to report to the facility within 72 hours from the moment of issuance of the registration certificate.<sup>416</sup> Transportation costs to reach the facility are not covered. If the person fails, without a justified reason, to report to the Asylum Centre or other facility designated within 72 hours of registration, the regulations on the legal status of foreigners shall apply. Thus, the person will be considered an irregular migrant, which should not be the case for people in need of international protection or who, on the basis of their origin, have a *prima facie* claim.<sup>417</sup> They then risk being penalised in a misdemeanour proceeding<sup>418</sup> and served with an expulsion decision (either a decision on cancellation of residency<sup>419</sup> or return decision<sup>420</sup>). Still, practice has shown that persons issued with certificates which have expired are allowed to lodge asylum application in the vast majority of cases.

<sup>413</sup> Data delivered by UNHCR office in Serbia.

<sup>414</sup> *Ibid.*

<sup>415</sup> Article 2 (1) (4) Asylum Act.

<sup>416</sup> Article 35(3) Asylum Act.

<sup>417</sup> Article 35 (13) Asylum Act.

<sup>418</sup> Article 71 of the Border Control Act and Article 121 and 122 of the Foreigners Act. See also BCHR, Right to Asylum in the Republic of Serbia -Periodic Report for January – June 2020, pp. 15-21, available at: <https://bit.ly/3jiKT31>.

<sup>419</sup> Article 39 (3) Foreigners Act.

<sup>420</sup> Article 77 (1) Foreigners Act.

According to the Mol, when issuing registration certificates and referring persons to one of the Asylum Centres or Reception Centres, the police officers advise the persons who express the intention to seek asylum about their right to submit an asylum application and their other rights and obligations, in line with Article 56 of the Asylum Act.<sup>421</sup> Brochures in languages that asylum seekers understand have allegedly been distributed in all police departments in Serbia and contain information on rights, responsibilities and steps in asylum procedure. It is not possible to corroborate or infirm this information for the entire territory, however per NGO experience asylum seekers registered in Belgrade Police Department - Administration for Foreigners do not receive any kind of brochure, as well as asylum seekers registered at the airport. Most of registration certificates were issued by police departments 594, then at Regional Border Centres (227), BPSB (27) and DC Padinska Skela (2).

### 3.1.2 Concerns in practice<sup>422</sup>

According to the Asylum Office, one person cannot be issued with two or more registration certificates, but it is possible for the same person to be issued with a copy of the registration certificate in case it has expired or has been stolen or lost. There were also many instances in which the expired registration certificate was considered valid and an individual was allowed to submit his or her asylum application.<sup>423</sup> This possibility exists as long as an asylum application has not been rejected, in which case, asylum seeker may lodge a [Subsequent Application](#).<sup>424</sup>

The above-described approach was that taken by the Asylum Office in all cases except when foreigners receive a decision on cancellation of residency<sup>425</sup> or a return decision.<sup>426</sup> In such situations, it is still not entirely clear whether or not the Asylum Office and Mol consider that these people still have the right to apply for asylum and the practice varies from one case to another. For instance, an unaccompanied child was allowed to submit an asylum application regardless of the fact that he was served with two return decisions.<sup>427</sup> On the other hand, a boy from Afghanistan who was issued with a return decision was not allowed to access the asylum procedure and submit his asylum application.<sup>428</sup> There were no recorded instances in 2021 and 2022 where persons with decisions on cancellation of residency or return decisions were denied access to asylum procedure, which is welcome. However, in 2022, DRC and IDEAS witnessed numerous instances in which people were issued expulsion orders for not applying for asylum within the deadline of 23 days, but it remains unclear if they would have been allowed to apply for asylum because they all subsequently left Serbia. In 2022, Klikaktiv reported that people readmitted from Romania were not allowed to register as asylum seekers because they were, upon their return, automatically served with expulsion orders.<sup>429</sup> In December 2023, the Police Station in Preševo refused to register a Syrian national who was declared as national security threat. He had to be moved to AC Obrenovac and registered in the Department for Foreigners in Belgrade with the assistance of IDEAS. In 2024, several dozen persons from Afghanistan, Syria and other countries were denied access to registration at the Police Station in Sjenica and Administration for Foreigners in Belgrade and due their immigration history which implied serving of expulsion order, misdemeanour penalization, suspected involvement in smuggling, immigration detention, etc. This situation deteriorated in the period May-October 2024, after which all of the foreigners who remained in Serbia were registered.<sup>430</sup>

The lack of clarity with regard to access to the asylum procedure for people in need of international protection who are treated as irregular migrants (since they are issued with an expulsion order or penalised in the misdemeanour proceeding) gives reasons for concern. According to the Foreigners Act,

<sup>421</sup> This was claimed in the letter from the Mol-Police Directorate-Border Police Administration No. 26-1991/18.

<sup>422</sup> Practice-informed observation of IDEAS, January 2024.

<sup>423</sup> A Pakistani national represented by independent attorney at law submitted asylum application in December 2020, regardless of the fact that his registration certificate 'expired'.

<sup>424</sup> Article 46 Asylum Act.

<sup>425</sup> Article 39 Foreigners Act.

<sup>426</sup> Articles 74 and 77 (1) Foreigners Act.

<sup>427</sup> IDEAS lawyers submitted a written asylum application in December 2020.

<sup>428</sup> ECtHR, *M.W. v. Serbia*, Application No 70923/17, communicated on 26 March 2019.

<sup>429</sup> Klikaktiv, *Formalizing Pushbacks – The use of readmission agreements in pushback operations at the Serbian-Romanian border*, available at: <https://bit.ly/3yyttru>.

<sup>430</sup> Practice-informed observation of IDEAS, February 2025.

they could be forcibly removed to a third country (in the vast majority of cases to **Bulgaria** and **North Macedonia**) or even to the country of origin in which they could be subjected to ill-treatment. Thus, it is very important to emphasise that the current practice of most police departments in Serbia regarding the issuance of **expulsion decisions** must be improved so that it includes procedural safeguards against *refoulement*. Accordingly, this procedure should be conducted in a manner that implies that the foreigner is allowed to contest their removal to a third country or to the country of origin with the assistance of a lawyer and interpreter, with the possibility to lodge a remedy for judicial review of the negative first instance decision. This remedy must have automatic suspensive effect. None of these safeguards are currently in place. Moreover, the entire procedure is based on the simple delivery of the decision to a foreigner, decision drafted in a standard template that only contains different personal data, but no rigorous scrutiny of risks of *refoulement* is applied.<sup>431</sup> Finally, the author of this report highlights that serving of an expulsion order should not in any way create an obstacle for access to the asylum procedure.

As it has been the case in previous years, the total of 850 certificates issued in 2024 does not adequately reflect the real number of persons who were genuinely interested in seeking asylum in Serbia since only 219 of them officially lodged an asylum application. Registration certificates are mainly issued for the purpose of securing a place in one of the Asylum or Reception Centres, where asylum seekers may enjoy basic rights such as accommodation, food, health care, psycho-social support from CSOs (see **Types of Accommodation**). Under these circumstances, according to the observations of the author of this report, the MoI does not adequately assess an individual's aspirations, i.e., whether they genuinely want to remain in Serbia. Still, the 2024 practice has brought more realistic numbers and people are not automatically registered anymore.

Since 2009, a total of 659,394 registration certificates were issued. Out of those, only 4,435 asylum applications were lodged, which is 0.67% of all foreigners registered in accordance with the Asylum Act in Serbia.

The correlation between the number of registration certificates and asylum applications in Serbian asylum system 2009-2024		
Year	No. of Registration Certificates	No. of Asylum Applications
2009	272	181
2010	788	215
2011	3,131	218
2012	2,856	335
2013	5,066	89
2014	16,498	379
2015	579,507	583
2016	12,699	574
2017	6,200	233
2018	7,638	324
2019	12,918	249
2020	2,830	145
2021	2,306	175
2022	4,181	320
2023	1,654	196
2024	850	219
<b>Total</b>	<b>658,394</b>	<b>4,435</b>

However, it is important to highlight that a person who possesses a registration certificate is not considered to be an asylum seeker and thus is not recognised in the Asylum Act as person who is entitled to enjoy the rights enshrined in Article 48. In other words, foreigners who are provided with a registration

<sup>431</sup> ECtHR, *Chahal v the United Kingdom*, Application no. 22414/93, Judgment of 15 November 1996, EDAL, available at: <http://bit.ly/2TGX4vU>, para. 96 and *D and Others v. Romania*, Application No 75953/16, 14 January 2020, EDAL, available at: <http://bit.ly/3aBHWGZ>.

certificate, but also those who are not registered at all, but are accommodated in Asylum or Reception centres, are in legal limbo. They are not entitled to any of the rights, including the right to reside in reception facilities administered by the CRM, but their stay has always been tolerated. Still, this indicates that the vast majority of persons in need of international protection lacks legal certainty with regards to their status. The first draft of Amendments to the Asylum Act contained a provision under which this category is to be recognised and entitled to material reception conditions and these amendments have remained unchanged after the public debate was finalised in February 2022. The amendments are still pending due frequent [political turmoil](#).

It is common practice that persons who genuinely want to apply for asylum are referred to Reception Centres<sup>432</sup> instead of Asylum Centres (see section on [Reception Conditions](#)), thereby postponing their entry into the asylum procedure. Consequently, CSOs providing legal assistance have to advocate for their transfer to AC in Krnjača, AC Sjenica or AC Obrenovac in 2024.

This process can last for several days which is an improvement in comparison to previous years when extensive length of waiting for transfer was causing frustration or discouragement to the applicants..<sup>433</sup> Also, asylum seekers referred to **AC Sjenica** have been denied access to asylum interviews due to the fact that Asylum Office has visited this facility two times in 2024 (at the very end). Thus, the Asylum Office facilitated the asylum procedure in Belgrade in more than 90% of the cases by allowing people accommodated in Belgrade to lodge asylum applications in person or by organising asylum interviews.

In comparison to previous years, the CRM is rarely allowing applicants to move from AC Sjenica to AC Krnjača or AC Obrenovac despite of the fact that both facilities hosted less than 100 persons and were almost empty for the most of the year. The requests for transfers have been denied throughout entire year, unless certain vulnerability was flagged. Still, even the requests for transfer of vulnerable applicants have been regularly denied. This standing of the CRM can hardly be justified in the current context where Belgrade reception facilities are almost completely empty.<sup>434</sup>

As outlined in previous years, according to the author of this report, one of the solutions for this problem would be that all persons who lodged asylum application should be placed in the Belgrade asylum centres in **Krnjača** and **Obrenovac** (designated as Asylum Centre in 2021), which have the capacity to accommodate on an annual basis all persons who are interested in staying in Serbia. The Asylum Office shares these views; however, the CRM has been declining this proposal without providing any reasonable explanation.<sup>435</sup>

By placing all genuine asylum seekers in Krnjača and/or Obrenovac, an entire set of improvements would be achieved:

- ❖ The time period between the issuance of the registration certificate and the first instance decision would be significantly shortened since the applicants would not be compelled to wait, sometimes, for weeks to be transferred from Reception Centres to an Asylum Centre;
- ❖ The Asylum Office, which is based in **Belgrade**, would focus the majority of its limited resources on the Asylum Centre based in the same city, and thus would conduct the asylum procedure in a more effective manner, scheduling lodging of asylum applications and interviews faster and more often than it is the case now, especially in distant Asylum Centres such as **Sjenica**;
- ❖ Genuine asylum seekers would have access to more effective legal counselling since the CSOs providing free legal assistance are based in **Belgrade** and can be present more often in the centre;
- ❖ The resources which are necessary to facilitate the asylum procedure in distant camps, such as travel and accommodation costs of asylum officers and interpreters, would be saved.<sup>436</sup>

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<sup>432</sup> The Reception Centres were opened during the 2015/2016 mass influx of refugees and are mainly designated for accommodation of foreigners who are not willing to remain in Serbia.

<sup>433</sup> AIDA, *Country Report: Serbia, Update on the year 2023*, August 2024, p. 84.

<sup>434</sup> Practice-informed observation of IDEAS, February 2025.

<sup>435</sup> AIDA, *Country Report: Serbia, Update on the year 2023*, August 2024, pp. 84-85.

<sup>436</sup> *Ibid.*

One case from January 2022 deserves special attention and is related to a political activist from Bahrain, who was denied access to the asylum procedure and extradited to his country of origin despite a request for interim measures lodged by the BCHR and granted by the ECtHR.<sup>437</sup> The person had been held in extradition detention in Serbia since November 2021, although he expressed the intention to seek asylum to the relevant authorities during the extradition procedure, claiming that he was at risk of being subjected to torture and political persecution if returned to his country of origin. This flagrant denial of access to the asylum procedure and ignoring of ECtHR's interim measure resembles the case of Cevdet Ayaz, who was extradited to Türkiye despite a CAT interim measure and before his asylum procedure was concluded.<sup>438</sup> The case was communicated to the Government of Serbia in June 2022<sup>439</sup> and the Court found violation of Article 3 ECHR on 25 March 2025.<sup>440</sup>

### 3.1.3 Access to the asylum procedure for persons expelled/returned from neighbouring States

It is important to reiterate that people expelled or returned from **Hungary, Croatia and Romania** informally or in line with the Readmission Agreement between the EU and the Republic of Serbia on the readmission of persons residing without authorisation can face obstacles accessing the asylum procedure. It is not clear what the official stance of Serbian authorities vis-à-vis such cases is, but there were several CSOs' interventions in the past which show that access to asylum procedures may be impeded for people who were penalised in misdemeanour proceeding or were issued with an expulsion order.<sup>441</sup> In particular, the denial of access to the asylum procedure is a common practice applicable to persons who are likely in need of international protection and who attempted to irregularly cross to **Croatia** hidden in the back of a truck or van at the official border crossing. After they are discovered by the Croatian border police and informally surrendered back to the Serbian police, they are automatically taken to the misdemeanour court in **Šid or Bačka Palanka** where they are penalised for a misdemeanour of illegal stay or entry and subsequently served with a decision on cancellation of residency or a decision on return.<sup>442</sup> Both of these decisions have the nature of an expulsion order. Therefore, if they decide to apply for asylum, they could be denied that possibility and will be further treated as irregular migrants and can be also pushed to an informal system, outside reception centres. That was the case with the late Afghani USAC X. who was eventually killed by smugglers in front of the Asylum Centre in **Krnjača**.<sup>443</sup> Another case of UASC denied access to the asylum procedure<sup>444</sup> upon the return from Hungary is still pending before the ECtHR.<sup>445</sup>

Similar problems in 2022 were reported by Klikaktiv in relation to people readmitted from Romania:

'Over the past years, most of the people on move have not had access to asylum procedure in Serbia. Police stations in the cities on the north of the country, where the majority of people reside and where they are being accepted after the readmission, refuse to register people on the move as asylum seekers and ignore their asylum claims. This practice forces people to turn to smuggling networks where they are at risk of human trafficking and different types of exploitation. Therefore, people who are in need of international protection are forced to stay in one of the transiting camps or in informal settlements run by smugglers, in very poor conditions, without access to basic necessities such as food, heating and clothes.'<sup>446</sup>

<sup>437</sup> *Mohamed v. Serbia*, Application No. 4662/22, granted on 21 January 2022.

<sup>438</sup> BCHR, *Serbia wrongfully extradited Bahraini national despite European Court of Human Rights interim measure*, available at: <https://bit.ly/3LGA8W5>.

<sup>439</sup> ECtHR, *Mohamed v. Serbia*, Application No. 4662/22, 4 July 2022, available at: <http://bit.ly/3ynDYO8>.

<sup>440</sup> ECtHR, *Ali. v. Serbia*, Application No. 4662/22, Judgment of 25 March 2025, available at: <https://hudoc.echr.coe.int/?i=001-242422>.

<sup>441</sup> See more in AIDA, *Country Report: Serbia, Update on the year 2019*, May 2020, available [here](#), 29.

<sup>442</sup> Misdemeanor Judgment No. P 65/19 from 14 January 2019.

<sup>443</sup> N1, 'Ubijen migrant koji je bio osumnjičen za ubistvo Avganistanca u centru Beograda', 6 June 2019, available in Serbian at: <https://bit.ly/45MbA8l>.

<sup>444</sup> See more in AIDA, *Country Report: Serbia – Update on the year 2021*, May 2022, 58.

<sup>445</sup> ECtHR, *M.W. v. Serbia*, Application No 70923/17, communicated on 26 March 2019, available at: <https://bit.ly/3R54mH5>.

<sup>446</sup> Klikaktiv, *Formalizing Pushbacks – The use of readmission agreements in pushback operations at the Serbian-Romanian border*, January 2023, available at: <https://bit.ly/3yyttru>.



In 2024, Klikaktiv again reported that, as outlined above, 12,420 foreign nationals were issued with expulsion order and most likely penalized in misdemeanour procedure for illegal entry or stay on Serbian territory. Out of that number, 3,991 of them were from Syria and 1,994 from Afghanistan, as well as several dozen Palestinians. All of these can potentially find themselves in a situation that they are denied access to registration. Many instances of such practice were recorded in the Police Station Sjenica, but also Police Station Preševo and Police Department in Belgrade.

It would be necessary for the Asylum Office to clearly inform all police departments that every person who expresses the intention to apply for asylum should be issued with a registration certificate and that people who are in need of international protection cannot be protected against *refoulement* in the procedures prescribed by the Foreigners Act due to the lack of capacity of immigration officers to assess such risk. However, this has so far not been the case.

The conclusion that can be drawn from the above-described practices is that asylum seekers should not be returned to Serbia without a prior assessment of the facts related to their previous legal status in Serbia. Moreover, individual assurances<sup>447</sup> should be requested in relation to possible obstacles to access to the asylum procedure. However, taking into consideration the very high dysfunctionality of the child-protection system, USAC should not be returned back to Serbia until the situation significantly improves.<sup>448</sup> Considering Serbia as a safe third country in the context of pushbacks or readmissions severely undermines Article 3 of the ECtHR in its procedural limb. This was corroborated by the ECtHR in its judgment against Hungary which is related to three Syrian refugees expelled back under the automatic presumption that Serbia is a safe third country.<sup>449</sup> The case contains identical findings as in the Grand Chamber judgment *Ilias and Ahmed v. Hungary*.<sup>450</sup> The violation of Article 3 in this particular case was related to the lack of assessment of the risks of chain-*refoulement* from Serbia to North Macedonia. Another judgment which corroborates these findings is the case of *S.S. and Others v. Hungary*.<sup>451</sup>

To summarise, before returning asylum seekers back to **Serbia, Croatian, Hungarian, Romanian** but also **Bosnian** authorities must determine the following facts and ensure such individual guarantees as:

- ❖ what kind of status has the individual enjoyed in Serbia (asylum seeker, irregular migrant or other);
- ❖ taking into consideration the determined status, the assurances should contain strong guarantees that the individual will not be referred to the misdemeanour proceeding and will not be issued with any form of expulsion orders;
- ❖ returnee will be issued with a registration certificate or its duplicate;
- ❖ returnees will be afforded legal representation by either APC, IDEAS or other lawyers who have demonstrated qualifications in asylum and migration law;
- ❖ interpretation will be secured from the first contact with the immigration officers.

Additional facts, which must be taken into consideration from the aspect of individual assurances which must be obtained before the return to Serbia, are the following:

- ❖ ill-treatment committed by the hands of organised criminal groups controlling the border area and reception facilities which are in poor state and which are located in the north of Serbia
- ❖ poor, unhygienic and unsafe living conditions in the informal settlements
- ❖ acts of extreme right-wing groups who act against impunity.

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<sup>447</sup> ECtHR, *Tarakhel v. Switzerland*, Application no. 29217/12, Judgment of 4 November 2014, EDAL, available at: <http://bit.ly/2RvQipS>, para. 121-122.

<sup>448</sup> The cases of *M.W.* and *USAC X.* are the most striking examples of this practice, respectively available at: <https://bit.ly/3R54mH5> and *X.*

<sup>449</sup> ECtHR, *W.A. and Others v. Hungary*, Applications Nos. 64050/16 64558/16 and 66064/16, Judgment of 15 December 2022, available at: <http://bit.ly/427BS2z>.

<sup>450</sup> See more at HHC, *Asylum seekers won at the European Court of Human Rights again*, 19 December 2022, available at: <http://bit.ly/428w7ld>.

<sup>451</sup> Applications Nos. 56417/19 and 44245/20, Judgment of 12 October 2023, available at: <https://bit.ly/3xQlhpl>.



Problems regarding access to the procedure at **Nikola Tesla Airport** are identical (see [Access to the Territory](#)). Thus, people who are denied access to territory are simultaneously denied access to asylum procedure.

CSOs providing legal aid to asylum seekers have effective access to the Detention Centre for Foreigners in Padinska Skela (DC Padinska Skela) only in relation to detainees who asked for their assistance. In practice, these are usually persons whose families contacted CSO lawyers, and not detainees themselves. The question that remains open is to which extent are persons deprived of their liberty in immigration detention facilities informed on the asylum procedure taking into account that there are not officially employed interpreters in none of the three facilities (see more in [Detention of Asylum Seekers](#)).

However, the number of registered foreign nationals remains low. In 2024, only 2 persons were issued with the registration certificate in DC Padinska Skela, while the total number of immigration detainees in 2024 was 427, including from Syria (108) and Afghanistan (133).

The total number of registration certificates issued in the period 1 January 2024 – 31 December 2024						
Month	Total number of registration certificates	Airport	Detention centres	Police Departments	Border Area	Asylum Office
January	66	3	1	62	0	0
February	34	2	0	30	6	0
March	75	0	0	75	0	0
April	51	0	0	38	13	0
May	83	2	0	78	3	0
June	75	0	0	66	9	0
July	68	0	1	49	18	0
August	55	2	0	36	17	0
September	96	5	0	49	42	0
October	98	1	0	55	42	0
November	86	5	0	35	46	0
December	59	7	0	21	31	0
<b>Total</b>	<b>850</b>	<b>27</b>	<b>2</b>	<b>594</b>	<b>227</b>	<b>0</b>

Source: Ministry of Interior - Asylum Office and of the UNHCR office in Serbia (monthly reports).

### 3.2 Lodging an application

The asylum procedure is initiated by lodging ('submitting') an application before an authorised asylum officer, on a prescribed form within 15 days of the date of registration.<sup>452</sup> If the authorised asylum officer does not enable the person to lodge the application within that deadline, they may themselves out in the asylum application form within 8 days after the expiry of the 15-day time limit.<sup>453</sup> The asylum procedure shall be considered initiated after the lodging of the asylum application form at the Asylum Office.<sup>454</sup>

If strictly interpreted, the deadline of 15 plus 8 days could create serious problems regarding access to the asylum procedure because the reality in Serbia is that the vast majority of persons in need of international protection do not consider Serbia as a country of destination. However, they are predominantly and automatically issued with registration certificates and are thus subject to this deadline. In case the foreigner fails to meet the deadline, Article 35(13) of the Asylum Act envisages that they will be treated in accordance with the Foreigners Act, which further means that they could face expulsion to a third country or even the country of origin in case of direct arrival to Serbia.

<sup>452</sup> Article 36(1) Asylum Act.

<sup>453</sup> Article 36(2) Asylum Act.

<sup>454</sup> Article 36(3) Asylum Act.

This solution is questionable on many levels. The main reason is the short period left from the moment of registration until the expiry of the 15-plus-8-day deadline for the lodging of the asylum application. There are several relevant observations to highlight:

1. The capacities of the Asylum Office are still insufficient to cover the hundreds of cases in which the registration certificate is automatically issued, and the police officer of the Asylum Office is not present in any of the Asylum Centres;
2. The capacities of CSOs providing free legal assistance are also insufficient to effectively cover all the Reception Centres and Asylum Centres within the set deadline and at the same time provide legal counselling and preparation for asylum interviews;
3. Those people who miss the deadline but have a *prima facie* refugee claim would be considered to be irregular migrants and would be treated in line with the Foreigners Act. Accordingly, they would be exposed to the risk of *refoulement* to one of the neighbouring countries such as Bulgaria and North Macedonia.
4. Vulnerable applicants such as SGBV survivors, torture victims and vulnerable applicants sometimes require weeks or months before they are capable of sharing their traumatic experiences in asylum procedure.

For that reason, it is encouraging that the stance of the Asylum Office still shows a flexible interpretation of Article 36, as it considers that the possibility to lodge an asylum application should be provided for all people regardless of the deadline.<sup>455</sup> The arguments for this approach could be derived from the jurisprudence of the ECtHR and the case *Jabari v. Türkiye* in which the Court stated that ‘the automatic and mechanical application’ of a short time limit (for submitting an asylum application) ‘must be considered at variance with the protection of the fundamental value embodied in Article 3 of the Convention.’<sup>456</sup> However, it is clear that as long as this kind of provision exists in the Asylum Act, the risk of its strict interpretation will continue to exist, especially if the current policy, which implies a more or less flexible approach towards irregular stay of refugees, changes. Additionally, there are academics who are occasionally hired to conduct trainings for decision-makers in Administrative Law, and who are in favour of a strict interpretation of Article 36.<sup>457</sup> For that reason, amending this provision would dispel any doubts on possible mass denial of access to the asylum procedure in the future. IDEAS has suggested the removal of the deadline-related provisions from the Asylum Act during the consultations with the Mol in November 2021 and provided a draft of potential solutions.

In 2024, a total of 219 asylum applications were lodged. A total of 205 were in writing, 11 were lodged before asylum officers and 3 applications were subsequent. Out of total first-time asylum applications, 35 were originating from Syria, 30 from Türkiye, 27 from Cuba, 21 from Russian Federation, 13 from Burundi, 11 from Afghanistan and Pakistan, 10 from Armenia, 7 from Iran, Iraq and Belarus, 4 from Egypt, 3 from the State of Palestine, Kyrgyzstan and Tunisia, 2 from Ukraine, Kazakhstan, Algeria, China and Uzbekistan and 1 from, Croatia, Eritrea, Ethiopia, Ireland, Sweden, Gambia, India, Nigeria, Congo and Germany.

As for subsequent applications, they were submitted by nationals of Brazil, Kazakhstan and Algeria.

Also, forms for written asylum applications were translated in languages such as Arabic, Farsi, Urdu, French, English and Pashto and were distributed to Asylum and Reception Centres, which means that foreigners can now lodge asylum applications by themselves, with the help of CRM whose staff was responsible for sending applications to the headquarters of the Asylum Office. Still, there were many challenges which implied problems of communication between asylum seekers and the Asylum Office, and with regards to ID cards and other documents relevant for the inclusion which are issued by the Asylum Office (related to work, education or health care). Also, many asylum applications were impossible

<sup>455</sup> See more in AIDA, *Country Report: Serbia – Update on the year 2018*, March 2019, available [here](#), 25.

<sup>456</sup> ECtHR, *Jabari v. Türkiye*, Application No 40035/98, Judgment of 11 July 2000, EDAL, available at: <https://bit.ly/2Sj0D71>, para 40.

<sup>457</sup> AIDA, *Country Report: Serbia, Update on the year 2019*, May 2020, available [here](#), 31-32.

to translate due to different types of handwriting. For that reason, IDEAS lawyers have started to provide assistance in drafting and lodging of asylum applications

It remains unclear how many asylum seekers lodged asylum applications by themselves because the Asylum Office does not keep track of such data. According to IDEAS field experience, at least several dozen asylum seekers lodged written asylum applications without the help of legal representatives, but most likely this number can be higher than 50% of all asylum applications lodged in 2022. Still, in 2024, IDEAS lawyers have started to assist foreign nationals in lodging of their asylum application due to challenges which implied that 111 out of 219 applicants were supported in accessing asylum procedure.<sup>458</sup>

Month	Asylum Applications submitted in person	Written Asylum Application	Subsequent asylum applications
January	1	12	1
February	7	31	1
March	0	12	0
April	1	20	0
May	0	13	0
June	0	5	0
July	1	28	0
August	1	22	0
September	0	5	1
October	0	10	0
November	0	20	0
December	0	27	0
<b>Total</b>	<b>11</b>	<b>205</b>	<b>3</b>

Source: Ministry of Interior - Asylum Office and of the UNHCR office in Serbia (monthly reports).

## C. Procedures

### 1. Regular procedure

#### 1.1 General (scope, time limits)

##### Indicators: Regular Procedure: General

1. Time limit set in law for the determining authority to make a decision on the asylum application at first instance: 3 months
2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? ☒ Yes ☐ No
3. Backlog of pending cases at first instance as of 2024: No data
4. Average length of the first instance procedure in 2024: 13 months

The asylum procedure in Serbia is governed by the Asylum Act as *lex specialis* to GAPA which is applied in relation to questions that are not regulated by the Asylum Act.<sup>459</sup> The provisions of the Asylum Act shall be interpreted in accordance with the Convention and Protocol relating to the Status of Refugees and the

<sup>458</sup> Practice-informed observation of IDEAS, February 2025.

<sup>459</sup> Article 3 (1), Asylum Act.

generally recognised rules of international law.<sup>460</sup> Additionally, the third instance procedure before the Administrative Court is also governed by the Administrative Disputes Act (ADA).

The Asylum Act provides that a decision on asylum applications in the regular procedure must be taken within a maximum period of 3 months from the date of the lodging of the asylum application or the admissible subsequent application.<sup>461</sup>

In 2022, there was only 1 case in which the first instance asylum procedure which resulted in a positive decision was concluded within the 3-month and is related to a Ukrainian family.<sup>462</sup> Manifestly unfounded cases can be rejected within a month, but the question that remains open is why the highly credible cases, or the most vulnerable cases, have to wait for more than a year for a positive decision. The best example from 2021 is related to the comparison between the *prima facie* not credible application of a Pakistani national, and that of a torture victim from Iran.<sup>463</sup> The first one was rejected in exactly 1 month, while the torture victim received international protection after 20 months.<sup>464</sup>

On the other hand, in 2022, there were several examples of good practice in which a sexual and gender based violence survivor from Burundi was granted refugee status within 106 days (3 month and 14 days),<sup>465</sup> UASC from Afghanistan within 4 months,<sup>466</sup> LGBTQI+ and AIDS applicant from Cuba within 175 days (almost 6 months).<sup>467</sup> On the other hand, an SGBV survivor from Afghanistan had to wait for exactly a year,<sup>468</sup> as well as a Syrian mother with two children who waited for 10 months.<sup>469</sup> On the other hand, an UASC from Afghanistan had to wait for 14 months to receive subsidiary protection,<sup>470</sup> a Congolese woman with a child for 14 months<sup>471</sup> and another UASC from Afghanistan for 13 months.<sup>472</sup>

In 2023, there were only two instances in which the Asylum Office rendered the first instance decision within the prescribed deadline and in relation to *prima facie* non-credible cases of a German (1 month)<sup>473</sup> and Bosnian nationals (2 months).<sup>474</sup> On the other hand, there were cases in which the Asylum Office rendered the 1st instance decision after 22,<sup>475</sup> 21,<sup>476</sup> 20,<sup>477</sup> 19<sup>478</sup> and 17<sup>479</sup> months, which is significantly longer than maximum prescribed period of 12 months which can be applied only in exceptional circumstances. Moreover, out of 42 decisions which were rendered in merits and excluding the additional two messages in which asylum was granted to newborn babies of parents whose parents had already had their refugee status and subsidiary protection recognized, a total of 19 first instance decisions were rendered after 12+ months, which represents 47% of all asylum procedures decided for the first time in the first instance.

In 2024, the average length of the asylum procedure was 13 months and the cases decided for the first time in the first instance ranged from 4,<sup>480</sup> 6<sup>481</sup> and 9<sup>482</sup> months (1 case each related either to national

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<sup>460</sup> Article 3 (3), Asylum Act.

<sup>461</sup> Article 39(1) Asylum Act.

<sup>462</sup> Asylum Office, Decision No. 26-462/22, 15 June 2022.

<sup>463</sup> Asylum Office, Decision No. 26-760/21, 20 May 2021.

<sup>464</sup> Asylum Office, Decision No. 26-108/20, 27 August 2021.

<sup>465</sup> Asylum Office, Decision No. 26-2296/2022, 29 June 2022.

<sup>466</sup> Asylum Office, Decision No. 26-730/22, 31 August 2022.

<sup>467</sup> Asylum Office, Decision No. 26-688/22, 15 September 2022.

<sup>468</sup> Asylum Office, Decision No. 26-1635/21, 17 August 2022.

<sup>469</sup> Asylum Office, Decision No. 26-1569/21, 24 June 2022.

<sup>470</sup> Asylum Office, Decision No. 26-277/21, 13 July 2022.

<sup>471</sup> Asylum Office, Decision No. 26-532/21, 15 August 2022.

<sup>472</sup> Asylum Office Decision No. 26-281/21, 10 November 2021.

<sup>473</sup> Asylum Office, Decision No. 26-898/23, 9 June 2023.

<sup>474</sup> Asylum Office, Decision No. 26-311/23, 16 March 2023.

<sup>475</sup> Asylum Office, Decision No. 26-546/22, 23 February 2023 and 16-1682/21, 2 August 2023.

<sup>476</sup> Asylum Office, Decision No. 26-1277/21, 11 July 2023.

<sup>477</sup> Asylum Office, Decision No. 26-545/22, 7 November 2023.

<sup>478</sup> Asylum Office, Decision No. 26-1602/21, 7 April 2023.

<sup>479</sup> Asylum Office, Decision No. 26-1654/22, 9 November 2023.

<sup>480</sup> Asylum Office, Decision No. 26-1152/24, 9 August 2024.

<sup>481</sup> Asylum Office, Decision No. 26- 3065/23, 26 June 2024.

<sup>482</sup> Asylum Office, Decision No. 26- 26-1217/23, 13 July 2024

security grounds or prima facie incredible cases) to 12,<sup>483</sup> 13,<sup>484</sup> 16<sup>485</sup> and even 20<sup>486</sup> and 24 months.<sup>487</sup>

It is possible to extend the time limit for the first instance decision by 3 months in case the application includes complex factual or legal issues or in case of a large number of foreigners lodging asylum applications at the same time.<sup>488</sup> Exceptionally, beyond these reasons, the time limit for deciding on an asylum application may be extended by a further 3 months if necessary to ensure a proper and complete assessment thereof.<sup>489</sup> The applicant shall be informed of the extension. There were no instances in which this deadline was extended which are known to the author of this Report in 2022, but in 2023, there was one case in which the deadline was extended officially for additional 3 months, even though the decision on the extension was only taken after 13 months from the start of the procedure.<sup>490</sup> In 2024, and from the case files of all first instance decisions, it cannot be determined if this provision was applied.

The Asylum Act also envisages a situation where a decision on asylum application cannot be made within 9 months due to temporary insecurity in the country of origin of the applicant which needs to be verified every 3 months.<sup>491</sup> Nevertheless, the decision must be taken no later than 12 months from the date of the application.<sup>492</sup>

In other words, the first instance procedure still lasts unreasonably long (on average 13 months) which is one of the reasons discouraging asylum seekers from considering Serbia a country of destination.

In 2022, CSOs in Serbia did not lodge appeals complaining about the lack of response by the administration to the Asylum Commission and excessive length of first instance procedures, as it was the case in 2020 when APC and BCHR submitted more than 10 appeals. The situation remained unchanged in 2023 and 2024.

In March 2022, the UN Committee on Economic, Social and Cultural Rights (CESCR) recommended that Serbia ensures compliance with the statutory deadlines of the asylum procedure.<sup>493</sup>

The first instance procedure before the Asylum Office may be completed by: (a) a decision to uphold the application and grant refugee status or subsidiary protection;<sup>494</sup> (b) a decision to reject the asylum application;<sup>495</sup> (c) a decision to discontinue the procedure;<sup>496</sup> or (d) a decision to dismiss the application as inadmissible.<sup>497</sup>

The Asylum Act contains detailed provisions regarding the grounds for persecution,<sup>498</sup> *sur place* refugees,<sup>499</sup> acts of persecution,<sup>500</sup> actors of persecution,<sup>501</sup> actors of protection in the country of origin,<sup>502</sup> the internal flight alternative,<sup>503</sup> and grounds for exclusion.<sup>504</sup> This clearly indicates that the legislature was guided by the Common European Asylum System framework, namely the recast Qualification Directive.

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<sup>483</sup> Asylum Office, Decision No. 26-1459/23, 26.08.2024.

<sup>484</sup> Asylum Office, Decision No. 26-537/23, 17 April 2024.

<sup>485</sup> Asylum Office, Decision No. 26-41/23, 22 July 2024.

<sup>486</sup> Asylum Office, Decision No. 26-1222/22, 9 January 2024.

<sup>487</sup> Asylum Office, Decision No. 26- 2126/22, 23 August 2024.

<sup>488</sup> Article 39(2) Asylum Act.

<sup>489</sup> Article 39(3) Asylum Act.

<sup>490</sup> Asylum Office Decision No. 26-2728/22, 22 December 2023.

<sup>491</sup> Article 39(5) Asylum Act.

<sup>492</sup> Article 39(6) Asylum Act.

<sup>493</sup> CESCR, *Concluding observations on the third periodic report of Serbia*, 4 March 2022, E/C.12/SRB/CO/3, available at: <https://bit.ly/47AhcCo>, paras. 32-33.

<sup>494</sup> Article 34(1)(1)-(2) Asylum Act.

<sup>495</sup> Article 38(1)(3)-(5) Asylum Act.

<sup>496</sup> Article 47 Asylum Act.

<sup>497</sup> Article 42 Asylum Act.

<sup>498</sup> Article 26 Asylum Act.

<sup>499</sup> Article 27 Asylum Act.

<sup>500</sup> Article 28 Asylum Act.

<sup>501</sup> Article 29 Asylum Act.

<sup>502</sup> Article 30 Asylum Act.

<sup>503</sup> Article 31 Asylum Act.

<sup>504</sup> Articles 33 and 34 Asylum Act.

Still, there is plenty more room for improvement, especially with regard to the exclusion clause which lacks the clear procedural rules which would be in line with UNHCR Guidelines.<sup>505</sup>

Even though the new Asylum Act does not explicitly set out the burden of proof required for being granted asylum, Article 32 provides that the applicant is obliged to cooperate with the Asylum Office, to deliver all available documentation and present true and accurate information regarding the reasons for lodging an asylum application. If an applicant fails to do so, the asylum officer has the possibility to issue a decision in an accelerated procedure.<sup>506</sup> It is further prescribed that, in examining the substance of the asylum application, the Asylum Office shall collect and consider all the relevant facts and circumstances, particularly taking into consideration:

1. the relevant facts and evidence presented by the Applicant, including the information about whether he or she has been or could be exposed to persecution or a risk of suffering serious harm;
2. current reports about the situation in the Applicant's country of origin or habitual residence, and, if necessary, the countries of transit, including the laws and regulations of these countries, and the manner in which they are applied – as contained in various sources provided by international organisations including UNHCR and the European Union Asylum Agency (EUAA), and other human rights organisations;
3. the position and personal circumstances of the Applicant, including his or her sex and age, in order to assess on those bases whether the procedures and acts to which he or she has been or could be exposed would amount to persecution or serious harm;
4. whether the Applicant's activities since leaving the country of origin were engaged in for the sole purpose of creating the necessary conditions to be granted the right to asylum, so as to assess whether those activities would expose the Applicant to persecution or a risk of serious harm if returned to that country...<sup>507</sup>

In addition, the benefit of the doubt principle (*in dubio pro reo*) has not been explicitly defined as such, but it is prescribed that the applicant's statements shall be considered credible where a certain fact or circumstance is not supported by evidence if:

1. the applicant has made a genuine effort to substantiate his or her statements with evidence;
2. all relevant elements at his or her disposal have been submitted, and a satisfactory explanation have been given regarding any lack of other relevant facts;
3. the applicant's statements are found to be consistent and acceptable, and that they are not in contradiction with the specific and general information relevant to the decision on the asylum application;
4. the applicant has expressed intention to seek asylum at the earliest possible time, unless he or she can demonstrate good reason for not having done so;
5. the general credibility of the Applicant's statement has been established.

#### Overview of the practice of the Asylum Office for the period 2008-2024<sup>508</sup>

No.	Case file No.	Date of decision	Country of origin	Type of protection	No. of persons
2008					
2009					
1.	26-766/08	04.02.2009	Iraq	Subsidiary Protection	1
2.	26-753/08	11.05.2009	Ethiopia	Subsidiary Protection	1

<sup>505</sup> UNHCR, Guidelines on International Protection: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees, 4 September 2003, HCR/GIP/03/05, <https://bit.ly/3pIP7es>.

<sup>506</sup> Article 40 Asylum Act.

<sup>507</sup> Article 32 Asylum Act.

<sup>508</sup> IDEAS database (formed throughout the years for advocacy and reporting purposes and consisted of files collected from lawyers, NGOs, IDEAS's practice and FoI requests).



3.	26-754/08	11.05.2009	Ethiopia	Subsidiary Protection	1
4.	26-755/08	11.05.2009	Ethiopia	Subsidiary Protection	1
2010					
5.	AŽ – 25/09	22.04.2010	Somalia	Subsidiary Protection	1
2011					
2012					
6.	26-17/12	06.12.2012	Egypt	Refugee Status	1
7.	26-2324/11	19.12.2012	Libya	Refugee Status	1
8.	26-2326/11	20.12.2012	Libya	Refugee Status	1
2013					
9.	26-1280/13	25.12.2013	Türkiye	Refugee Status	2
2014					
10.	26-2429/13	23.05.2014	Tunisia	Refugee Status	1
11.	26-1762/13	23.05.2014	Syria	Subsidiary Protection	1
12.	26-304/13	23.05.2014	Syria	Subsidiary Protection	1
13.	26-1445/14	04.08.2014	Syria	Subsidiary Protection	1
2015					
14.	26-5266/15	26.03.2015	Iraq	Refugee Status	2
15.	26-1342/14	28.04.2015	Syria	Refugee Status	1
16.	26-3516/15	25.06.2015	Syria	Refugee Status	1
17.	26-1296/14	01.07.2015	Ukraine	Refugee Status	1
18.	26-986/14	06.07.2015	Ukraine	Refugee Status	1
19.	26-67/11	06.07.2015	Ukraine	Refugee Status	1
20.	26-66/11	06.07.2015	Ukraine	Refugee Status	1
21.	26-65/11	06.07.2015	Ukraine	Refugee Status	1
22.	26-5615-14	06.07.2015	Iraq	Refugee Status	1
23.	26-3599-14	07.07.2015	Ukraine	Refugee Status	1
24.	26-3777/15	09.07.2015	Syria	Refugee Status	1
25.	26-5751/14	13.07.2015	South Sudan	Refugee Status	1
26.	X	15.07.2015	Syria	Refugee Status	1
27.	26-71/15	15.07.2015	Syria	Refugee Status	1
28.	X	31.07.2015	Sudan	Refugee Status	1
29.	26-151/15	31.12.2015	Syria	Subsidiary Protection	1
30.	26-5792/14	03.08.2015	Libya	Subsidiary Protection	1
31.	26-5794/14	03.08.2015	Libya	Subsidiary Protection	1
32.	26-5793/14	05.08.2015	Libya	Subsidiary Protection	1
33.	26-4099/15	07.08.2015	Libya	Subsidiary Protection	4
34.	26-3886/15	09.09.2015	Lebanon	Refugee Status	1
35.	26-2879/15	11.09.2015	Iraq	Subsidiary Protection	1
36.	26-4099/15	07.10.2015	Libya	Subsidiary Protection	1
37.	26-4906/5	09.12.2015	Kazakhstan	Refugee Status	1
38.	X.	31.12.2015	Syria	Subsidiary Protection	1
2016					
39.	26-4062/15	08.01.2016	Syria	Subsidiary Protection	1
40.	26-4747/15	10.02.2016	Ukraine	Subsidiary Protection	1

41.	26-5626/15	01.03.2016	Sudan	Refugee Status	1
42.	26-5413/15	02.03.2016	Syria	Refugee Status	1
43.	26-223/16	08.03.2016	Afghanistan	Refugee Status	1
44.	26-5629/15	08.03.2016	Sudan	Refugee Status	1
45.	26-5625/15	14.03.2016	Sudan	Refugee Status	1
46.	26-4133/15	22.03.2016	Ukraine	Subsidiary Protection	3
47.	26-5047/15	11.04.2016	Sudan	Refugee Status	1
48.	AŽ-06/16	12.04.2015	Libya	Subsidiary Protection	2
49.	26-652/16	17.06.2016	Afghanistan	Subsidiary Protection	5
50.	26-423/16	27.06.2016	Cuba	Refugee Status	1
51.	26-425/16	04.07.2016	Cuba	Refugee Status	1
52.	26-424/16	04.07.2016	Cuba	Refugee Status	1
53.	26-4568/16	12.07.2016	Libya	Subsidiary Protection	1
54.	26-11/16	04.08.2016	Cuba	Refugee Status	1
55.	26-1051/16	13.09.2016	Iran	Refugee Status	1
56.	26-812/16	29.09.2016	Libya	Refugee Status	5
57.	26-5618/15	01.12.2016	Libya	Subsidiary Protection	5
58.	26-536/16	16.12.2016	Cameroon	Refugee Status	2
59.	26-2149/16	26.12.2016	Iraq	Subsidiary Protection	1
2017					
60.	26-926/16	21.07.2017	Syria	Refugee Status	1
61.	26-77/17	01.08.2017	Afghanistan	Refugee Status	1
62.	26-2434/16	20.09.2017	Burundi	Refugee Status	1
63.	26-331/15	21.09.2017	Ukraine	Subsidiary Protection	1
64.	26-5489/15	21.09.2017	Libya	Subsidiary Protection	9
65.	26-5044/15	25.12.2017	Bangladesh	Subsidiary Protection	1
66.	26-4370/15	27.12.2017	Nigeria	Subsidiary Protection	1
2018					
67.	26-1239/17	10.01.2018	Afghanistan	Refugee Status	1
68.	26-78/17	10.01.2018	Afghanistan	Refugee Status	1
69.	26-1083/18	26.01.2018	Iran	Refugee Status	1
70.	26-4568/15	11.02.2018	Somalia	Subsidiary Protection	1
71.	26-881/17	10.04.2018	Afghanistan	Refugee Status	1
72.	26-81/17	16.04.2018	Afghanistan	Refugee Status	1
73.	26-2152/17	16.04.2018	Afghanistan	Refugee Status	1
74.	26-1223/17	20.04.2018	Pakistan	Subsidiary Protection	1
75.	26-430/17	23.04.2018	Iran	Refugee Status	1
76.	26-2489/17	01.06.2018	Syria	Subsidiary Protection	1
77.	26-222/15	15.06.2018	Libya	Subsidiary Protection	5
78.	26-1695/17	15.06.2018	Libya	Subsidiary Protection	5
79.	26-1081/17	04.07.2018	Iran	Refugee Status	1
80.	26-2554/17	19.07.2018	Iran	Refugee Status	1
81.	26-187/18	01.11.2018	Iran	Refugee Status	1
82.	26-329/18	28.12.2018	Nigeria	Refugee Status	1
2019					

83.	26-1351/18	14.01.2019	Libya	Subsidiary Protection	1
84.	26-1352/18	14.01.2019	Libya	Subsidiary Protection	1
85.	26-2348/17	28.01.2019	Iraq	Refugee Status	1
86.	26-2643/17	30.01.2019	Afghanistan	Subsidiary Protection	1
87.	26-1395/18	05.02.2019	Iran	Refugee Status	3
88.	26-1216/18	12.02.2019	Russia	Refugee Status	1
89.	26-1217/18	12.02.2019	Russia	Refugee Status	1
90.	26-1218/18	12.02.2019	Russia	Refugee Status	1
91.	26-1260/18	13.03.2019	Cuba	Refugee Status	3
92.	26-176/18	15.03.2019	Syria	Subsidiary Protection	3
93.	26-1605/18	15.03.2019	Iran	Refugee Status	1
94.	26-2047/17	21.03.2019	Iraq	Subsidiary Protection	4
95.	26-1141/18	05.04.2019	Iran	Refugee Status	1
96.	26-1731/18	08.05.2019	Syria	Subsidiary Protection	1
97.	26-787/19	29.05.2019	Afghanistan	Refugee Status	1
98.	AŽ X	02.09.2019	Iran	Subsidiary Protection	1
99.	26-2050/17	12.09.2019	China	Refugee Status	1
100.	26-3638/15	16.09.2019	Syria	Subsidiary Protection	1
101.	26-784/18	20.11.2019	Afghanistan	Refugee Status	1
102.	26-1403/19	11.12.2019	Afghanistan	Refugee Status	1
103.	26-1719/18	11.12.2019	Syria	Subsidiary Protection	1
104.	X	2019	Libya	Subsidiary Protection	1
105.	X	2019	Pakistan	Subsidiary Protection	1
106.	X	2019	Pakistan	Subsidiary Protection	1
107.	X	2019	Syria	Subsidiary Protection	1
108.	X	2019	Afghanistan	Refugee Status	1
2020					
109.	26-2467/17	15.01.2020	Iran	Refugee Status	1
110.	26-1437/17	13.02.2020	Afghanistan	Refugee Status	1
111.	26-218/19	20.02.2020	Stateless	Refugee Status	1
112.	26-2328/19	20.02.2020	Burundi	Refugee Status	2
113.	X	February	Iran	Refugee Status	3
114.	26-1435/18	16.06.2020	Iran	Refugee Status	1
115.	26-1615/19	18.06.2020	Burundi	Refugee Status	2
116.	X	June	Somalia	Subsidiary Protection	1
117.	26-1451/12	June	Syria	Subsidiary Protection	1
118.	26-2063/17	10.08.2020	Stateless	Refugee Status	1
119.	X	August	Mali	Subsidiary Protection	1
120.	X	August	Somali	Subsidiary Protection	1
121.	26-1516/19	15.10.2020	Afghanistan	Refugee Status	1
122.	26-2474/19	15.10.2020	Afghanistan	Subsidiary Protection	1
123.	26-1271/19	15.10.2020	Iran	Subsidiary Protection	1
124.	26-57/20	23.10.2020	Syria	Subsidiary Protection	3
125.	X	2019	Afghanistan	Refugee Status	5
126.	26-1433/12	x.11.2020	Syria	Refugee Status	1

127.	X.	x.12.2020	Iraq	Refugee Status	1
2021					
128.	X.	x.04.2021	Iraq	Refugee Status	1
129.	X.	x.04.2021	Libya	Subsidiary Protection	1
130.	26-536/19	14.05.2021	Burundi	Subsidiary Protection	1
131.	26-1357/20	21.05.2021	Somalia	Subsidiary Protection	1
132.	26-1084/20	07.06.2021	Afghanistan	Subsidiary Protection	1
133.	26-1337/20	29.06.2021	Burundi	Refugee Status	1
134.	26-103/20	30.06.2021	Burundi	Refugee Status	1
135.	26-1376/20	12.07.2021	Syria	Subsidiary Protection	2
136.	26-108/20	27.08.2021	Iran	Refugee Status	1
137.	26-1601/20	30.08.2021	Iraq	Refugee Status	2
138.	3064/19	14.09.2021	Pakistan	Refugee Status	1
139.	26-2964/21	x.12.2021	Syria	Subsidiary Protection	1
2022					
140.	26-1389/17	02.02.2022	Libya	Refugee Status	1
141.	26-1437/21	31.03.2022	Niger	Subsidiary Protection	1
142.	26-462/22	15.06.2022	Ukraine	Subsidiary Protection	3
143.	26-1569/21	24.06.2022	Syria	Subsidiary Protection	3
144.	26-2296/22	29.06.2022	Burundi	Refugee Status	1
145.	26-346/21	29.06.2022	Cameron	Subsidiary Protection	1
146.	26-277/21	13.07.2022	Afghanistan	Subsidiary Protection	1
147.	26-532/21	15.08.2022	DR Congo	Subsidiary Protection	2
148.	26-1635/21	17.08.2022	Afghanistan	Refugee Status	3
149.	26-463/22	22.08.2022	Ukraine	Refugee Status	1
150.	26-730/22	31.08.2022	Afghanistan	Subsidiary Protection	1
151.	26-688/22	15.09.2022	Cuba	Subsidiary Protection	1
152.	26-1591/22	19.09.2022	Syria	Subsidiary Protection	1
153.	26-1607/18	14.10.2022	Iran	Refugee Status	3
154.	26-1947/21	28.10.2022	Syria	Subsidiary Protection	1
155.	26-281/11	10.11.2022	Afghanistan	Refugee Status	1
156.	26-1177/22	01.12.2022	Syria	Subsidiary Protection	2
157.	26-1236/21	05.12.2022	Syria	Subsidiary Protection	1
158.	26-2135/22	13.12.2022	Syria	Subsidiary Protection	1
159.	26-1593/22	13.12.2022	Syria	Subsidiary Protection	1
2023					
160.	26-1959/21	05.01.2023	Syria	Subsidiary Protection	1
161.	26-1043/22	06.02.2023	Cuba	Refugee Status	1
162.	26-132/22	20.02.2023	Cuba	Refugee Status	4
163.	26-532/21	05.07.2023	DRC	Subsidiary Protection	1
164.	26-103/21	24.07.2023	Burundi	Refugee Status	1
165.	26-1562/22	14.12.2023	India	Refugee Status	1
2024					
166.	26-334/23	09.01.2024	Syria	Subsidiary Protection	1
167.	26-2126/22	23.08.2024	Iran	Refugee Status	1

168.	26-10-24/23	26.08.2024	Burundi	Refugee Status	1
169.	26-238/23	16.09.2024	Syria	Subsidiary Protection	1
170.	26-1969/24	10.10.2024	Congo	Refugee Status	1
171.	26-853/24	15.10.2024	Syria	Subsidiary Protection	1
172.	26-296/24	29.10.2024	Ukraine	Refugee Status	1

In the period from 1 April 2008 to 31 December 2024, the asylum authorities in Serbia rendered 172 decisions granting asylum (refugee status or subsidiary protection) to 243 persons from 29 different countries.<sup>509</sup> A total of 77 decisions was rendered in relation to 121 applicants who received subsidiary protection, while 95 decisions were rendered in relation to 122 applicants who were granted refugee status.

The highest number of decisions was rendered in 2019 (26), and then in the following order: 2015 (25), 2016 (21), 2022 (20), 2020 (19), 2018 (16), 2021 (12), 2017 (7), 2024 (7), 2023 (6), 2014 (4), 2009 (4), 2012 (3), 2013 (1) and 2010 (1). In 2008 and 2011, not a single positive decision was rendered. Top 5 nationalities which received international protection in Serbia are: Libya (47), Syria (41), Afghanistan (33), Iran (23) and Iraq (16).

## Libya

The highest number of applicants who were granted international protection in Serbia originate from Libya – **47 persons** through **19 decisions**. A total of 4 decisions were issued granting refugee status to 8 Libyans. On the other hand, 15 decisions granting subsidiary protection were issued in relation to 39 applicants. Decisions on subsidiary protection were based on the state of general insecurity and widespread violence which implied the risk of suffering serious harm. The main source, in terms of the Col, were different updates of UNHCR position papers on returns to Libya and a moratorium on returns which remains valid as of March 2022.<sup>510</sup> The remaining 4 decisions referred to the risk of persecution on ethnic and political grounds for applicants belonging to the same tribe as Muammar Gaddafi<sup>511</sup> or a 5-member family belonging to the ethnic group of Berbers which was particularly targeted during the civil war and in post-conflict period in Libya.<sup>512</sup>

In the history of the Serbian asylum system, a total of 66 Libyans applied for asylum, even though 663 were issued a registration certificate, as most of them never applied for asylum. There were no instances in which the applicant from Libya was rejected up to the final decision of the Administrative Court, except in one case where a 5-member family then addressed the ECtHR and was later on granted subsidiary protection.<sup>513</sup> This case, as well as another which was positively resolved in 2022, were initially rejected on the basis of negative security assessment from BIA.<sup>514</sup> Still, it can be safely assumed that, if provided

<sup>509</sup> The author of this Report has collected 155 out of 165 decisions. The number of decisions and applicants was counted by the author of this Report and on the basis of a unique database which is established in IDEAS. Namely, official number of persons who received international protection in Serbia is 245 or even more according to some CSOs. However, this number includes the cases which were not final in the given year. For instance, there is at least 7 asylum procedures in which legal representatives appealed the decision on subsidiary protection claiming that their clients deserve refugee status. Asylum Commission or Administrative Court upheld appeals and onward appeals respectively and sent the case back to the Asylum Office. However, Asylum Office rendered the same decision (subsidiary protection) with regards to the same person again. The lawyers were then complaining again. There were instances in which 1 person received 3 decisions on subsidiary protection in the period of 7 years and was granted refugee status in the end. However, it is possible that the statistics provided by the author of this Report are not 100% accurate. Still, the author believes that this is the most accurate statistics which can be provided for now and potential variations cannot be higher than maximum 5 decisions regarding 5 applicants.

<sup>510</sup> E.g., UNHCR, UNHCR Position on Returns to Libya - Update II, September 2018, available at: <http://bit.ly/39VMQNz>.

<sup>511</sup> Asylum Office, Decisions Nos. 26-2324/11, 19 December 2012 and 26-2326/11, 20 December 2012.

<sup>512</sup> Asylum Office, Decision No. 26-812/16, 29 September 2016.

<sup>513</sup> Asylum Office, Decision No. 26-222/15, 16 June 2018; ECtHR, A. and Others v. Serbia, Application No 37478/16, Communicated on 12 December 2017.

<sup>514</sup> Asylum Office, Decision No. 26-1389/17, February 2022.

with adequate legal support, applicants from Libya had decent chances to obtain international protection in Serbia during the peak of the civil war.

## Syria

A total of **41 Syrians** were granted international protection in Serbia through **35 decisions**. Eight were granted refugee status via 8 decisions while 35 were granted subsidiary protection through 27 decisions. However, a total of 321,089 Syrians was registered in Serbia since 2008, while only 597 lodged asylum application.

The vast majority of Syrians absconded before the first instance decision was issued, while at least several dozens were subjected to the automatic application of the safe third country concept (STCC), which plagued the Serbian asylum system in the period 2008-2018.<sup>515</sup> The vast majority of the applicants whose asylum application was dismissed absconded the asylum procedure, while only 1 remained and his case is currently pending before the ECtHR.<sup>516</sup>

There were no instances in which a Syrian asylum application was rejected on the merits with the final decision, except in 2 cases which were rejected as such in the first instance, in 2021 and 2022. The author of this report was not able to obtain data of these two cases, but the practice of the Administrative Court and Asylum Commission from 2022 does not indicate that these decisions became final. So, the potential outcome in these cases is either that applicants absconded or their cases were referred back to the Asylum Office after which they received subsidiary protection. Still, there were several more decisions in which Syrian were rejected in merits, but mostly on national security grounds and in 2023 and 2024.

Decisions in which Syrians were granted subsidiary protection in Serbia were based on the state of general insecurity and widespread violence which implied the risk of suffering serious harm. The main sources in terms of Col which were cited in such decisions were UNHCR position papers on returns to Syria<sup>517</sup> and EUAA reports on Syria.<sup>518</sup> Decisions granting refugee status were mainly based on the risk of persecution due to political opinion or draft evasion.<sup>519</sup> When it comes to draft evasion, the practice has been contradictory, meaning that some applicants were granted refugee status, others subsidiary protection. This practice continued in 2022. In 2023, the applications of 2 Syrian nationals were rejected, one of them on the basis of being considered as the national security risk.<sup>520</sup> In 2024, 3 Syrians were granted subsidiary protection,<sup>521</sup> 3 were rejected on the basis of arbitrary national security assessment,<sup>522</sup> while in 1 case subsequent asylum application was dismissed.<sup>523</sup>

## Afghanistan

Persons in need of international protection from Afghanistan are the second biggest group of persons registered in Serbia (190,011) and the largest group that actually lodged asylum application (980). However, only **33 Afghans** were granted asylum through 22 decisions. The vast majority of Afghan applicants absconded the asylum procedure, as it has been the case with Syrians and Iraqis.

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<sup>515</sup> AIDA, Country Report Serbia, Update March 2018, 41-53.

<sup>516</sup> M.H. v. Serbia, Application No 62410/17, Communicated on 26 October 2018.

<sup>517</sup> E.g., UNHCR, International Protection Considerations with regard to people fleeing the Syrian Arab Republic, Update VI, March 2021, HCR/PC/SYR/2021/06, available at: <https://bit.ly/3HO7C1B>.

<sup>518</sup> E.g., EASO, EASO Country of Origin Information Report: Syria Security situation (July 2021), available at: <https://bit.ly/3HKwasb>.

<sup>519</sup> Asylum Office, Decision No. 26-5413/15, 2 March 2016.

<sup>520</sup> Asylum Office, Decision No. 1441/17, 20 March 2024.

<sup>521</sup> Asylum Office, Decisions Nos. 26-334/23, 9 January 2024; 26-238/23, 5 October 2023 and 26-853/24, 15 October 2023.

<sup>522</sup> Asylum Office, Decisions Nos. 26-295/23, 24 February 2024; 26-2996/23, 11 July 2024 and 26-172/23, 12 July 2024.

<sup>523</sup> Asylum Office, Decisions No. 26-2984/22, 18 January 2024.



The Asylum Office issued 16 decisions granting refugee status to 22 Afghans on the basis of the risk of persecution which they faced as: interpreters,<sup>524</sup> artists,<sup>525</sup> members of police and other security forces,<sup>526</sup> persons who worked for US companies,<sup>527</sup> SGBV survivors who were subjected to harmful traditional practices (honour killing, consequences of having children out of wedlock)<sup>528</sup> or persons who faced risks of Taliban recruitment.<sup>529</sup>

Also, a total of 6 decisions granting subsidiary protection was issued in relation to 10 applicants. Subsidiary protection was granted to individuals who belonged to vulnerable categories such as UASC or families with young children who faced the state of general insecurity and arbitrary violence from Taliban.<sup>530</sup>

The recognition rate of Afghan applicants varied throughout the years, but it is yet to be seen how the Taliban rule will affect the practice of asylum authorities in the future.<sup>531</sup> There was only 1 decision in 2021 in which the Taliban rule and general situation in Afghanistan was declared as grounds for subsidiary protection.<sup>532</sup> In 2022, there were 3 such decisions issued in relation 3 three UASC (2 subsidiary protections and 1 refugee status), as well as two decisions granting refugee status to a three-member family from Afghanistan due to SGBV grounds and further risk of SGBV, but in which the Taliban rule was also taken into account.<sup>533</sup> However, in 2023, three asylum applications were rejected in merits and no positive decisions were taken.<sup>534</sup> The first applicant was rejected on the national security grounds, while the other two were rejected in merits. One applicant from Afghanistan was rejected on the merits in 2024.<sup>535</sup>

## Iraq

A total of 11 decisions granting international protection was rendered in relation to **16 Iraqi nationals**. Through 5 decisions 8 persons were granted subsidiary protection as Sunni Muslims who faced arbitrary violence in post US invasion Iraq,<sup>536</sup> during the Islamic State of Iraq and Syria (ISIS) control of area around Mosul<sup>537</sup> and in post-ISIS period.<sup>538</sup> Iraqis granted refugee status faced risk of forcible military recruitment,<sup>539</sup> were directly targeted as Sunni Muslims<sup>540</sup> or were victims of sexual and gender-based violence (SGBV).<sup>541</sup>

It is noteworthy to say that 82,859 Iraqi were registered in Serbia since 2008 and that only 301 lodged an asylum application. As it was the case with Syrians, the vast majority of them absconded before the first instance decision was issued, or afterwards, after they were subjected to the practice of the STCC. In one instance, the STCC was applied through a final decision of the Administrative Court, and this person was later on granted humanitarian residency due to his integration into Serbian society. In this particular case, the legal representatives failed to challenge the automatic application of the STCC before the ECtHR

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<sup>524</sup> Asylum Office, Decision No. 26-77/17, 1 August 2017.

<sup>525</sup> Asylum Office, Decision No. 26-78/17, 10 January 2018.

<sup>526</sup> Asylum Office, Decision No. 26-81/17, 16 April 2018.

<sup>527</sup> Asylum Office, Decision No. 26-1239/17, 10 January 2018.

<sup>528</sup> Asylum Office, Decision No. 26-1635/21, 17 August 2022.

<sup>529</sup> Asylum Office Decisions Nos. 26-784/18, 20 November 2019 and 26-1403/19, 11 December 2019.

<sup>530</sup> Asylum Office Decisions Nos. 26-652/16, 17 June 2016, 26-2643/17, 30 January 2019, 26-2474/19, 15 October 2020, 26-1084/20, 7 June 2021, 26-277/21, 13 July 2022, 26-730/22, 31 August 2022 and 26-281/11, 10 November 2022.

<sup>531</sup> AIDA, *Country Report Serbia*, Update March 2020, pp. 41 and 43.

<sup>532</sup> Asylum Office, Decision No. 26-1084/20, 7 June 2021.

<sup>533</sup> Asylum Office, Decisions Nos. 26-277/21, 13 July 2022, 26-730/22, 31 August 2022 and 26-281/11, 10 November 2022 and 26-1635/21, 17 August 2022.

<sup>534</sup> Asylum Office, Decision Nos. 26-2276/21, 27 January 2023, 26-50/22, 3 February 2023 and 26-1922/21, 8 February 2023.

<sup>535</sup> Asylum Office, Decision No. 26-2349/19, 22 July 2024.

<sup>536</sup> Asylum Office, Decision No. 26-766/08, 4 February 2009.

<sup>537</sup> Asylum Office, Decisions Nos. 26-2879/15, 11 September 2015 and 26-2149/16, 26 December 2016.

<sup>538</sup> Asylum Office, Decision No. 26-2047/17, 21 March 2019.

<sup>539</sup> Asylum Office, Decision No. 26-2348/17, 28 January 2019.

<sup>540</sup> Asylum Office, Decision No. 26-5266/15, 26 March 2015.

<sup>541</sup> Asylum Office, Decision No. 26-1601/20, 30 August 2021.

which would potentially have provided a durable solution for the applicant.<sup>542</sup> There were probably several more instances in which the STCC was confirmed with the final decision in relation to Iraqi applicants. The author of this Report is not aware of any decisions in which an Iraqi asylum application was rejected on the merits with the final decision.

## Iran

Iranian asylum seekers were granted asylum through 17 decisions encompassing **23 persons**. A total of 21 applicants received refugee status through 14 decisions and the grounds were mainly of religious nature – conversion from Islam to Christianity.<sup>543</sup> There were instances in which victims of torture who opposed the Iranian political system received refugee status,<sup>544</sup> as well as LGBTQI+ persons<sup>545</sup> and social activists.<sup>546</sup> One human rights activist<sup>547</sup> and 1 UASC received subsidiary protection.<sup>548</sup> Since 2008, a total of 14,777 Iranians were registered, while only 360 lodged an asylum application.

The vast majority of asylum applications based on religious reasons (conversion) were rejected on the merits and became final and executive. These decisions represent a shift in practice which from the outset was in almost all instances positive, but due to the increased number of applicants who converted from Islam to Christianity, the Asylum Office raised the bar of credibility which produced an inconsistent practice.

## Ukraine

Only 27 Ukrainians were registered in the period 2014-2024 and all of them lodged an asylum application and **16 were granted asylum**. Eight Ukrainian applicants received subsidiary protection through 4 decisions, and 8 were granted refugee status through the same number of decisions. Most of their claims were based on their Russian ethnicity or pro-Russian orientation, or they had previous family or other connections with Serbia. See [Annex on Temporary Protection](#).

In March 2022, 4 Ukrainian applicants lodged asylum applications with the Asylum Office (1 family of 3 and 1 journalist) and were all granted asylum – subsidiary protection to the family due to the state of general insecurity<sup>549</sup> and 1 refugee status to the journalist who reported on war crimes allegedly committed by Ukrainian authorities.<sup>550</sup> In 2023, only 1 Ukrainian national applied for asylum and he was rejected on the basis of the national security grounds.<sup>551</sup> In 2024, 1 survivor of SGBV and trafficking in human beings was granted refugee status,<sup>552</sup> while one Ukrainian national was rejected on the basis of national security grounds.<sup>553</sup>

## Burundi

A total of 1,223 Burundians were registered in line with the Asylum Act, and 306 of them lodged an asylum application in the period 2017-2024. The increase in the number of Burundian applicants can be connected with the free visa regime that Serbia has introduced for Burundian citizens, and which was cancelled in December 2022 after pressure from the EU.

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<sup>542</sup> Administrative Court, Judgment U 6060/18, 4 October 2018.

<sup>543</sup> Asylum Office, Decisions Nos. 26-1051/16, 13 September 2016, 26-1083/18, 26 January 2018, 26-430/17, 23 April 2018, 26-1081/17, 4 July 2018, 26-1395/18, 5 February 2019 and 26-2126/22, 23 August 2024.

<sup>544</sup> Asylum Office, Decision No. 26-108/20, 27 August 2021.

<sup>545</sup> Asylum Office, Decisions Nos. 26-1605/18, 15 March 2019 and 26-2467/17, 15 January 2020.

<sup>546</sup> Asylum Office, Decision No. 26-1607/18, 14 August 2022.

<sup>547</sup> Asylum Commission, Decision No. AŽ 16/19, 2. September 2019.

<sup>548</sup> Asylum Office, Decision No. 26-1271/19, 15 October 2020.

<sup>549</sup> Asylum Office, Decision No. 26-462/22, 15 June 2022.

<sup>550</sup> Asylum Office, Decision No. 26-463/22, 22 August 2022.

<sup>551</sup> Asylum Office, Decision No. 26-2736/22, 29 June 2023.

<sup>552</sup> Asylum Office, Decision No. 26-296/24, 29 October 2024.

<sup>553</sup> Asylum Office, Decision No. 26-1830/22, 22 March 2024.

Still, only **11 Burundians** were granted protection through 9 decisions. A total of 10 Burundians were granted refugee status through 8 decisions and 1 Burundian was granted subsidiary protection. Refugee status was granted to women victims of SGBV, LGBTQI+ persons, torture survivors and political opponents. All of them are ethnic Tutsi.

## Cuba

A total of 316 Cubans were registered in line with the Asylum Act, while 151 of them lodged an asylum application since the onset of the Serbian asylum system. Only **12** of them received refugee status through 7 decisions and on the basis of the political persecution which they faced as political activists opposed to the Government, while 1 Cuban LGBTQI+ applicant with serious medical condition received subsidiary protection in 2022.<sup>554</sup> In 2023, two high profile political activists from Cuba, involved in the protests in the period November 2021 - 11 July 2022, were granted refugee status, one of them with the rest of his family.<sup>555</sup> In 2024, a total of 19 Cubans were rejected on the merits through 15 decisions.

## Somalia

A total of 66,484 Somalis were registered in line with the Asylum Act, while only 338 of them lodged asylum applications. Subsidiary protection was granted to **5 individuals**, on the basis of the state of general insecurity in Somaliland.

## Other nationalities

A total of **5 Sudanese from Darfur** were granted refugee status in the period 2015-2016 (5 decisions), 4 **Pakistanis** were granted asylum out of which 3 subsidiary protection and 1 UASC refugee status and as a survivor of human trafficking. A total of **3** athletes from **Ethiopia** were granted subsidiary protection in 2009 due to political reasons, as well as **3** women from **Chechnya-Russia**, who had LGBT claims. An **LGBT couple from Türkiye** received refugee status in 2013. A woman from **Cameroon** and her daughter were granted refugee status as survivors of SGBV, as well as Cameroonian persons with a disability,<sup>556</sup> while one underage girl from **Nigeria** was granted refugee status as a survivor of human trafficking. Another Nigerian man with severe disability received subsidiary protection. Two **Palestinians** were recognized as refugees and victims of forced military recruitment in Syria. One applicant from **Bangladesh** who is quadriplegic was granted subsidiary protection. The same protection was granted to an applicant from **Mali** in 2020.<sup>557</sup> Refugee status was granted to a **Coptic Christians from Egypt** on the basis of religious persecution, as well as to **Chinese Uyghurs, Kazakh Christians and Tunisian Christians** on the same grounds. A man from **Lebanon** escaped political persecution from Hezbollah and received refugee status, as well as a **South Sudanese** who belonged to the opposition. In 2022, a boy from Niger was granted subsidiary protection after he fled the state of general insecurity caused by the Boko Haram movement,<sup>558</sup> as well as a mother and her daughter from **DR Congo**, who escaped the situation of arbitrary violence in her village and whose later born daughter (in Serbia), was also granted refugee status.<sup>559</sup> In 2023, a survivor of trafficking in human beings belonging to the specific social groups Hijras in India, was granted refugee status in the decision, which also outlines her vulnerability as transgender woman and survivor of SGBV and this decision should be considered as landmark.<sup>560</sup> In 2024, a survivor of SGBV and trafficking in human beings from Congo was granted refugee status.<sup>561</sup>

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<sup>554</sup> Asylum Office, Decision No. 26-688/22, 15 September 2022.

<sup>555</sup> Asylum Office, Decisions Nos. 26-1043/22, 6 February 2023 and 26-132/22, 20 February 2023.

<sup>556</sup> Asylum Office, Decision No. 26-346/21, 29 June 2022.

<sup>557</sup> Child-soldier case.

<sup>558</sup> Asylum Office, Decision No. 26-1437/21, 31 March 2022.

<sup>559</sup> Asylum Office, Decisions Nos. 26-532/21, 15 August 2022 and 26-532/21, 5 July 2023.

<sup>560</sup> Asylum Office, Decision No. 26-1562/22, 14 December 2023.

<sup>561</sup> Asylum Office, Decision No. 26-1969/24, 10 October 2024.

**Breakdown of positive decisions, nationalities of applicants and type of protection for the period 2008-2024**

Country of origin		Subsidiary Protection		Refugee Status		Total	
		No. of Decisions	No. of Persons	No. of Decisions	No. of Persons	No. of Decisions	No. of Persons
1.	Libya	15	39	4	8	19	47
2.	Syria	27	35	8	8	35	43
3.	Afghanistan	6	10	16	22	22	32
4.	Iran	2	2	15	21	17	23
5.	Iraq	4	7	6	8	10	15
6.	Ukraine	4	8	8	8	12	16
7.	Cuba	1	1	7	12	8	13
8.	Burundi	1	1	8	10	9	11
9.	Somalia	5	5	0	0	5	5
10.	Sudan	0	0	5	5	5	5
11.	Pakistan	3	3	1	1	4	4
12.	Russia	0	0	3	3	3	3
13.	Ethiopia	3	3	0	0	3	3
14.	Türkiye	0	0	1	2	1	2
15.	Cameroon	1	1	1	2	2	3
16.	DR Congo	2	3	0	0	2	3
17.	Nigeria	1	1	1	1	2	2
18.	Stateless	0	0	2	2	2	2
19.	Mali	1	1	0	0	1	1
20.	Egypt	0	0	1	1	1	1
21.	Tunisia	0	0	1	1	1	1
22.	Lebanon	0	0	1	1	1	1
23.	Kazakhstan	0	0	1	1	1	1
24.	Bangladesh	1	1	0	0	1	1
25.	China	0	0	1	1	1	1
26.	South Sudan	0	0	1	1	1	1
27.	Niger	0	0	1	1	1	1
28.	India	0	0	1	1	1	1
29.	Congo	0	0	1	1	1	1
<b>Total</b>		<b>77</b>	<b>121</b>	<b>95</b>	<b>122</b>	<b>172</b>	<b>243</b>

**Particular grounds for international protection, contradicting practices and different trends**

On other hand, among 172 decisions, excellent examples of good practice can be observed. In the history of the Serbian asylum system, asylum authorities have granted asylum on almost all grounds envisaged in Article 1 of the 1951 Refugee Convention. However, there are numerous examples in which the practice of the Asylum Office has been inconsistent and especially in the following type of cases:

- LGBTQI+ applicants
- SGBV survivors
- UASCs
- draft evaders
- converts from Islam to Christianity

## LGBTQI+

When it comes to LGBTQI+ applicants, the first ever-positive decision was granted to a Turkish gay couple in 2013.<sup>562</sup> Several other decisions, which represent an example of good practice, ensued in the following years. Among those are decisions granting refugee status to two gay men from Iran<sup>563</sup> and 3 lesbians from Chechnya.<sup>564</sup>

However, in the same period, several contentious decisions highlight the inconsistency in assessing LGBTQI+ claims by asylum authorities in Serbia. One decision referred to a transgender man from Bosnia whose asylum application was also rejected in the Netherlands.<sup>565</sup> In two other separate decisions, which related to a gay couple from Tunisia, the first instance authority outlined that the state of human rights of LGBTQI+ in Tunisia has been significantly improving throughout the years, highlighting the fact that even one of the presidential candidates openly declared to be gay. However, the Asylum Office disregarded the fact that the Tunisian legal framework still stipulates ‘forced anal examination’ of people ‘suspected to be gay’ and criminalises homosexuality in its Criminal Code, prescribing a prison sentence of up to 5 years.<sup>566</sup> Another contentious decision referred to a transgender woman from Iran who was rejected even though the UNHCR office in Serbia eventually granted her the mandate status and resettled her to another country.<sup>567</sup> In 2021, there were two decisions in which application from a gay men, respectively from Iran<sup>568</sup> and Bangladesh,<sup>569</sup> were rejected as unfounded. The threshold set in these two cases represents a dangerous precedent when it comes to LGBTQI+ claims.<sup>570</sup> In both decisions, the Asylum Office considered that the applicants would not have been subjected to persecution if they had acted discretely with regards to their sexual orientation. Also, the acts of violence and threats to which both applicants were subjected were not of sufficient level of seriousness according to the Asylum Office. In 2022, there were several more decisions rejecting LGBTQI+-related asylum claims applicants, whose cases continued from 2021 (applicants from Tunisia, Bangladesh and Iran) and 1 case in 2022 of an applicant from Morocco.<sup>571</sup>

One Cuban citizen was granted subsidiary protection as an LGBTQI+ applicant in 2022, but the positive outcome was not solely based on the discrimination which he had encountered in Cuba, but also on the basis of his serious illness.<sup>572</sup> However, 3 other applicants from Cuba who had identical claims and medical expert opinions on their deteriorating medical state were rejected, providing once again examples on different approaches that the Asylum Office takes in similar or identical cases.<sup>573</sup> All cases were related to a combination of circumstances which implied lack of medicine for HIV and discrimination of LGBTQI+ people committed at the hands of society and state institutions.

In 2023, the Asylum Office rendered the landmark decision on LGBTQI+, SGBV and survivor of trafficking in human beings on the member of the hijra movement from India.<sup>574</sup> An example of good practice was recorded in 2024 when a bisexual man from Burundi was granted refugee status due to the persecution he was submitted to by his family.<sup>575</sup>

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<sup>562</sup> Asylum Office, Decision No.26-1280/13, 25 December 2013.

<sup>563</sup> Asylum Office, Decisions No. 26-1605-18, 15 March 2019 and 26-2467/17, 15 January 2020.

<sup>564</sup> Asylum Office, Decisions Nos. 26-1216/18, 26-1217/18 and 26-1218/18, 12 February 2019.

<sup>565</sup> Asylum Office, Decision No. 26-2347/19, 8 June 2020.

<sup>566</sup> Asylum Office, Decision No. 26-2038/19, 30 July 2020 and 26-2039/19, 17 August 2020.

<sup>567</sup> Asylum Office, Decision No. 26-1592/18, 20 November 2019 and see also, AIDA, Country Report Serbia, Update March 2019, 37.

<sup>568</sup> Asylum Office, Decision No. 26-1284/20, 1 December 2021.

<sup>569</sup> Asylum Office, Decision No. 26-404/12, 4 November 2021.

<sup>570</sup> See more in the Chapter on the 2021 practice of the Asylum Office.

<sup>571</sup> The author did not manage to see the copy of this decision.

<sup>572</sup> Asylum Office, Decision No. 26-688/22, 15 September 2022.

<sup>573</sup> Asylum Office, Decisions Nos. 26-1222/22, 9 January 2024; 26-1223/22, 10 January 2024 and 26-3283/22, 18 April 2024.

<sup>574</sup> Asylum Office, Decision No. 26-1562/22, 14 December 2023.

<sup>575</sup> Asylum Office, Decision No. 26-10-24/23, 26 August 2024.

## Victims of SGBV

The practice of the asylum authorities when it comes to the survivors of SGBV, but also persons at risk of SGBV has also been inconsistent. The first notable case goes back to 2016, when a woman from Chechnya was rejected on the merits. Namely, during the interview, M.G. unequivocally expressed her well-founded fear of persecution by Chechens (including her family members), who threatened her because she 'lost her virginity out of wedlock' and because she was pregnant at the time of leaving Russia. In addition, the mere fact that the asylum seeker had left Russia and her family may be a reason for retaliation by her father and other Chechens. She specifically stated that she received threats from her father that he would kill her if she had sexual relations before marriage, and described how Chechens treat girls in such cases, i.e., that those girls are often victims of honour killing. The applicant stated that her mother once told her about a case where a brother killed a sister who had sex before marriage, then killing her mother because she did not take good care of her daughter.<sup>576</sup>

Another contentious case was recorded in December 2017, when an application by a woman who was a victim of SGBV in Afghanistan was dismissed on the basis that Bulgaria was a safe third country. The Asylum Office disregarded the fact that Z.F. was also raped in Bulgaria, manifesting in that way the Office's lack of capacity to establish a gender-sensitive approach in the admissibility procedure.<sup>577</sup> The Asylum Office's decision was also confirmed by the Asylum Commission and the woman eventually was resettled by UNHCR office in Serbia and received refugee status in France.<sup>578</sup>

A case which represents an example of good practice is that of N., a woman with a young child from Cameroon who escaped an arranged marriage and whose asylum application was assessed as credible through individual circumstances which she put forward and relevant Col.<sup>579</sup> This was the first ever case in which an applicant was qualified as a member of a particular social group – persons at risk of SGBV, which manifested through the risk of forced marriage. On the contrary, a case of another woman from Cameroon was not examined with the same rigorous scrutiny as the case of N., even though it referred to the practice of forced marriage when she was underage. Her case was dismissed even though she never had the opportunity to apply for asylum at one of the airports in Italy which Serbia considered as the safe third country.<sup>580</sup>

A very high burden of proof for the risk of gender-based violence was established in the case of Ms. Y from Iran,<sup>581</sup> and Ms. Z from Burundi in 2021.<sup>582</sup> Ms. Y is a women rights activist whose asylum application was rejected on multiple occasions on the grounds that she allegedly failed to provide evidence that the threats that she has received would materialize. Even the 2022 events in Iran were disregarded by asylum authorities. On the other hand, a high quality decision was issued in relation to an Iraqi woman and her daughter who received refugee status as a SGBV survivor who was forcibly married to her cousin when she was only 15 years old.<sup>583</sup> A very good decision was issued in 2022 to a survivor of SGBV from Burundi, in which the Asylum Office for the first time took into consideration the Istanbul Protocol Report lodged by legal representatives with the findings of the multidisciplinary team comprised of a forensic medical expert, a psychiatrist and a gynaecologist.<sup>584</sup> Moreover, this woman eventually fled Serbia and was granted refugee status in Belgium. There were two more good decisions in 2024 where a combination of SGBV grounds and human trafficking resulted in decisions granting refugee status to women from Congo and Ukraine.<sup>585</sup>

In 2023, the practice with regards to SGBV survivors deteriorated to the extent that all female applicants who claimed sexual violence and provided medical documentation, forensic medical opinions drafted in

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<sup>576</sup> Asylum Office, Decision No. 26-286/16, 26 October 2016.

<sup>577</sup> Asylum Office, Decision No. 26-1667/17, 25 December 2017.

<sup>578</sup> Asylum Commission, Decision No. AŽ 2/18, 25 January 2018.

<sup>579</sup> Asylum Office, Decision No. 26-536/16, 16 December 2016.

<sup>580</sup> Asylum Office, Decision No. 3109/16, 18 December 2017.

<sup>581</sup> Asylum Office, Decision No. 26-1672/19, 29 January 2021.

<sup>582</sup> Asylum Office, Decision No. 26-3136/19, 26 November 2020.

<sup>583</sup> Asylum Office, Decision No. 26-1601/20, 30 August 2021

<sup>584</sup> Asylum Office, Decision No. 26-2296/22, 29 June 2022.

<sup>585</sup> Asylum Office, Decision No. 26-1969/24, 10 October 2024 and 26-296/24, 29 October 2024.



line with the Istanbul protocol and other evidence which imply automatic application of the *in dubio pro reo* principle were rejected. All applicants were from Burundi.<sup>586</sup> Several examples from 2024 corroborate this practice, including a survivor of incest who provided expert opinion from a certified psychologist for incest trauma, but also women who provided medical documentation (both from Burundi).<sup>587</sup>

What can be concluded when it comes to the burden of proof in SGBV applications, but also many other types of cases, is that the Asylum Office has shifted its practice in 2023 and refuses to grant international protection to those individuals who had already survived acts of persecution (attacks, rape, detention, judicial persecution), which was not the case in the past. The practice remained unchanged in 2024 in several cases, but there were applicants who were forced to leave their countries of origin due to risks of persecution which had not materialized, where the requirements were set insurmountably high. In other words, it appears that the asylum authorities have raised the burden of proof to such a level that applicants who experienced and survived the act of persecution in order to cannot prove the credibility of their claims even with medical and psychosocial evidence. What is also typical for these kinds of decisions is selective citations of the relevant Col in which only parts of these sources which indicate positive developments (with for example gay people in Iran or women's rights in other country) are outlined in the negative decision, while those sources which corroborate alleged risks are neglected. This also reflects the lack of capacity of the asylum authorities to apply the standard of *in dubio pro reo*.

## UASC

Since the establishment of the Serbian asylum system, only 16 UASC received international protection in Serbia. The first child was a girl from Nigeria who was also recognised as a survivor of human trafficking which occurred in her country of origin and which was assessed as an act of persecution.<sup>588</sup> The second UASC who received subsidiary protection was a boy from Afghanistan who fled forced recruitment by the Taliban.<sup>589</sup> The same decision was issued in relation to a Kurdish boy who fled forcible military recruitment by Peshmergas in Iraq and who was granted refugee status in the same year (2019).<sup>590</sup> In both of these cases the Asylum Office applied the standard of a 'buffer age period,' which is a remarkable example of good practice and which is related to children who turned 18 during the course of the asylum procedure.<sup>591</sup>

An identical case of forced recruitment of UASC by Taliban forces was positively resolved at the end of 2019 in the case of an Afghan boy who was granted refugee status.<sup>592</sup> A child soldier from Palestine (proclaimed as stateless), received refugee status after it was determined that he had been forcibly recruited in the conflict in Syria.<sup>593</sup> A similar case was resolved for an UASC from Afghanistan who fled Taliban recruitment as well.<sup>594</sup> A boy from Iran who converted from Islam to Christianity was granted subsidiary protection, even though all other Iranian converts were granted refugee status.<sup>595</sup>

Another boy from Afghanistan who fled customary family disputes and revenge killing was granted subsidiary protection in 2020.<sup>596</sup> An Afghan boy who suffered severe injuries in a car accident in Serbia and remained in an induced coma was granted subsidiary protection in 2021.<sup>597</sup> And finally, the last UASC from 2021 who was granted a refugee status was a boy from Pakistan who was recognised as a victim of human trafficking and who was granted refugee status in 2021 on the basis of labour and sexual exploitation.<sup>598</sup>

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<sup>586</sup> Asylum Office, Decisions Nos. 26-1632/22, 13 April 2023 and 14 July 2024 (rejected twice), 26-1119/22, 10 August 2023, 26-1682/21 2 August 2023 and 26-2985/22, 19 December 2023.

<sup>587</sup> Asylum Office, Decision No. 26-2028/22, 2 February 2024 and 26-2985/24, 23 April 2024.

<sup>588</sup> Asylum Office, Decision No. 26-329/18, 28 December 2018.

<sup>589</sup> Asylum Office, Decision No. 26-2643/17, 30 January 2019.

<sup>590</sup> Asylum Office, Decision No. 26- 2348/17, 28 January 2019.

<sup>591</sup> UNGA, *Guidelines for the Alternative Care of Children*, 24 February 2010, A/RES/64/142, para. 28.

<sup>592</sup> Asylum Office, Decision No. 26-784/18, 20 November 2019.

<sup>593</sup> Asylum Office, Decision No. 26-218/19, 20 February 2020.

<sup>594</sup> Asylum Office, Decision No. 26-2573/19, 15 October 2020.

<sup>595</sup> Asylum Office, Decision No. 26-1271/19, 15 October 2020.

<sup>596</sup> Asylum Office, Decision No. 26-2474/19, 15 October 2020.

<sup>597</sup> Asylum Office, Decision No. 26-1084/20, 7 June 2021.

<sup>598</sup> Asylum Office, Decision No. 26-3064/19, 14 September 2019.

In 2022, 2 boys from Afghanistan were granted subsidiary protection<sup>599</sup> due to the risks of arbitrary violence originating from the acts of the Taliban, while 1 boy from Afghanistan received refugee status for the same reasons.<sup>600</sup> Siblings from Syria (brother and sister) were also granted subsidiary protection,<sup>601</sup> as well as a boy from Niger who fled the situation of arbitrary violence connected to the operations conducted by the Boko Haram group.<sup>602</sup>

Apart from these positive decisions, there have been a handful of cases in which UASC's applications were rejected on the merits even though their asylum claims were similar or identical to the above-described. In all these cases, the boys, mainly from Afghanistan, had a positive best interest assessment decision issued by CSW which contained a recommendation for protection in Serbia. This indicates that practice in the field of UASC also varies, which can be also seen in the past AIDA reports.<sup>603</sup>

In 2023 and 2024, there were no decisions related to UASC applicants.

### **Draft evaders and forcible recruitment**

A significant number of male Syrian applicants who received international protection outlined in their applications that one of the main reasons why they had to flee their country was the risk of being recruited by either fighting sides. The reasoning of the Asylum Office decisions always outlined such individual circumstances, but in the end granted different forms of international protection – mainly subsidiary protection and rarely refugee status. Moreover, draft evasions and rejection in general to take part in the armed conflict, was outlined by the UNHCR in its position papers as a reason for protection arising from 1951 Refugee Convention.<sup>604</sup> Thus, there were instances in which draft evaders were granted refugee status<sup>605</sup> and instances in which the same category received subsidiary protection.<sup>606</sup> The same examples can be seen in the practice towards UASC who fled Taliban recruitments described above.

In 2023, there were two decisions<sup>607</sup> related to Russian citizens whose claim was based on the risk of forcible recruitment and who were rejected in merits and through decisions which have completely failed to take into account relevant COI such as the one published by the EUAA.<sup>608</sup> In 2024, more of such decisions were rendered, including in relation to the people who received official invitations to report to their local military headquarters.<sup>609</sup>

### **Converts from Islam to Christianity**

The vast majority of Iranian claims were based on the alleged risk of religious persecution, frequently due to a conversion from Islam to Christianity. However, even before the mass arrival of Iranian citizens in 2017-2018,<sup>610</sup> the first refugee status was granted in 2015 to a man from Kazakhstan, who converted to Christianity.<sup>611</sup> The second person was a man from Iran who was granted refugee status in 2016 for the same reasons.<sup>612</sup> In the period 2018-2020, the Asylum Office granted refugee status on said ground on at least 7 occasions.<sup>613</sup> There were no decisions related to Iranian converts in 2023, while in 2024 there

<sup>599</sup> Asylum Office, Decision Nos. 26-277/21, 13 July 2022 and 26-730/22, 31 August 2022.

<sup>600</sup> Asylum Office, Decision No. 26-281/11, 10 November 2022.

<sup>601</sup> Asylum Office, Decision No. 26-1177/22, 1 December 2022.

<sup>602</sup> Asylum Office, Decision No. 26-1437/21, 31 March 2022.

<sup>603</sup> Asylum Office, Decision No. 26-378/19, 11 February 2020 and 26-1437/18, 13 February 2020, and see also: AIDA, Country Report Serbia, Update March 2020, p.43.

<sup>604</sup> UNHCR, International Protection Considerations with regard to people fleeing the Syrian Arab Republic, Update VI, March 2021, HCR/PC/SYR/2021/06, available at: <https://bit.ly/3HO7C1B>.

<sup>605</sup> Asylum Office, Decision No. 26-5413/15, 2 March 2016.

<sup>606</sup> Asylum Office, Decisions Nos. 26-4062/15, 8 January 2016, 26-2489/17, 1 June 2018 and 26-1731/18, 16 September 2019.

<sup>607</sup> Asylum Office, Decision Nos. 26-2862/22, 4 December 2023 and 26-2882/22, 28 November 2023.

<sup>608</sup> EUAA, *The Russian Federation-Military Service*, December 2022, available at: <https://bit.ly/3Y7E7nb>.

<sup>609</sup> Asylum Office, Decision No. 26-624/23, 18 April 2024.

<sup>610</sup> See more in AIDA, Country Report Serbia, Update March 2018, p. 18.

<sup>611</sup> Asylum Office, Decision No. 26-4906/5, 9 December 2015.

<sup>612</sup> Asylum Office, Decision No. 26-1051/16, 13 September 2016.

<sup>613</sup> Asylum Office, Decision Nos. 26-1083/18, 26 January 2018, 26-430/17, 23 April 2018, 26-1081/17, 4 July 2018, 26-187/18, 1 November 2018, 26-1395/18, 5 February 2019, 26-1435/18, 16 June 2020.

was one such decision in which an Iranian man was granted refugee status.<sup>614</sup>

However, in the same period, dozens of other Iranian applicants who put forward the same claims with identical or similar evidence, were rejected on the merits. The number of persons who received international protection on these grounds slowly decreased and, in 2021 and 2022, not a single Iranian was granted refugee status on religious grounds. Thus, it is clear that the threshold for Iranian converts has significantly increased and that it is not reasonable to expect that in the future these claims will have prospect of success.<sup>615</sup>

Since 2017, the Asylum Office has issued the following decisions:<sup>616</sup>

First instance decisions by the Asylum Office: 2017-2024								
Type of decision	2017	2018	2019	2020	2021	2022	2023	2024
Grant of asylum	6	17	26	19	12	20	6	7
Rejection on the merits	11	23	54	51	39	46	36	53
Dismissal as inadmissible	47	38	10	2	4	0	0	0
Rejected subsequent applications	0	0	0	0	6	2	2	5
Rejected the request for age assessment	0	0	0	0	2	0	0	0
Discontinuation	112	128	133	89	51	180 <sup>617</sup>	67 <sup>618</sup>	87
<b>Total</b>	<b>176</b>	<b>206</b>	<b>223</b>	<b>161</b>	<b>114</b>	<b>248</b>	<b>111</b>	<b>152<sup>619</sup></b>

#### Asylum Office practice in 2024

Protection was granted to citizens of the following countries in 2024:

Countries of origin of persons granted refugee status / subsidiary protection: 2024		
Country	Granted refugee status	Granted subsidiary protection
Syria	0	3
Iran	1	0
Burundi	1	0
Ukraine	1	0
Congo	1	0
<b>Total</b>	<b>4</b>	<b>3</b>

Source: Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

<sup>614</sup> Asylum Office, Decision No. 26-2126/22, 23 August 2024.

<sup>615</sup> See more in AIDA, *Country Report Serbia*, Update March 2020, p. 44.

<sup>616</sup> The statistical data in the table reflect the number of people granted international protection, not the number of positive decisions. One decision can cover more than one person.

<sup>617</sup> It is important to note that this number is not 100% accurate because of the way in which Asylum Office keeps the statistics. Namely, available data shows that there were 258 decisions discontinuing the asylum procedure of 258 applicants. This is simply not possible because one decision, and especially in relation to Burundian applicants who arrived to Serbia as families, encompasses 2, 3, 4 or even 5 persons. The method that the author of this report applied is the deduction of 30% of the total number of applicants and in relation to decisions. Thus, this number should be observed as the highest possible, even though it is most likely lower.

<sup>618</sup> *Ibid.*

<sup>619</sup> *Ibid.*

In 2024, the Asylum Office rendered 152 decisions regarding 200 asylum seekers. Out of that number, 53 decisions regarding 75 asylum seekers were rejected in merits, while 7 decisions granting asylum to 7 asylum seekers were delivered in the same period. The asylum procedure was discontinued in 87 cases regarding 113 applicants, due to their absconding, while in 5 instances subsequent asylum applications were declined in relation to 5 applicants. There were no inadmissibility decisions or other decisions which are appropriate for the analysis of the effectiveness of the work of the first instance authority.<sup>620</sup>

The first conclusion that can be drawn from these figures is that the total number of decisions in 2024 has increased significantly in comparison to 2023. The total number of decisions increased by 36% in comparison to 2023.<sup>621</sup> Still, the trend from previous years has continued and the vast majority of applicants decided to abscond from the asylum procedure before the decision in the first instance was issued. This represents a total of 57% of all decisions rendered in 2024. Around 3% of decisions concerned rejections of subsequent applications, while there were no inadmissibility decisions.<sup>622</sup>

In 2024, it can be said that 60 merits decisions, issued in relation to 82 asylum seekers can be considered as relevant for analysis and better understanding of the quality and effectiveness of the asylum procedure, the practice with regards to certain nationalities, the grounds for persecution and the origin of the applicants. These 60 decisions were rendered in relation to asylum seekers from: Burundi (21), Cuba (19), Russian Federation (11), Syria (6), Iran (5), Armenia (4), Tunis (3), Croatia (2), Türkiye (2), Ukraine (2) and 1 from India, Tunis, Germany, Sweden, Egypt, Afghanistan and Congo.<sup>623</sup>

When it comes to decisions issued on the merits, it can be concluded that the rejection rate in 2024 was 88%, while the recognition rate was 12%. This represents a 3% decrease in recognition in comparison to 2023.<sup>624</sup> In total, international protection was granted through 7 decisions (12%) encompassing 7 persons. Of these, refugee status was granted through 4 decisions and to citizens of Congo, Burundi, Iran and Ukraine (1 each), while the remaining 3 decisions were related to subsidiary protection granted to citizens of Syria (3).<sup>625</sup>

Most of the decisions were issued in 2024 in relation to citizens of **Burundi** – 15 regarding 21 applicants and of Cuba - 15 regarding 19 applicants. Only 1 of those decisions was positive, granting refugee status to a bisexual man from Burundi,<sup>626</sup> whereas all other were rejected on the merits, including several SGBV survivors with medical and psychosocial evidence of rape and other forms of sexual violence<sup>627</sup> and 1 LGBTQI+ applicant.<sup>628</sup> Having in mind that the boy was granted refugee status only because of his father, it is fair to claim that recognition rate for Burundian nationals is 7%, while for Cuban applicants 0%.

The third highest number of decisions was issued in relation to 11 citizens of Russia who were all rejected on the merits through 7 decisions. The fourth highest number of decisions was related to citizens of Syria – 6 decisions rendered in relation to 6 applicants. In three decisions, Asylum Office granted subsidiary

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<sup>620</sup> Ministry of Interior - Asylum Office and of the UNHCR office in Serbia (monthly reports) and Asylum Office's responses to the request for the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

<sup>621</sup> See AIDA, *Country Report Serbia*, 2023 Update, pp. 107-108.

<sup>622</sup> Ministry of Interior - Asylum Office and of the UNHCR office in Serbia (monthly reports) and Asylum Office's responses to the request for the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

<sup>623</sup> Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

<sup>624</sup> AIDA, *Country Report Serbia*, 2022 Update, pp. 99-100.

<sup>625</sup> *Ibid.*

<sup>626</sup> Asylum Office, Decision No. 26-10-24/23, 26 August 2024.

<sup>627</sup> Asylum Office, Decisions Nos. 26-2028/22, 2 February 2024 and 26-2985/24, 23 April 2024..

<sup>628</sup> Asylum Office, Decision No. 26-41/23, 22 July 2024.

protection to applicants due to the State of general insecurity,<sup>629</sup> while in three instances applicants were rejected on the national security grounds.<sup>630</sup>

According to the assessment of the author of this report, what is common for almost all Burundian and Cuban applications is that they were mainly based on vague allegations on the risks arising from political turmoil in their respective States. However, many Cubans simply claimed poor economical situation and destitute, while some of them referred to the opposition to the Cuban Government and the 2021 protests. The vast majority of Burundians claimed ethnic persecution as Tutsi minority and affiliation with opposition parties, but there were also claims which were solely based on economic reasons. Russian applicants mostly claimed opposition to the war, while several of them claimed staged criminal prosecution for non-political criminal offences. In general, most of the Burundian, Cuban and Russian Federation applicants had claims with extremely low level of credibility.

All Armenian applicants were rejected in merits claiming the risk of forced mobilization for the conflict in Nagorno Karabagh, one Iranian family who applied for asylum in 2019 continued to claim religious persecution, as well as 1 boy from Afghanistan who fled Pakistan in 2018 as UASC fearing the risk of being deported to Afghanistan where he would face the risk of recruitment by Taliban. Also, 1 family from Tunis claimed persecution on the grounds on non-approved marriage between the applicants.

As for other nationalities, all of them were rejected except for two survivors of SGBV and human trafficking from Congo and Ukraine, as well as Iranian convert from Islam to Christianity. Thus, asylum applications were rejected in relation to *prima facie* non-credible applicants from Germany, Croatia and India.

However, there were 8 decisions in which applicants were rejected on the basis of national security assessments which can only be considered as arbitrary, and which will be analysed in detail below, except in the case of Swedish national of Serbian origin who applied for asylum in order to avoid extradition to his country of origin and in relation to the charges for organized crime. A total of 3 nationals of Syria, 2 applicants from Türkiye and 1 from Egypt, Russian Federation and Ukraine were rejected on national security grounds.<sup>631</sup>

#### Overview of the Asylum Office decisions in 2024

No.	No. of Decision	Country of Origin	Date of decision	No. of persons	Outcome	Remark	Length (months)	Legal representative
1.	26-1222/22	Cuba	09.01.2024	1	Rejected	LGBTQI+ and serious medical condition (HIV+)	20	IDEAS
2.	26-334/23	Syria	09.01.2024	1	Subsidiary protection	State of general insecurity and widespread violence	9	BCHR
3.	26-1223/22	Cuba	10.01.2024	1	Rejected	LGBTQI+ and serious medical	20	IDEAS

<sup>629</sup> Asylum Office, Decisions Nos. 26-334/23, 9 January 2024; 26-238/22, 16 September 2024 and 26-853/24, 15 October 2024.

<sup>630</sup> Asylum Office Decision Nos. 26-295/23, 2 February 2024; 26-172/23, 12 July 2024 and 26-2996/23, 11 July 2024.

<sup>631</sup> Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

						condition (HIV+)		
4.	26-2984/22	Syria	18.01.2024	1	Subsequent asylum application dismissed	N/A	N/A	Private lawyer
5.	26-1529/18	Russian Federation	25.01.2024	1	Subsequent asylum application dismissed	Draft evasion and alleged religious persecution	N/A	IDEAS
6.	26-1442/17	Türkiye	01.02.2024	1	Rejected	National security grounds	N/A	APC
7.	26-295/23	Syria	02.02.2024.	1	Rejected	National security grounds	11	BCHR
8.	26-2028/22	Burundi	02.02.2024	2	Rejected	SGBV survivor	18	IDEAS
9.	26-465/22	Algeria	08.02.2024	1	Subsequent asylum application dismissed	N/A	N/A	N/A
10.	26-61/23	Tunis	09.02.2024	3	Rejected	Arranged marriage and child born out of wedlock	13	N/A
11.	26-3102/22	Burundi	13.02.2024	1	Rejected	Alleged political persecution	15	BCHR
12.	26-1633/23	Burundi	06.03.2024	4	Rejected	Alleged political persecution	21	IDEAS
13.	26-10-31/2023	Burundi	22.03.2024	1	Rejected	Alleged political persecution	14	N/A
14.	26-1217/23	Croatia	22.03.2024	1	Rejected	Alleged political persecution	9	N/A
15.	26-1830/22	Ukraine	22.03.2024	1	Rejected	National security grounds	19	Private lawyer
16.	26-2063/22	Germany	22.03.2024.	1	Rejected	Prima facie incredible	16	N/A
17.	26-3229/22	Burundi	22.03.2024	1	Rejected	Alleged and outdated political persecution	16	APC
18.	26-10-36/23	Russian Federation	22.03.2024	1	Rejected	Alleged political persecution	14	N/A
19.	26-537/23	Russian Federation	17.04.2024	1	Rejected	Alleged opposition to	13	N/A



						the war in Ukraine		
20.	26-3283/22	Cuba	18.04.2024	1	Rejected	LGBTQI+ and serious medical condition (HIV+)	16	IDEAS
21.	26-624/23	Russian Federation	18.04.2024	6	Rejected	Risk of military mobilization	13	IDEAS
22.	26-560/23	Cuba	19.04.2024	1	Rejected	Alleged political persecution	13	IDEAS
23.	26-2985/23	Burundi	23.04.2024	1	Rejected	SGBV survivor and political persecution	17	IDEAS
24.	26-10-32/23	(Burundi)	25.04.2024	1	Rejected	Alleged forced military mobilization	16	N/A
25.	26-3065/23	Sweden	26.06.2024	1	Rejected	National security grounds and extradition	6	Private lawyer
26.	26-1277/23	Croatia	03.07.2024	1	Rejected	Alleged political persecution	12	N/A
27.	26-2996/23	Syria	11.07.2024	1	Rejected	National security grounds	8	Private lawyer
28.	26-172/23	Syria	12.07.2024	1	Rejected	National security grounds	17	IDEAS
29.	26-504/23	Burundi	17.07.2024	1	Rejected	Alleged political persecution	16	N/A
30.	26-2349/19	Afghanistan	22.07.2024	1	Rejected	Forced recruitment by Taliban	N/A	IDEAS
31.	26-41/23	Burundi	22.07.2024	1	Rejected	LGBTQI+	16	BCHR
32.	26-1061/23	Cuba	24.07.2024	1	Rejected	Alleged political persecution	13	N/A
33.	26-896/23	Cuba	24.07.2024	3	Rejected	Alleged political persecution	13	N/A
34.	26-977/23	Cuba	24.07.2024	1	Rejected	Alleged political persecution	14	N/A
35.	26-828/23	Burundi	26.07.2024	1	Rejected	SGBV	16	IDEAS
36.	26-577/23	India	05.08.2024	1	Rejected	Prima facie uncredible	15	Private lawyer

37.	26-1152/24	Russian Federation	09.08.2024	1	Rejected	National security grounds	4	BCHR
38.	26-867/23	Russian Federation	14.08.2024	1	Rejected	Alleged political persecution	15	N/A
39.	26-266/23	Burundi	20.08.2024	1	Rejected	Political persecution	18	N/A
40.	26-2126/22	Iran	23.08.2024	1	Refugee status	Religious persecution	24	IDEAS
41.	26-10-24/23	Burundi	26.08.2024	1	Refugee status	LGBTQI+	20	IDEAS
42.	26-1459/23	Egypt	26.08.2024	1	Rejected	National security grounds	12	N/A
43.	26-1134/23	Armenia	26.08.2024	1	Rejected	Forced military mobilization	14	BCHR
44.	26-1133/23	Armenia	26.08.2024	3	Rejected	Forced military mobilization	14	BCHR
45.	26-960/23	Cuba	30.08.2024	3	Rejected	Alleged political persecution	15	Private lawyer
46.	26-961/23	Cuba	30.08.2024	1	Rejected	Alleged political persecution	15	Private lawyer
47.	26-963/23	Cuba	30.08.2024	1	Rejected	Alleged political persecution	15	Private lawyer
48.	26-238/23	Syria	16.09.2024	1	Subsidiary protection	State of general insecurity and widespread violence	11,5	Private lawyer
49.	26-10-45	Brazil	20.09.2024	1	Subsequent asylum application dismissed	Political persecution and risk of irreparable harm in Brazilian penitentiary system	N/A	IDEAS
50.	26-2262/24	Türkiye	23.09.2024	1	Rejected	National security grounds and risk of political persecution	2,5	
51.	26-829/23	Cuba	25.09.2024	1	Rejected	Prima facie uncredible	16	Private lawyer
52.	26-2466/2	Kazakhstan	01.10.2024	1	Subsequent asylum	N/A	N/A	N/A

					application dismissed			
53.	26-1969/24	Congo	10.10.2024	1	Refugee status	SGBV and survivor of trafficking in human beings	4	IDEAS
54.	26-853/24	Syria	15.10.2024	1	Subsidiary protection	State of general insecurity and widespread violence	7,5	IDEAS
55.	26-647/23	Burundi	15.10.2024	3	Rejected	Alleged political persecution	20	N/A
56.	26-3077/23	Cuba	23.10.2024	1	Rejected	Alleged political persecution	10	Private lawyer
57.	26-1382/18	Iran	24.10.2024	4	Rejected	Alleged religious persecution	N/A	IDEAS
58.	26-296/24	Ukraine	29.10.2024	1	Refugee status	SGBV and survivor of trafficking in human beings	7,5	IDEAS
59.	26-850/23	Russian Federation	31.10.2024	1	Rejected	Alleged political persecution	2	N/A
60.	26-1531/23	Burundi	08.11.2024	1	Rejected	Alleged political persecution	15	N/A
61.	26-2757/23	Burundi	18.11.2024	1	Rejected	Alleged political persecution	12	N/A
62.	26-2834/23	Cuba	19.11.2024	1	Rejected	Alleged political persecution	12	Private lawyer
63.	26-3193/23	Cuba	22.11.2024	1	Rejected	Alleged political persecution	5,5	Private lawyer
64.	26-3194/23	Cuba	26.11.2024	1	Rejected	Alleged political persecution	11	Private lawyer

Source: Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

Even though most of the first instance decisions in 2024 were related to applicants with low credibility, the quality of the decision-making process still suffers from deficiencies which were reported in previous years, but with several examples of good practices.<sup>632</sup> The major problem remains the excessive and unnecessary length of the first instance procedure, but also examples which manifest the contradicting

<sup>632</sup> AIDA, Country Report Serbia, 2023 Update August, pp. 111-118.

practice in similar or identical cases. The Asylum Office rendered only 7 decisions in relation to 7 applicants, granting them asylum. Still, in those cases where the Asylum Office granted refugee status or subsidiary protection, the following can be observed:

- ❖ The Asylum Office was, in the reasoning of its decisions, clearly took into consideration the fact that legal representatives submitted written Col submissions indicating individual and general risks of persecution or other serious harm in countries of origin or third countries. These submissions contained data on individual circumstances and facts, but also findings compiled in credible reports published by UNHCR, EUAA, UN Treaty bodies, UN Special Procedures, Amnesty International and others (Col);
- ❖ The reasoning of decisions contains the citations of credible reports taken into consideration by the Asylum Office *proprio motu* and occasional reliance on the general principles of the ECtHR, and in some cases even more concrete cases which correspond to individual circumstances of the applicant;
- ❖ In several cases the Asylum Office adequately took into consideration the psychological assessment provided by CSO PIN and CSO IAN when examining the credibility of an applicant's statement;
- ❖ The safe third country concept was not applied in any of decisions rendered in 2024;
- ❖ It also took into account the decision of the Centre for the Protection of the Survivors of Trafficking (CHTV) in human beings on granting refugee status to a human trafficking survivor in two cases.

What is common for most of the cases in which the Asylum Office granted refugee or subsidiary protection to the applicants is the fact that first instance procedure lasted more than 1 year on average. This is completely unacceptable for the most vulnerable applicants such as UASC, SGBV survivors and survivors of human trafficking. At the same time, the excessive length of the asylum procedure for applicants coming from Syria or Afghanistan also lacks proper justification, taking into consideration the clarity of the situation in these countries as well as the position of UNHCR on returns to these countries, or EUAA Guidelines. Still, two SGBV survivors from Congo<sup>633</sup> and Ukraine<sup>634</sup> were granted refugee status within 4 and 7.5 months respectively, which should be considered as positive and acceptable. In both of these decisions the Asylum Office took into consideration the report of the CHTV which recognized that both applicants were survivors of sexual exploitation which was also recognized as an act of persecution. In both decisions, the Asylum Office took into account psychological reports, as well as Col submission from legal representatives.

As outlined above, the Asylum Office granted subsidiary protection to three applicants from Syria on the basis of the state of general insecurity, which can be observed in the above Table. The reasoning of said decisions was more or less the same indicating the state of general insecurity and widespread violence around the country. On the other hand, as it was the case in 2023, three Syrian nationals were rejected on national security grounds and through decisions which did not contain a description of the facts leading to such a decision and which would allow the applicants to dispute this assessment.<sup>635</sup> Until 2021, all Syrian applicants examined on the merits were granted asylum, but this kind of practice stopped since then due to an arbitrary application of security assessments. Still, and according to author's knowledge, there are no decisions in which Syrian applicants were rejected on the basis of the assessment that their return to country of origin would be safe. In all positive cases where mostly subsidiary protection was granted, it can be seen that the practice of the Asylum Office still largely reflects, for instance, UNHCR moratorium on returns to Syria,<sup>636</sup> or the current stance of the ECtHR when it comes to the risks of treatment contrary to Article 2 and 3 of ECHR in case of removal to Syria.<sup>637</sup> Nevertheless, the number of Syrian applicants in Serbia remains low. It remains to be seen in the future if this type of stance will remain

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<sup>633</sup> Asylum Office, Decision No. 26-1969/24, 10 October 2024.

<sup>634</sup> Asylum Office, Decision No. 26-296/24, 29 October 2024.

<sup>635</sup> Asylum Office, Decision No. 26-1441/17, 20 March 2023 and November 2023 decision which is the only decision which was not delivered to the author of this Report.

<sup>636</sup> UNHCR, International Protection Considerations with regard to people fleeing the Syrian Arab Republic, Update V, 3 November 2017, available at: <http://bit.ly/3or74Vq>, p. 70.

<sup>637</sup> ECtHR, L.M. and Others v. Russia, Application Nos. 40081/14 40088/14 40127/14, Judgment of 15 December 2015, EDAL available at: <http://bit.ly/3psdOE7> and S.K. v. Russia, Application No. 52722/15, Judgment of 14 February 2017, EDAL, available at: <http://bit.ly/3oqsouq>.

having in mind the significant change of circumstances in Syria and well-known shifts in policies in many EU states which can spill over to Serbia.

There are additional two decisions which can be considered as examples of good practice and which were related to a man from Iran who converted from Islam to Christianity and a bisexual man from Burundi. In comparison to previous years where these types of applicants originating from Iran and Burundi were systemically rejected, the 2024 practice showed that a different scenario is possible. In the case of the Iranian man, the Asylum Office provided proper Col reasoning and facilitated two interviews in which the applicant managed to leave an impression on the asylum officer that his conversion was genuine, but also provided an entire set of individual evidence which indicated to his persecution in his country of origin (detention and ill-treatment), public display of his religion and his criticism towards Islam. The question that remains open and which is partially explained though the previous practice is what would be the outcome in case where the applicant was practicing his religion in a clandestine manner.<sup>638</sup>

As for the man from Burundi, this decision represents an example of an extraordinary practice in which the Asylum Office combined individual circumstances and evidence, psychological report and Col lodged by legal representatives to recognize him as a refugee who was persecuted by his family.<sup>639</sup> What is also important to highlight is that the same asylum officer was deciding in both decisions.

Regardless of the above stated examples of good practice, the 2024 practice indicates that the quality of the credibility assessment remained on more or less the same level as in 2023. Thus, there are many serious concerns which indicate that the Serbian asylum procedure should not be considered as fair and efficient, and in most of the cases with sufficient level of credibility for international protection from 2024, the following problems have been identified:

- ❖ the contradicting practice in similar or identical cases;
- ❖ reluctance to grant refugee status (but rather granting subsidiary protection status), even though from the reasoning of the decision it is clear that the first instance authority has acknowledged and accepted the facts which indicate the existence of one of the 5 grounds for persecution;
- ❖ extensive length of the first instance asylum procedure which has a discouraging effect on applicant's will to remain in Serbia;
- ❖ the inconsistent quality of the decision-making process between different asylum officers;
- ❖ not all the facts and evidence (individual or general) submitted by the applicant and the legal representative are taken into consideration, and the substance of the decision lacks an explanation as why these arguments are not deemed as credible, especially in decisions on rejection.
- ❖ the burden of proof for certain applicants, especially those coming from Burundi and Russian Federation, but also SGBV survivors and LGBTQI+ applicants has been established too high, undermining the principle of *in dubio pro reo*;
- ❖ disregarding of psychosocial reports, medical evidence but also Istanbul Protocol reports drafted in some of the cases.
- ❖ the national security grounds were invoked on 9 occasions depriving applicants of the possibility to challenge the negative decisions due to the lack of access to the facts which allegedly indicate that their presence on the Serbian soil represents a security threat.

In 2024, the Asylum Office issued 53 decisions rejecting 75 persons on the merits. First of all, it is important to outline that each year the Asylum Office delivers decisions in relation to applicants whose claims are *prima facie* not founded. That was the case with at least 22 decisions which were analysed by the author of this report and which were mainly related to citizens of Cuba and Burundi, but also citizens of Germany, Croatia and India, and several applications lodged by the citizens of Russian Federation (see the Table above). Also, a total of 9 rejection decisions were based on the arbitrary and negative security assessment, which will be analysed separately.

Another category of decisions belonged to applicants who invoked risks which cannot be excluded as realistic, but their individual circumstances and lack of any evidence apart from their statement which in

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<sup>638</sup> Asylum Office, Decision No. 26-2126/22, 24 August 2024.

<sup>639</sup> Asylum Office, Decision No. 26-10-24/23, 26 August 2024.

general way indicates to issues available in publicly available reports, was objectively not sufficient for granting of international protection. That was the case with several decisions in which applicants from the Russian Federation were rejected even though they claimed their disagreement with the ongoing aggression against Ukraine,<sup>640</sup> or Armenian citizens who fled Nagorno Karabagh and who claimed currently the non-existing risk of military mobilizations and dispatchment to this area to take part in armed conflict.<sup>641</sup> The same can be said for the family from Iran who invoked a political issue from 2018 which are not relevant anymore and in relation to which they have never personally faced problems even though they belong to this religious minority.<sup>642</sup>

In 2024, the practice with regards to Burundian applicants, who continued to be the majority both in terms of asylum applications and decisions rendered on the merits, continue to indicate to serious problems related to the credibility assessment of the Asylum Office. It should be repeated that the free-visa regime has triggered mixed migration influx of Burundians, coming directly to Belgrade airport. This also means that a significant number of Burundian applicants made unfounded claims which were aimed at legalising their stay in Serbia. However, Burundi is a country which has an extremely poor human rights record and in which the Tutsi ethnic minority has been persecuted in numerous ways, including through enforced disappearances, torture and other forms of ill-treatment, arbitrary detentions, *incommunicado*, killings, different acts of sexual violence, etc.<sup>643</sup> One of the vulnerable groups are also members of opposition parties, but also their family members, journalists, NGO workers, etc. The existence of risks of these categories has been determined in many positive decisions, first one dating back to 2017.<sup>644</sup> The reasoning and evidence taken as credible in these decisions serves as an example of good practice, but in many other cases that was not the case and there was an almost completely contradictory interpretation of risks. For that reason, an overview of the practice for the period 2022-2024 can better reflect the author's standing.

In January 2022, a family composed of five people (mother and 4 children) who did not have a legal representative was rejected on the merits. The claim was based on the mother's risk of political persecution linked to the alleged disappearance of her husband. Her claims were assessed as not credible.<sup>645</sup> In June 2022, Mr. E.X. was rejected on the merits even though he had provided an entire set of individual evidence to the Asylum Office which testified to his political and ethnic persecution (member of the opposition party and ethnic Tutsi). He submitted his opposition party membership card, letters from his former employer, letter from several members of political party to which he belonged, as well as a witness letter from his neighbour on problems that he has faced with the paramilitary group Imbonerakure and official authorities. Without trying to question any of the witnesses, and without providing substantive reasoning why this individual evidence was not declared as credible, the Asylum Office rejected E.X. on the merits.<sup>646</sup> A similar case was reported in September 2022, when the Asylum Office rejected to take into consideration the possibility of testimony of distinguished human rights activist from Burundi who offered to corroborate allegations made by the applicants on the risks of persecution which arose from his actions as journalist.<sup>647</sup> In both of these decisions the Asylum Office selectively cited Col which outline positive developments in Burundi, while Col lodged by legal representatives was summarily disregarded without any detailed reasoning. In other words, these two decisions are typical examples of the unacceptably high burden of proof set out by the Asylum Office, selective citation of relevant Col and attitude which implies that asylum seekers from certain country will be assessed as credible only if they have suffered and survived serious act of persecution, while the genuine and substantiated risk of such act will be declared non-credible. This also represents an example of cases in which asylum officers have not correctly applied the principle of *in-dubio pro reo*.

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<sup>640</sup> Asylum Office, Decisions No. 26-537/23, 17 April 2024.

<sup>641</sup> Asylum Office, Decisions Nos. 26-1134/23 and 26-1133/23, 26 August 2024.

<sup>642</sup> Asylum Office, Decision No. 26-1382/18, 24 October 2024.

<sup>643</sup> See for example: Human Rights Watch, *We Will Beat You to Correct You – Abuses Ahead of Burundi's Constitutional Referendum*, 18 May 2022, available at: <https://bit.ly/3yxa4bT> or OHCHR, *Oral briefing of the Commission of Inquiry on Burundi*, 23 September 2021, available at: <https://bit.ly/3QLcNUs>.

<sup>644</sup> Asylum Office, Decisions Nos. 26-2434/16, 20 September 2017; 26-218/19, 20 February 2020; 26-1615/19, 18 June 2022 and 26-536/19, 14 May 2022.

<sup>645</sup> Asylum Office, Decision No. 26-896/21, 14 January 2022.

<sup>646</sup> Asylum Office, Decision No. 26-1197/2021, 7 June 2022.

<sup>647</sup> Asylum Office, Decision No. 26-73/22, 29 September 2022.



A similar decision was issued in relation to a young woman from Burundi who was diagnosed with several psychological disorders which, according to her testimony, were results of serious forms of ill-treatment (including sexual) which prompted her fleeing her country of origin. The psychologist following her case did not exclude that the symptoms displayed could have arisen from such treatment. However, and due to unclear claims during the course of asylum interview, her application was rejected. Despite the lack of individual evidence to substantiate her claim, the applicant repeatedly provided specific details of the alleged ill-treatment. In other words, there was no physical evidence which could either prove or rebut the alleged ill-treatment, except for a psychological report indicating that such possibility was quite high. The described acts of ill-treatment correspond to numerous COI reports, but once again, the opportunity to grant international protection in cases where there is doubt was missed again.<sup>648</sup> This also means that lack of *dubio pro reo* application is dangerous and could have irreparable consequences on applicants who, due to circumstances of their case, cannot offer individual evidence. This woman was granted refugee status in Austria.<sup>649</sup>

If we compare the above-described decisions with several others, in which the Asylum Office granted asylum to citizens of Burundi, it can be easily seen that the practice has shifted and is inconsistent. In other instances, the Asylum Office granted refugee status to nationals from Burundi who had faced serious human rights violations or recognised there was a risk of persecution even if it had not materialised through concrete acts, based on available COI and on an assessment regarding the personal characteristics of the asylum seeker, even when evidence was lacking. This is not the case anymore.

In 2023, 14 decisions rejecting asylum applications concerning 22 applicants originating from Burundi were delivered. What is important to note is that credibility assessment in these decisions was conducted to a very limited extent. All these decisions cited identical COI such as UNHCR factsheets on repatriation to Burundi which are not Col. This kind of approach indicates the clear pattern of complete disregarding of the responsibility to individually assess each and every asylum claim. Such decisions continued to be rendered in 2024, and were related to members of civil society,<sup>650</sup> FNL opposition party,<sup>651</sup> MSD opposition party<sup>652</sup> and individuals who were allegedly persecuted due to political activities of their family members.<sup>653</sup> In none of the said cases the Asylum Office was simply not able to dispute allegations of the applicants who provided membership cards, witness statements, pictures and other individual evidence. In combination with available Col and the previous practice in later years, it was hardly possible to reject these applications if the principle of the benefit of the doubt was properly applied.

It is important to reiterate that the practice with regards to SGBV survivors from Burundi where the Asylum Office flagrantly failed apply the principle *in dubio pro reo*: 1) a rape survivor who arrived with her family to Serbia and who was rejected twice even though she provided medical evidence from Burundi;<sup>654</sup> 2) a rape survivor who provided medical documentation from her country of origin, together with a psychological and Istanbul Protocol report which corroborated her claim (she was later on granted refugee status in Belgium);<sup>655</sup> 3) a rape survivor who provided medical documentation from Burundi and whose lawyers also provided psychiatric and psychological reports which also corroborated her claim.<sup>656</sup> Another woman from Burundi also claimed SGBV and provided evidence of imprisonment. The most striking circumstance in this case was the fact that she gave a birth to a baby boy who was granted refugee status on the basis of his father's status, but she was not included in this decision. This represents the flagrant violation of the principle of family unity.<sup>657</sup> Regardless, by citing the above-outlined UNHCR factsheets, Asylum Office resorted to unusual practice which implies citation of the Home Office Guidance which is related to UK travellers to Burundi and instruction what they should do if they become victims of rape or

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<sup>648</sup> Asylum Office, Decision No. 26-75/22, 22 November 2022.

<sup>649</sup> Legal representatives of IDEAS remained in touch with the applicant.

<sup>650</sup> Asylum Office, Decision No. 26-3102/22, 13 February 2024.

<sup>651</sup> Asylum Office, Decision No. 26-504/23, 17 July 2023.

<sup>652</sup> Asylum Office, Decision No. 26-266/23, 20 August 2024.

<sup>653</sup> Asylum Office, Decision No. 26-1531/23, 8 November 2024.

<sup>654</sup> Asylum Office, Decision No. 26-1632/22, 13 April 2023 and 14 July 2023.

<sup>655</sup> Asylum Office, Decision No. 26-1119/22, 10 August 2023

<sup>656</sup> Asylum Office, Decision No. 26-2985/22, 19 December 2023.

<sup>657</sup> Asylum Office, Decision No. 1682/21, 2 August 2023.

sexual assault.<sup>658</sup> This source describes the legal framework of Burundi but does not provide any information on its effectiveness, which is the fact that must be taken into account in line with Article 30 and 32 of the Asylum Act. This source cannot be considered as Col and the fact that Asylum Office simply cites this source indicate the aspiration of this body to reject Burundian applicants at any cost. On the other hand, the latest Col on Burundi contained in three credible UN sources published in 2023 are simply disregarded - Human Rights Committee,<sup>659</sup> Committee against Torture<sup>660</sup> and the Special Rapporteur on the Human Rights situation in Burundi.<sup>661</sup> Thus, these 5 decisions represent extremely bad examples of practice which clearly indicates the poor credibility assessment of the Asylum Office and poor work of the Col department within this body.

In 2024, and with regards to two SGBV applicants from Burundi, the Asylum Office continued with the above-described practice rejecting applications of women who provided an entire set of individual evidence, including in one case expert opinion of a psychosocial expert on incest,<sup>662</sup> but also women who provided medical documentation which describes therapy and treatment which is universally provided to rape survivors.<sup>663</sup> Alongside a copy paste citation of UNHCR factsheets on repatriation to Burundi and the Home Office Guidance (disregarding the above enlisted Col provided by legal representatives), these two decisions continue to indicate the automatic approach towards Burundian applicants, lack of individualized assessment of evidence provided and practice which represents more of a pattern of behaviour with identical formulations, then rigorous and genuine assessment of individual facts of the case.<sup>664</sup>

While discussing the evaluation of cases of SGBV survivors, it is important to also mention relevant cases from previous years and in order to depict the continuation of the negative practice. In April 2022, for the second time, the Asylum Office rejected a social activist for women rights from Iran.<sup>665</sup> In her application, she explained, inter alia, that she refused to wear the hijab, that she wanted to work in the modelling business and that she was arrested on several occasions. Even if the 2021 decisions can be taken as justified due to the insufficient lack of individual evidence, although highly unlikely in this case, the recent events which took place in Iran undoubtedly qualify these kind of applications as founded.<sup>666</sup> This decision represents a negative continuation of the practice regarding SGBV cases from Iran. In January 2020, the Asylum Office rejected an application on the merits concerning a mother and daughter from **Iran**, who were obvious victims of gender-based violence and whose serious psychological state, confirmed in PIN's report, accompanied by other evidence compiled in Col submissions created a strong and credible asylum claim.<sup>667</sup> Before this decision, the Asylum Office applied on two occasions the safe third country concept in relation to **Türkiye**. After both decisions were overturned by the Asylum Commission, the Asylum Office decided to reject application on the merits. The mother and daughter eventually decided to leave **Serbia**. This case lasted for more than two years, several hearings took place, and several lawyers changed. Without any doubt, this case was permeated with acts which caused secondary traumatisations. Even though the mother had visible injuries and scars from the alleged violence, forensic medical examination was never conducted by either the Asylum Office or one of several legal representatives.

One decision from the end of 2020 which concerned an SGBV survivor and her two children from Türkiye also goes in favour of the general assessment that practice with regards to SGBV applicants varies and

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<sup>658</sup> UK Home Office, Burundi: information for victims of rape and sexual assault, 23 November 2022, available at: <https://bit.ly/3zLdrOQ>.

<sup>659</sup> HRC, *Concluding observations on the third periodic report of Burundi\**, CCPR/C/BDI/CO/3, 29 August 2023, available at: <https://bit.ly/46hLFpC>.

<sup>660</sup> CAT, *Concluding observations on the third periodic report of Burundi\**, CAT/C/BDI/CO/3, 11 December 2023, available at: <https://bit.ly/3LwYtPa>.

<sup>661</sup> Special Rapporteur on the situation of human rights in Burundi, *Situation of human rights in Burundi - Report of the Special Rapporteur on the situation of human rights in Burundi*, Fortuné Gaetan Zongo, A/HRC/54/56, 11 August 2023, available at: <https://bit.ly/4d76bv9>.

<sup>662</sup> Asylum Office, Decision No. 26-2028/22, 2 February 2024.

<sup>663</sup> Asylum Office, Decision No. 26-2985/22, 22 April 2024.

<sup>664</sup> See also, Asylum Office, Decision No. 26-828/23, 26 July 2024.

<sup>665</sup> Asylum Office, Decision No. 1672/19, 1 April 2023.

<sup>666</sup> Olga Korobova, *Žene u Iranu-Kada marama postane oružije*, available at: <http://bit.ly/40kSGSx>.

<sup>667</sup> Asylum Office, Decision No. 26-148/18, 27 December 2019.

is unpredictable.<sup>668</sup> What represents an additional aggravating circumstance is the fact that the lawyer in the case of Somali applicant failed to lodge a complaint within the 15-day deadline. This has led to the dismissal of the lawyer's appeal by the Asylum Commission and the applicant is now facing potentially several years of procedural struggle to have her case re-examined in merits.<sup>669</sup>

Several more decisions related to applicants from Burundi deserve special attention. In one of the cases, the applicant provided clear and individual evidence on his involvement in the CSO *Focode* who started the campaign *Ndondenza* dealing with enforced disappearances, several witness statements and relevant reports, but was rejected alongside the rest of his family and despite Col which went into his favour.<sup>670</sup> Similar cases were recorded with regards to the members of opposition parties CNL and MSD, but also activists and journalists.<sup>671</sup>

When it comes nationals of the Russian Federation, two cases deserve special attention and not necessarily because the applicants have highly credible claims, but mainly due to the fact that the Col assessment has been inadequate. Namely, in both cases, applicants claimed risk of military recruitment. The most credible Col report was published by the EUAA, but the Asylum Office failed to even mention the report in its reasoning, citing only several media reports which do not even discuss the legal framework, but also the practice of military recruitment.<sup>672</sup> Still, one case deserves a special attention because it is related to a man who fled with his family after he received an invitation to report to military headquarters in the area where he lived. The applicant's fear is based on the fact that Russian Federation made amendments to its legal framework in order to increase penalties for draft evasion. During his interview, the applicant provided a detailed statement of the risks to which people who received a summon such as his face in terms of recruitment and his legal representatives provided detailed Col which also reflects EUAA report. Still, their asylum application was rejected in the same manner as 2023 applications without any reflection on EUAA report which recognizes the applicants as a persons eligible for mobilization.<sup>673</sup> This decisions again highlights high evidentiary threshold.

In 2022, apart from one LGBTQI+ applicant from Cuba who received subsidiary protection, but who also has a serious medical condition, all other LGBTQI+ applicants were rejected on the merits. Thus, and even though the Asylum Office rendered positive decisions in relation to LGBTQI applicants in the past, the past five years have shown that LGBTQI+ asylum seekers fleeing from a country in which they are criminalised or discriminated against have no prospect of success, unless they survived serious acts of persecution. In other words, the risk of persecution is solely assessed from the perspective of past experience which, if it is not based on actual physical attack, arrest, detention or any other harmful practice, would most likely lead to negative decisions.

The case of Mr. X. from Bangladesh, who left his country of origin because of his sexual orientation, but also religious beliefs (atheist) was rejected again in February 2022.<sup>674</sup> The case was referred back from the Administrative Court to the first instance authority. The applicant was targeted by an extremist student organisation, which further led to him being forced to quit his studies. He was not able to address the Bangladeshi authorities for protection due to a discriminatory legal framework which penalizes LGBTQI+ people. He was also raped, and his boyfriend committed suicide,<sup>675</sup> but it is not clear from the available sources if he was subjected to expert assessments for the purpose of the asylum procedure. Another decision is related to another long-lasting case of a gay man from Burundi, whose asylum claim was initially dismissed on the basis that Uganda was the first asylum country.<sup>676</sup> After his case was referred back to the first instance, his asylum application was rejected in merits.<sup>677</sup> It is important to note that

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<sup>668</sup> Asylum Office, Decision No. 26-1073/20, 1 December 2020.

<sup>669</sup> Asylum Commission, Decision No. AŽ 51/20, 24 December 2020.

<sup>670</sup> Asylum Office, Decision No. 26-1245/22, 17 February 2023.

<sup>671</sup> Asylum Office, Decisions Nos. 26-1245/22, 17 February 2023; 26-546/22, 8 December 2023 and 26-2165/22, 13 December 2023.

<sup>672</sup> Asylum Office, Decisions Nos. 26-2862/22, 4 December 2023 and 26-2882/22, 28 November 2023.

<sup>673</sup> Asylum Office, Decision No. 26-624/23, 18 April 2024.

<sup>674</sup> AIDA, Country Report: Serbia, 2021 Update, p. 82.

<sup>675</sup> Asylum Office, Decision No. 26- 26-404/21, 4 November 2021.

<sup>676</sup> Asylum Office, Decision No. 26-1515/19, 13 August 2020.

<sup>677</sup> Asylum Office, Decision No. 26-1515/19, 25 May 2022.

Burundi also criminalises same sex partnerships.<sup>678</sup> And finally, in December 2022, a Moroccan gay man was rejected on the merits, but since the author of the report did not have access to a copy of the decision, it is not possible to elaborate more on its reasoning. What can be safely said is that same-sex sexual activity is prohibited under the Moroccan Penal Code of 1962, which criminalises ‘lewd or unnatural acts’.<sup>679</sup>

It is also worth mentioning again the case of the gay man from Congo who escaped his former partner’s family who wanted to kill him, but also abuse from his own family. His boyfriend was killed, and his mother provided a letter of testimony confirming said incidents.<sup>680</sup> This, as well as numerous Col reports were declined as relevant evidence by the Asylum Office. The case of a gay man from Iran who was raped, abused and who was questioned by the police as a suspect for committing a criminal offence which implies sexual acts between men is also noteworthy, especially because his asylum claim was rejected with a final decision of the Administrative Court in 2023.<sup>681</sup> The applicant, in his procedure, provided an entire set of evidence, including the court summon which ensued after the arrest during which he was questioned about his sexual orientation. The reasoning of the Asylum Office from 2021 gives serious reasons for concern taking into consideration the Criminal Code of Iran, individual problems that the applicants faced and relevant Col. This decision is still a perfect example of how the first instance authority in some cases can cite Col which goes in favour of negative decisions but completely disregards Col which clearly indicates the risks of persecution of LGBTQI+ applicants from Iran. Moreover, even though the Asylum Office failed to take relevant Col into consideration *proprio motu*, the applicant’s legal representatives provided an entire set of relevant reports which confirm the existence of the events and incidents which were experienced by the applicant.<sup>682</sup>

In two other, separate decisions from 2020,<sup>683</sup> which concerned a gay couple from **Tunisia**, the first instance authority rejected their applications as unfounded, considering that the state of human rights of LGBTQI+ in Tunisia has been significantly improving throughout the years, emphasizing the fact that even one of the presidential candidates openly declared to be gay. However, the Asylum Office disregarded the fact that the Tunisian legal framework still allows ‘forced anal examination’ of people ‘suspected to be gay’ and criminalises homosexuality in its Criminal Code, prescribing a prison sentence of up to 5 years. The fact that both applicants were detained by the Tunisian police on several occasions on suspicion that they were gay was not disputed by the Asylum Office but was assessed as ‘not serious enough’ since both applicants avoided anal examination and were afforded lawyers. This interpretation gives serious reasons for concern since the threshold for persecution was set too high, and the Asylum Office failed to acknowledge that the very fact that someone who is suspected to be a gay can be taken in police custody, in combination with the risk of anal examination and criminal charges, undoubtedly amounts to persecution. Both of these cases were taken to the Strasbourg Court by applicant’s legal representatives and they are yet to be communicated.<sup>684</sup>

In 2024, the Asylum Office decided to deviate from its practice established in the case of a Cuban gay man who had serious medical conditions and who was granted subsidiary protection in 2022.<sup>685</sup> In three identical cases, but which contained expert opinions of medica specialist for immunology Asylum Office, without providing why it has changed its standing, rejected in merits all three applications.<sup>686</sup> These three decisions contradict the well-established practice which implied that persons with serious medical conditions who cannot receive treatment in their countries of origin and which can lead to lead to a severe,

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<sup>678</sup> Human Dignity Trust, Burundi, available at: <http://bit.ly/40Aycd4>.

<sup>679</sup> Human Dignity Trust, Morocco, available at: <http://bit.ly/40oPKUK>.

<sup>680</sup> Asylum Office, Decision No. 26-81/20, 13 January 2021.

<sup>681</sup> Administrative Court Judgment U 16351/22, 11 May 2023.

<sup>682</sup> Asylum Office, Decision No. 26-1284/20, 1 December 2021.

<sup>683</sup> Asylum Office, Decision No. 26-2038/19, 30 July 2020 and 26-2039/19, 17 August 2020.

<sup>684</sup> BCHR, Right to Asylum in the Republic of Serbia 2022, available at: <https://bit.ly/3F4yJXE>, pp. 64-66.

<sup>685</sup> Asylum Office, Decision No. 26-699, 15 September 2022.

<sup>686</sup> Asylum Office, Decisions Nos. 26-1222/22, 9 January 2024; 26-1223/22, 10 January 2024 and 26-3283/22, 18 April 2024.

rapid and irreversible deterioration of health<sup>687</sup> and would further cause intense suffering, significantly shorten life expectancy and lead to death that would occur under horrific circumstances.<sup>688</sup>

Finally, in 2024, there were two contradicting decisions with regards to Burundian LGBTQI+ applicants. In one case described above, the applicant was granted refugee status and his family was marked as actor of persecution which could not have been prevented due to Burundian legal framework which criminalizes same sex partnerships.<sup>689</sup> An almost identical case resulted in rejection, highlighting once again the lack of consistency and predictability of the practice.<sup>690</sup>

Thus, the decisions issued in 2020, 2021, 2022, 2023 and 2024 indicated that the Asylum Office has been departing from a very decent practice with regards to LGBTQI+ applicants established back in 2013, when a Turkish gay couple was granted refugee status due to systemic discrimination and violence faced in different places of residency.<sup>691</sup> The Turkish legal framework is far more favourable than the Tunisian, Iranian or Bangladeshi, but the interpretation of the Asylum Office from 8 years ago appears to be much more progressive than in several more recent decisions. In combination with another contentious decision regarding a transgender applicant from Iran rendered in 2019,<sup>692</sup> the practice of the first instance authority regarding LGBTQI+ claims appear to have seriously deteriorated in the past few years. Thus, the recognition rate of LGBTQI+ applicants in 2022 was 25%, and one positive decision is primarily based on medical grounds (serious illness) and then on LGBTQI+ part of the claim which was taken into consideration.

It is also important to note that rejection rate of Afghan nationals who claimed that they were working or were affiliated with family members who used to work for State authorities before Taliban return to power was of 100% in 2023. Two applications were rejected due to lack of credibility indicating that Asylum Office deterred from previous practice but also from the UNHCR moratorium on returns to Afghanistan.<sup>693</sup> In 2024, for the third time, an Afghan UASC (at the moment of applying for asylum), was rejected on the grounds that Pakistan was country of habitual residence, even though he has spent most of his life without ID, access to social and economic human rights and in constant risk of expulsion to Afghanistan where he could be recruited by the Taliban.<sup>694</sup>

In 2023, national security grounds were invoked in the cases of 2 Syrian nationals,<sup>695</sup> 1 Afghan applicant<sup>696</sup> and applicant from Ukraine,<sup>697</sup> as well as applicants from Brazil.<sup>698</sup> The common feature of all decisions is that reasoning of such decisions does not contain any elements of facts which could potentially indicate reasons why the BIA declared the applicants to be a national security threat. When it comes to applicants from Ukraine and Brazil, they were both in extradition procedure as well. In 2024, the number of such decisions increased to 9 (see the above Table). This practice is concerning, as it undermines the possibility to access an effective remedy for applicants who receive a negative security assessment, while the number of decisions (5) in comparison to previous years has increased.

In 2022, the Asylum Office rejected 3 Turkish applicants on the merits, confirming that it is basically impossible to obtain international protection for nationals fleeing this country. However, a decision issued

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<sup>687</sup> ECtHR, *Paposhvili v. Belgium*, Application No. 41738/10, Judgment of 13 December 2016, EDAL, available at: <https://www.asylumlawdatabase.eu/en/content/ecthr-paposhvili-v-belgium-application-no-417381013-december-2016>.

<sup>688</sup> ECtHR, *D. v. UK*, D, Application No. 30240/96, Judgment of 2 May 1997, EDAL, available at: <https://www.asylumlawdatabase.eu/en/content/ecthr-d-v-united-kingdom-application-no-3024096-2-may-1997>.

<sup>689</sup> Asylum Office, Decision No. 26-10-24/23, 26 August 2024.

<sup>690</sup> Asylum Office, Decision No. 26-41/23, 22 July 2024.

<sup>691</sup> Asylum Office, Decision No. 26-1280/13, 25 December 2013.

<sup>692</sup> Asylum Office, Decision No. 26-1592/18, 20 November 2019.

<sup>693</sup> Asylum Office, Decision Nos. 26-1922/21, 8 February 2023 and 26-50/22, 25 January 2023.

<sup>694</sup> Asylum Office, Decision No. 26-2349/19, 22 July 2024.

<sup>695</sup> Asylum Office, Decision No. 26-1441/17, 20 March 2023, while the other decision related to Syrian national is the only one which was not delivered.

<sup>696</sup> Asylum Office, Decision No. 2276/21, 27 January 2023.

<sup>697</sup> Asylum Office, Decision No. 26-2736/22, 29 June 2023.

<sup>698</sup> Asylum Office, Decision No. 26-1045/23, 5 October 2023.

in February related to a person who wanted to avoid extradition for a petty crime, as opposed to a political offence or other reasons which could indicate the risk of persecution. Thus, according to the author of this report, it is safe to say that one of these three decisions is justified and that the conclusion of the Asylum Office was correct – avoiding or procrastinating extradition.<sup>699</sup> One of the cases was related to the member of the Gulenist movement, while the other one on the case of Ecevit Piroglu. Both cases resulted in procedures before CAT and both applicants are facing extradition to Türkiye.<sup>700</sup> In 2023, Asylum Office rejected the asylum application of a member of HDP party, contributing further to the practice which indicates that Turkish nationals who claim asylum for reasons of political persecution cannot obtain international protection in Serbia.<sup>701</sup>

## 1.2 Prioritised examination and fast-track processing

No caseloads are prioritised as a matter of law or practice.

## 1.3 Personal interview

### Indicators: Regular Procedure: Personal Interview

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the regular procedure? ☒ Yes ☐ No
  - ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision? ☒ Yes ☐ No
3. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never
4. Can the asylum seeker request the interviewer and the interpreter to be of a specific gender? ☒ Yes ☐ No
  - ❖ If so, is this applied in practice, for interviews? ☒ Yes ☐ No

The interview in the regular procedure is regulated by Article 37 of the Asylum Act. The interview should take place at the earliest time possible. More specifically, the interview must be conducted within the period of 3 months during which the Asylum Office has to issue and deliver to the applicant and their legal representatives the first instance decision. The applicant is interviewed about all the facts and circumstances relevant to deciding on their application and particularly to establish their identity, the grounds for their asylum application, and their travel routes after leaving the country of origin or habitual residence, and whether the asylum seeker had previously sought asylum in any other country.<sup>702</sup>

An authorised officer of the Asylum Office may interview the applicant on more than one occasion in order to establish the facts.<sup>703</sup> In the situation where a large number of asylum applications has been lodged to the extent that the authorised officers of the Asylum Office are not able to interview all the applicants in due time, the Asylum Act provides that the Government may, at the request of the competent authority, decide on temporary involvement in the interviewing process of officers from other departments of the competent authority or officers from other authorities.<sup>704</sup> However, although prescribed that they must undergo the necessary training before engaging in the process, it remains unclear whether this training can provide such officers with the sufficient level of knowledge as required for interviewing applicants given the specific characteristics of the asylum procedure. This possibility has never been applied in practice.

<sup>699</sup> Asylum Office, Decision No. 26-1359/21, 4 February 2022.

<sup>700</sup> See more in the following parts of the Report.

<sup>701</sup> Asylum Office, Decision No. 26-545/22, 7 November 2023.

<sup>702</sup> Article 37(1) Asylum Act.

<sup>703</sup> Article 37(2) Asylum Act.

<sup>704</sup> Article 37(12) Asylum Act.



All interviews are conducted individually (especially in cases of families) by a person of same the gender as the applicant, and excluding young children who are formally included in their parents' applications. During the interviews with UASC, social workers or temporary guardians are always present. In practice, asylum officers are rarely prepared for the interviews, including in relation to relevant Col (which is later on displayed in the reasoning of decisions), failing first of all to properly identify and address vulnerabilities. This means that legal representation at first instance is still crucial, as lawyers usually inform asylum officers of existing vulnerabilities and of potential traumatic reactions during the interview are announced. There were also instances in which asylum interviews were postponed due to poor mental health state affecting some of the most vulnerable applicants.<sup>705</sup>

The Asylum Act also specifies three situations in which the asylum interview may be omitted:<sup>706</sup>

1. A decision may be adopted upholding the application and granting the right to asylum on the basis of the available evidence;
2. The applicant is unable to give a statement due to circumstances of non-temporary nature beyond their control. In this case, it is possible for the applicant or a member of their family to adduce evidence and give statements relevant to deciding on their asylum application.<sup>707</sup> This option was applied for the first time in 2021 in relation to an Afghan UASC who was not able to take part in the interview procedure due to his health condition which implies that he is immobile and not able to talk.<sup>708</sup> He was granted subsidiary protection;
3. The admissibility of a [Subsequent Application](#) is being assessed.

As previously mentioned, an applicant is entitled to request that an interview be conducted by a person of a specific gender. The same rule applies to interpreters.<sup>709</sup> In practice, asylum seekers often wait from several weeks to several months following the lodging of their application for an interview to be scheduled. A 4-member Afghan family who lodged their asylum applications on 30 August 2021 had their asylum interview in 7 July 2022. A single mother with two children from Syria lodged their asylum application in August 2021, and were interviewed in February 2022. There were also examples of good practice in which Burundian SGBV survivor lodged an asylum application on 15 March, was interviewed on 27 April and was granted refugee status 29 June 2022.<sup>710</sup> In 2023, asylum interviews rarely took place before the expiry of three-months deadline, unless it is clear that asylum application is *prima facie* not credible (see the Table above on the overview of the Asylum Office practice in 2023). In 2024, the extensive length between the interview and the asylum application remained the rule. For instance, a Russian family was questioned on 17 November 2023, and they lodged asylum application on 29 March 2023.<sup>711</sup> A Burundian SGBV survivor had lodged her asylum application on 26 April 2023, and had her asylum interview on 3 April 2024, almost a year after.<sup>712</sup> The examples in which the interview took place soon after the asylum application was made was mostly in relation to national security cases. For instance, a Turkish political activist lodged his asylum application on 10 July 2024, had his asylum interview on 31 July 2024 and was rejected on the basis of the national security grounds on 16 September 2024.

The Asylum Office conducted 106 interviews in 2022, which is significantly higher than the number of interviews in 2020 (84) and 2021 (85), but is still lower than the number of interviews from 2019 (178). In 2023, a total of 88 interviews were conducted. In 2024, 107 asylum interviews were conducted by the Asylum Office.

The reason for the low number in 2020 can be attributed to COVID-19 which suspended this stage of the asylum procedure from second half of March until June 2020. However, no similar reason could justify the low number of interviews conducted in 2021. Positively, an increase was observed in 2022, but in

<sup>705</sup> Information provided by IDEAS.

<sup>706</sup> Article 37(10) Asylum Act.

<sup>707</sup> Article 37(11) Asylum Act.

<sup>708</sup> Asylum Office, Decision No. 26-1084-20, 7 June 2021.

<sup>709</sup> Article 16 (2) Asylum Act.

<sup>710</sup> Asylum Office, Decision No. 26-246/21, 29 June 2022.

<sup>711</sup> Asylum Office, Decision No. 26-624/23, 18 April 2024

<sup>712</sup> Asylum Office, Decision No. 26-828/23, 26 July 2024.

2023 the number of asylum interviews dropped once more. It is also important to note that 1 witness was questioned, while a request to question another witness was declined in June 2022. In 2023, even though some of the applicants provided witness statements in writing, offering also for the witnesses to be questioned in person or online, the Asylum Office did not avail itself of this possibility, and disregarded the credibility of witness statements in the reasoning of negative decision.<sup>713</sup> The situation remained unchanged in 2024. In general, it is clear that the Asylum Office tends not to question witnesses proposed by the applicants and their legal representatives.

There were no instances in which asylum interviews were conducted through video conferencing, including during the COVID-19 preventive measures in 2020. There were at least two instances in which witnesses of applicants in the asylum procedure were interviewed via the Skype application, in line with Article 111 of GAPA which provides for such a possibility. One case has been concluded due to the applicant's absconding,<sup>714</sup> while the other one resulted in a positive decision regarding a UASC from Iran.<sup>715</sup> No major problems were recorded with regards to video conferencing, but it is clear that this practice is rarely applied and it is yet to be seen whether problems will arise in the future. As outlined, there were no video questioning in 2024.

#### The total number of asylum interviews in the period 2019-2024

Month	Number of interviews in 2019	Number of interviews in 2020	Number of interviews in 2021	Number of interviews in 2022	Number of interviews in 2022	Number of interviews in 2023	Number of interviews in 2024
January	16	5	8	6	2	2	4
February	32	20	7	9	7	7	11
March	16	9	2	10	14	14	19
April	26	0	5	14	6	6	22
May	12	0	15	6	6	6	8
June	3	3	14	5	2	2	4
July	9	1	11	8	4	4	2
August	6	1	0	4	2	2	2
September	19	8	0	18	15	15	5
October	17	23	9	1	6	6	13
November	8	7	1	22	15	15	6
December	14	7	13	4	9	9	11
<b>Total</b>	<b>178</b>	<b>84</b>	<b>85</b>	<b>106</b>	<b>88</b>	<b>88</b>	<b>107</b>

### 1.3.1 Interpretation

An applicant who does not understand the official language of the asylum procedure shall be provided free interpretation services into their native language, or a language that they can understand, including the use of sign language and Braille materials.<sup>716</sup>

The costs of interpretation are covered by UNHCR, and the interpreters are hired from their list which covers the following languages: English (19), Farsi (10), French (10), Arabic (8), Russian (7), Turkish (5), Spanish (4), Kurdish (3), Bulgarian (2), Chinese (2), Urdu (2), German (2), Greek (2), Georgian (2), Bulgarian (2) and Kirundi (2) and Ukrainian (2). One interpreter is also available for each of the following languages: Armenian, Hindu, Hungarian, Italian, Macedonian, Portuguese, Pashto, Polish, Romanian and Swahili.

<sup>713</sup> See for example Asylum Office, Decision No. 26-132/22, 13 April 2023.

<sup>714</sup> Asylum Office, Case File No. 26-2534/17, 7 May 2021.

<sup>715</sup> Asylum Office, Decision No. 26-1271/19, 15 October 2020.

<sup>716</sup> Article 13 Asylum Act.

When it comes to the practice, there were several instances in which CSO lawyers decided to halt the interview because of the interpreters' incompetence and inability to establish effective communication with the applicants. Afterwards, the CSO requested their removal from the list, which was done by the UNHCR. There were several other instances in which lawyers failed to react and which had damaging consequences for the applicant. Such was the case of an Afghan boy who, according to his testimony given to his legal guardian, did not understand an interpreter for Farsi. His asylum application was rejected in the first instance,<sup>717</sup> and the decision was upheld by the Asylum Commission.<sup>718</sup> It remains to be seen if flaws in interpretation will be taken into consideration by the Administrative Court. One interpreter for Kirundi was removed from the list because of his affiliation with the Burundian Government. In 2022, an incompetent interpreter for Spanish was removed after a series of inadequate and imprecise interpretations in Cuban applications.<sup>719</sup> There were no instances in which interpreters were removed from the list in 2024, even though there were complaints by asylum seekers that they were not able to communicate properly or to understand them.

### 1.3.2 Recording and report

At the end of the interview, the records are signed by the asylum seeker, their legal representative, the interpreter and the official leading the interview.<sup>720</sup> The asylum seekers' legal representatives are entitled to ask additional questions to ensure comprehensive establishment of the facts of the case.

The minutes are read by the legal representative and asylum seeker before they are printed out and signed jointly with the acting asylum officer. It is also possible to make clarifications and corrections, but also to raise issues of disagreement and complaint on the acting asylum officer.

The original copies of the minutes are surrendered to the applicant and their legal representative upon conclusion of the interview. There were no instances in which it was reported that minutes from the asylum interview were inconsistent with the content of the interview.

The interview is not electronically recorded by either audio or video means.

## 1.4 Appeal

### Indicators: Regular Procedure: Appeal

1. Does the law provide for an appeal against the first instance decision in the regular procedure?
 

	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ If yes, is it	<input type="checkbox"/> Judicial	<input checked="" type="checkbox"/> Administrative
❖ If yes, is it automatically suspensive	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Some grounds <input type="checkbox"/> No
2. Average processing time for the appeal body to make a decision: 2-3 months

### 1.4.1 Appeal before the Asylum Commission

Appeals against Asylum Office decisions are reviewed by the Asylum Commission, a body comprising nine members appointed to four-year terms in office by the Government.<sup>721</sup> Asylum Commission members must be a citizen of the Republic of Serbia, have a university degree in law, a minimum of five years of work experience, and must have an 'understanding' of human rights law.<sup>722</sup> The last requirement gives a lot of reasons for concern, since none of the members fulfil this criterion. The only person who met this criterion was a professor of International Human Rights Law at the Faculty of Law of the University of Belgrade who resigned in 2019 and was later replaced by the professor of Constitutional Law from the

<sup>717</sup> Asylum Office, Decision No. 932/19, 30 September 2019.

<sup>718</sup> Asylum Commission, Decision No. AŽ 38/19, 3 December 2019.

<sup>719</sup> Asylum hearing in the case 26-688/22, 24 June 2022.

<sup>720</sup> Article 63 GAPA.

<sup>721</sup> Article 21(1)-(2) Asylum Act.

<sup>722</sup> Article 21(3) Asylum Act.

Criminal-Police Academy for whom it can be assumed that he possesses knowledge on human rights. Still, it is clear, and the practice of this body since the beginning of the asylum system in Serbia has shown, that members of the Asylum Commission are simply not qualified to apply international refugee law and international human rights law and that their knowledge mainly lies in the field of Administrative Law. Although the asylum procedure is administrative by nature, it requires the capacity of decision makers to conduct assessments of the risks of *refoulement ex nunc*, *proprio motu* and with rigorous scrutiny, to conduct interviews with vulnerable applicants and to apply the principle of *in dubio pro reo*. None of these features have been reflected in the 15 year-practice of the Asylum Commission.

An appeal to the Asylum Commission automatically suspends the enforcement of the first instance decision and it must be submitted within 15 days from the delivery of the decision.<sup>723</sup> The first instance decision may be challenged for the following reasons which are relevant for the asylum procedure:

- 1) lack or flawed application of the Law, other regulation or general act in the first instance decision;
- 2) incompetent authority in charge of the first instance decision;
- 3) incorrectly or incompletely established factual grounds;
- 4) flawed conclusion derived from the established factual grounds;
- 5) violation of the rules of the administrative procedure.<sup>724</sup>

New facts and evidence may be presented in the appeal, but the appellant is obliged to explain why they did not present them in the first instance procedure.<sup>725</sup> This provision is often relied on in second instance decisions when applicants, mainly due to poor quality work by their legal representatives, invoke or provide new evidence which they had failed to provide in the course of the first instance procedure. The Asylum Commission appears to be very rigorous in examining new facts and evidence in the appeal stage and limits the scope of its work to the framework established in the asylum application and during the asylum interview before the Asylum Office. This is especially unfavourable for legally incompetent applicants who initiate the asylum procedure by themselves. However, it is important to note that many evidence and facts should be gathered by the asylum authorities *proprio motu*, especially Col reports and other general circumstances, and regardless of the efforts of legal representatives and the quality of their work. The practice has shown that this is rarely the case.

The appeal must be submitted to the Asylum Office in a sufficient number of copies for the Asylum Commission and the opposing party.<sup>726</sup> The Asylum Office then examines if an appeal is timely, allowed in accordance with the GAPA rules of procedure and if it is lodged by an authorised person. If the Asylum Office determines any of the above-enlisted deficiencies, an appeal will be dismissed.<sup>727</sup> Against such decision, appeal is also possible, but the practice has shown little prospect of success.

According to the author's knowledge, there were two instances in which appeal against the first instance decisions were not timely lodged, which was the reason why the appeal was dismissed by the Asylum Office. Later on, legal representatives tried to justify their untimely lodging of the appeal before the Asylum Commission,<sup>728</sup> and also Administrative Court,<sup>729</sup> but without a success. Both decisions became final and the SGBV survivor from Somalia and the applicant from Burundi were denied the possibility to have their cases examined on the merits.

Also, the GAPA envisages that the Asylum Office might uphold the appeal without referring the case to the Asylum Commission if it determines that arguments from the appeal are founded<sup>730</sup> and issue a new decision which annuls the initial decisions and contains a new one. It is also possible that the Asylum

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<sup>723</sup> Article 95 Asylum Act and Articles 151 and 153 GAPA.

<sup>724</sup> Article 158 GAPA.

<sup>725</sup> Article 159 (2).

<sup>726</sup> Article 160 GAPA.

<sup>727</sup> This was the case with the application of an alleged SGBV survivor from Somalia who claimed that she had been subjected to the practice of genital mutilation. The legal representative in this case failed to lodge an appeal in time. Asylum Office, Decision No. 26-1599/19, 13 October 2020.

<sup>728</sup> Asylum Commission, Decisions Nos. AŽ 51/20, 24 December 2020 and AŽ 32/21, 7 February 2022.

<sup>729</sup> Administrative Court, Judgments Nos. U 3775/21, 3 March 2022 and U 19541/22, 14 October 2022.

<sup>730</sup> Article 165 (1) GAPA.

Office supplements the procedure with additional asylum interviews or other evidentiary activity which it deems necessary.<sup>731</sup> However, there was not a single case in the practice of the Asylum Office in which this legal avenue has been used.

If an appeal is not dismissed, the Asylum Office will refer the case files to the second instance body within 15 days from the receipt of the appeal and will also provide its response to the arguments, facts and evidence outlined in the appeal.<sup>732</sup> What is important to note is that the response of the Asylum Office is not delivered to the applicant and/or his legal representatives, but the summary of response is only outlined in the reasoning of the Asylum Commission. In this way, the applicant is not able to provide additional views and arguments vis-à-vis the Asylum Office's response.

The Asylum Act does not specify the duration of the second instance procedure. However, the GAPA stipulates that the second instance decision must be issued within 60 days.<sup>733</sup> Under the Administrative Disputes Act, a claim against 'administrative silence' may be filed with the Administrative Court in the event the Asylum Commission fails to issue a decision on the appeal within 60 days of the day of its receipt, upon the expiry of 8 days from the day a reminder was sent to the second-instance authority.<sup>734</sup> In other words, the time limit for the second instance decision and its delivery to the applicant is two months after the appeal was lodged. In practice, however, it takes at least three to four months for the Asylum Commission to issue and deliver the second instance decision.

During the state of emergency in 2020, the Asylum Commission delivered more decisions than in 2019. The main reason for this is because the Asylum Commission did not hold hearings in order to directly determine the facts during this period.<sup>735</sup> However, it is welcome that, in the vast majority of cases, the Commission issued its decisions within two to three months in 2021 and 2022. It was not possible to make an accurate assessment of the average length of the procedure before the Commission in 2023 due to the anonymization of delivered decisions, but in many cases in which IDEAS lawyers acted as legal representatives the decision was rendered within 2 to 3 months. In 2024, it was possible to determine from the case files the length of each and every procedure - 45 decisions in total. An average length was 3 months, which is reasonable and acceptable.

When the Asylum Commission receives the appeal, it may issue a different decision on the matter and substitute the impugned ruling with a new one, should it find the appeal well-founded and that it is unnecessary to conduct the procedure again.<sup>736</sup> Should the Asylum Office find that the procedure it had implemented was incomplete, it may perform the requisite supplementary actions and render a new decision, which is also subject to appeal by the asylum applicant.<sup>737</sup> In the event it does not reject the appeal,<sup>738</sup> the Asylum Commission may itself decide on the administrative matter.<sup>739</sup> It may also set aside the impugned ruling and order the first instance authority to re-examine the matter, when it finds that the shortcomings of the first instance procedure will be eliminated more rapidly and economically by the Asylum Office.<sup>740</sup> The last possibility is the usual scenario, and since the establishment of the Serbian asylum system, the second instance body has rendered only three decisions granting asylum to applicants from **Somalia**,<sup>741</sup> **Libya**,<sup>742</sup> and **Iran**.<sup>743</sup>

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<sup>731</sup> Article 165 (2) GAPA.

<sup>732</sup> Article 166 GAPA.

<sup>733</sup> Article 174 GAPA.

<sup>734</sup> Article 19 Administrative Disputes Act.

<sup>735</sup> IDEAS, *Hod po žici* - uticaj epidemije zarazne bolesti COVID-19 na sistem azila u Republici Srbiji - U susret „drugom talasu” - preliminarni nalazi, March 2020, available in Serbian at: <https://bit.ly/46kqDF3>, p. 53.

<sup>736</sup> Article 165 GAPA.

<sup>737</sup> Article 165(2)-(3) GAPA.

<sup>738</sup> Article 170 GAPA.

<sup>739</sup> Article 171(5) GAPA.

<sup>740</sup> Article 173(3) GAPA.

<sup>741</sup> Asylum Commission, Decision AŽ 25/09, 23 April 2010.

<sup>742</sup> Asylum Commission, Decision AŽ 06/16, 12 April 2016.

<sup>743</sup> Asylum Commission, Decision AŽ X, 2 September 2019.

## Statistical Overview of Asylum Commission practice 2009-2024

Year	Decision rejecting an appeal	Decision upholding an appeal	Decision dismissing an appeal	Decision on discontinuing of asylum procedure	Other decisions	Total
2009	28	14	1	0	0	43
2010	6	16	0	1	9	32
2011	29	7	2	1	0	39
2012	16	4	0	0	2	22
2013	10	2	0	0	0	12
2014	10	3	0	0	6	19
2015	8	24	1	0	1	34
2016	6	6	0	0	0	12
2017	11	15	0	0	0	26
2018	6	10	0	0	0	16
2019	28	14	1	0	0	43
2020	52	10	0	0	0	62
2021	51	19	0	4	0	74
2022	36	5	0	0	3	44
2023	30	4	0	2	0	36
2024	41	4	0	0	0	45
<b>Total</b>	<b>302</b>	<b>148</b>	<b>6</b>	<b>8</b>	<b>18</b>	<b>479</b>

## Asylum Commission Practice in 2024

No.	No. of Decision	Country of Origin	Date of decision	No. of persons	Outcome	Remark	Length (months)	Legal representative
1.	AŽ 36/23	Cuba	17.01.2024	1	Rejected	Discontinuation	4,5	Private lawyer
2.	AŽ 35/23	Cuba	19.01.2024	1	Rejected	Discontinuation	0,5	Private lawyer
3.	AŽ 30/23	Cuba	23.01.2024	1	Rejected	Discontinuation	1,5	Private lawyer
4.	AŽ 32/23	Russian Federation	05.02.2024	3	Rejected	Religious persecution	2	BCHR
5.	AŽ 31/23	Türkiye	12.02.2024	1	Rejected	Political persecution	2,5	IDEAS
6.	AŽ 27/23	Burundi	12.02.2024	1	Rejected	SGBV	5	IDEAS
7.	AŽ 06/24	Burundi	12.02.2024	1	Upheld	SGBV	1	IDEAS
8.	AŽ 08/24	Russian Federation	19.02.2024	1	Rejected	Discontinuation	1	APC
9.	AŽ 38/23	Russian Federation	19.02.2024	1	Rejected	Draft evasion	1,5	IDEAS
10.	AŽ 34/23	Cuba	29.02.2024	1	Rejected	Discontinuation	2,5	Private lawyer
11.	AŽ 01/23	Burundi	29.02.2024	1	Rejected	Political persecution	2	IDEAS
12.	AŽ 02/24	Russian Federation	29.02.2024	1	Rejected	Draft evasion	2	IDEAS
13.	AŽ 05/24	Burundi	08.03.2024	1	Rejected	Political persecution	2	IDEAS
14.	AŽ 10/24	Russian Federation	15.03.2024	2	Rejected	Alleged political persecution	1,5	N/A
15.	AŽ 37/23	Kazakhstan	28.03.2024	1	Rejected	Alleged staged criminal persecution	3,5	Private lawyer



16.	AŽ 09-24	Burundi	28.03.2024	1	Rejected	Discontinuation	3	IDEAS
17.	AŽ 16/24	Syria	28.03.2024	1	Rejected	National security grounds	1	BCHR
18.	AŽ 14/24	Burundi	03.04.2024	1	Rejected	Discontinuation	2,5	N/A
19.	AŽ 13/24	Burundi	03.04.2024	1	Rejected	Discontinuation	2	N/A
20.	AŽ 20/24	Russian Federation	10.05.2024	1	Rejected	Alleged political persecution	1	N/A
21.	AŽ 33/23	Syria	27.05.2024	1	Rejected	National security grounds	5,5	BCHR
22.	AŽ 18/24	Syria	27.05.2024	1	Rejected	Revocation NSG	2	IDEAS
23.	AŽ 26/23	Burundi	27.05.2024	1	Rejected	SGBV and political persecution	10	IDEAS
24.	AŽ 06/19	Iran	10.06.2024	4	Upheld	Religious persecution	N/A	IDEAS
25.	AŽ 20/20	Russian Federation	02.07.2024	1	Rejected	Subsequent asylum application	5	IDEAS
26.	AŽ 23/24	Croatia	02.07.2024	1	Rejected	<i>Prima facie</i> uncredible	3	N/A
27.	AŽ 46/20	Afghanistan	12.07.2024	1	Upheld	Persecution by Taliban	N/A	IDEAS
28.	AŽ 28/24	Germany	16.07.2024	1	Rejected	<i>Prima facie</i> uncredible	3	N/A
29.	AŽ 31/24	Syria	10.09.2024	1	Rejected	National security grounds	1	Private lawyer
30.	AŽ 35/24	Syria	10.09.2024	1	Rejected	National security grounds	1	IDEAS
31.	AŽ 29/24	Burundi	11.09.2024	4	Rejected	Alleged political persecution	4	IDEAS
32.	AŽ 34/24	Cuba	11.09.2024	1	Rejected	Alleged political persecution	1,5	N/A
33.	AŽ 15/24	Burundi	07.10.2024	2	Upheld	SGBV	7,5	IDEAS
34.	AŽ 32/24	Sweden	07.10.2024	1	Rejected	National security grounds and extradition	7	Private lawyer
35.	AŽ 26/24	Cuba	08.10.2024	1	Rejected	LGBTQI+ and serious medical condition	4	IDEAS
36.	AŽ 47/24	Egypt	16.10.2024	1	Rejected	National security grounds	1	Private lawyer
37.	AŽ 41/24	Burundi	21.10.2024	1	Rejected	SGBV	1	IDEAS
38.	AŽ 42/44	Burundi	23.10.2024	1	Rejected	LGBTQI+	1	BCHR

39.	AŽ 51/24	Cuba	31.10.2024	3	Rejected	Alleged political persecution	1,5	Private lawyer
40.	AŽ 52/24	Armenia	13.11.2024	3	Rejected	Draft evasion	2,5	BCHR
41.	AŽ 56/24	Türkiye	11.12.2024	1	Rejected	Discontinuation	2	APC
42.	AŽ 33/24	Cuba	09.12.2024	1	Rejected	Alleged political persecution	4	N/A
43.	AŽ 21/24	Ukraine	07.10.2024	1	Rejected	National security grounds	6	Private lawyer
44.	AŽ 58/24	Cuba	17.12.2024	1	Rejected	Alleged political persecution	2	Private lawyer
45.	AŽ 60/24	Cuba	26.12.2024	1	Rejected	Alleged political persecution	1	Private lawyer

In 2024, the Asylum Commission rendered 45 decisions in relation to 59 persons originating from: Burundi (16), Cuba (12), Russian Federation (10), Syria (5), Iran (4), Armenia (3), Türkiye (2), Ukraine (1), Sweden (1), Egypt (1), Germany (1), Kazakhstan (1), Afghanistan (1) and Croatia (1). Only 2 appeals were upheld and in relation to the 2 SGBV survivors from Burundi,<sup>744</sup> while two more cases were referred back to the Asylum Office after the complaints lodged to the Administrative Court (third instance) were upheld but not on substantive, on procedural grounds. All other appeals were rejected (41 in total). In 2023 the Asylum Commission took 36 decisions regarding 43 persons: Burundi (15),<sup>745</sup> Cuba (6), Unknown (4), Afghanistan (3), Iraq (2), Iran (2), Syria (2), Russia (1), Morocco (1), Tunisia (1), Germany (1), North Macedonia (1), Pakistan (1), Bosnia and Herzegovina (1), Bangladesh (1) and Ukraine (1). Thus, the number of decisions in 2024 increased. In 2023 not a single appeal upheld by the Asylum Commission (4 in total) was upheld on the basis of the arguments outlined in the appeal, while in 2024, as already said, the Commission upheld two of such appeals. As was the case in 2021, 2022 and 2023, the Asylum Commission did not render any positive decisions in 2024, i.e. it did not grant international protection.

One of the major concerns regarding the Asylum Commission's practice relates to the failure to individually and separately assess all allegations included in the applicant's appeal. In many of the analysed decisions, the Commission summarily rejected the applicant's arguments, but also failed to examine the applicants' cases in line with the Asylum Office's positions which were taken in previous cases of identical or similar nature.<sup>746</sup> There are no traces of Col assessment in second instance decisions. Instead, the Asylum Commission relies on the Col assessment of the Asylum Office, which has proved to be contentious in many cases, especially in relation to nationals of Burundi. Moreover, reasonings of Asylum Commission decisions mostly do not contain clear reflection of each and every argument and grounds outlined in the appeal, but simple reference in bullet points and then summary and cumulative rejection of all arguments.

Out of 45 decisions, a total of 9 of them were related to the issue of discontinuation due to absence of applicants from asylum centres for longer than three days (grounds for discontinuation). Thus, they are not relevant for the assessment of the quality of the credibility assessment performed by the second instance authority in 2024. Also, 11 decisions were related to *prima facie* uncredible claims originating mainly from Cuba, but also Russian Federation and Burundi, as well as some of the EU member States such as Croatia and Germany (mainly alleging political persecution). From the case files of these

<sup>744</sup> Asylum Commission, Decision No. AŽ, 06/24, 12 February 2024 and AŽ 15/25, 7 October 2024.

<sup>745</sup> Officially, the number of persons from Burundi whose case was decided in 2023 is 20, but Asylum Commission decided twice in relation to a 5-members family (AŽ 15/23, upheld on 10 July 2023, and then rejected on 17 November 2023).

<sup>746</sup> Article 5 (3) GAPa.

applications it can be seen that most of the applications contained claims related to economic or other struggles which do not represent grounds for international protection. As outlined in the Chapter which contains description of the practice of the Asylum Office, the cases of alleged Armenian draft evaders also had a low level of credibility and their appeals were rejected.<sup>747</sup>

The two decisions in which the appeals were upheld by the Asylum Commission can be considered as the most important, having in mind that **both cases** were related to SGBV survivors who were rejected on the merits despite a range of evidence provided to the Asylum Office, as well as Col submissions which completely reflected the individual circumstances of the applicants.<sup>748</sup> In the first decision from February, the Asylum Commission indicated to the Asylum Office that they should take into account relevant and up to date Col and to provide explanation why the Col cited as grounds for rejection should have advantage over the Col which clearly goes in favour of the applicants (CAT, CCPR and SR on human rights in Burundi findings from 2023 and 2024). Moreover, the Asylum Commission has asked the Asylum Office to provide the data which is not related to the legal framework which should provide protection to SGBV survivors, but which indicates that such legal framework is effectively applied. The same instruction to the Asylum Office was issued in relation to the October decision regarding a SGBV (incest) survivor. Thus, these two decisions are the only examples in which the Asylum Commission partially exercised its corrective authority over the Asylum Office, but the question that still remains open is why this body failed to decide upon these asylum applications on the merits.

The other two decisions in which cases were referred back to the Asylum Office are not relevant for the analysis since they were referred back due to procedural reasons and do not affect the examination of the quality of the decision-making process of the Asylum Office.

However, on the same day and probably on the same meeting of the members of the Commission, on 12 February 2024, the Asylum Commission rendered a completely opposite decision in a case of another SGBV survivor from Burundi, whose credibility was even higher than the above-described cases. She provided the Istanbul Protocol Report issued by three medical specialists: forensic doctor, gynaecologist and psychiatrist. The findings from the Report indicate that the applicant survived rape and attempted murder, and the reasoning of the Asylum Office again implied citation of Col which is related to the repatriation of Burundians from Uganda and the description of the legal framework which was outlined of the website on the UK Foreign Office (cannot be considered as Col), but without providing a single data on how the framework is applied in practice. Thus, it is impossible to explain why this appeal was not upheld as well, and the case, at least, referred to the Asylum Office. Two more SGBV survivors were rejected by the Asylum Commission in May<sup>749</sup> and October 2024.<sup>750</sup>

This practice depicts the contradicting practice of the Asylum Commission and lack of capacity of this body to have a corrective influence over the Asylum Office. It also corroborates the findings which indicate the pattern of automatic rejection of Burundian applicants. For that reason, it should be reiterated that in 2023 there were many cases related to Burundian applicants who suffered the same flawed practice and that practice continued in 2024. That was the case with a family which based their asylum claim on an act of SGBV to which the mother was subjected, and provided evidence to the Asylum Office, but the reason why the appeal was upheld was because another child was born in Serbia after the family lodged asylum application. After the newborn child was included in another but identical decision of the Asylum Office, Asylum Commission rejected the appeal.<sup>751</sup> In February and March 2024,<sup>752</sup> the appeals of two more Burundian nationals were rejected by the Asylum Commission, contributing to the impression that the practice of the Asylum Office in relation to Burundian citizens, and which was described above as inadequate and lacking individualized assessment, has been supported by the Asylum Commission,

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<sup>747</sup> Asylum Commission, Decision No. AŽ 52/24, 13 November 2024.

<sup>748</sup> Asylum Commission, Decision No. AŽ, 06/24, 12 February 2024 and AŽ 15/25, 7 October 2024.

<sup>749</sup> Asylum Commission, AŽ 26/23, 27 May 2024.

<sup>750</sup> Asylum Commission, AŽ 41/24, 21 October 2024.

<sup>751</sup> Asylum Commission, Decisions Nos AŽ 15/23, upheld on 10 July 2023, and then rejected on 17 November 2023.

<sup>752</sup> Asylum Commission, Decisions Nos. AŽ 01/23, 29 February 2024 and AŽ 05/24, 8 March 2024.

including in highly credible cases of political activists, CSO workers and members of the opposition parties.<sup>753</sup>

There were two decisions of the Commission which were related to alleged Russian draft evaders and in which it can be seen that the second instance body confirmed the practice of the Asylum Office in which poor Col assessment has been performed, leaving out for instance [EUAA report](#) on Russian draft evaders and the risks they might face.<sup>754</sup> Despite of the fact that these two applications cannot be considered as highly credible, the corrective influence of the Asylum Commission also implies the responsibility to influence the thoroughness of the assessment of both individual and general circumstances by the Asylum Office, which also implies reflection on the credible Col. This influence has been a longstanding problem of the second instance body.

When it comes to other SGBV cases which were decided in the past by the Commission, it is still valid to outline the June 2022 contentious and negative decision of a woman from Iran who opposes strict Sharia rules on hijab and in general on practices which severely undermine women's rights.<sup>755</sup>

In 2024, the Asylum Commission confirmed two negative decisions of the Asylum Office in which applicants from Cuba and Burundi who had LGBTQI+ claims were rejected. In the case of Cuban applicants, the Commission failed to at least indicate to the Asylum Office why it deviated from the previously established practice in which Cuban LGBTQI+ applicants who are HIV+ were granted subsidiary protection.<sup>756</sup> As for the Burundian gay man whose appeal was rejected,<sup>757</sup> it can be safely said that such decisions simply contributes to the continuation of the negative practice towards this category of vulnerable applicants. These two decisions justify the reflection on the practice of the Asylum Commission in previous years made above.

A LGBTQI+ applicant's appeal was rejected in 2023 and with regards to the risk of persecution in Morocco. This represents a continuation of the practice from previous years. On 8 March 2021, the Asylum Commission rejected the appeal of gay man from Congo whose case was rejected in merits by the Asylum Office which took a standing that applicant failed to prove the risk of persecution as a member of a particular social group. A letter from the applicant's mother, as well as relevant Col were not found to be sufficient for granting of asylum.<sup>758</sup> In 2021, the Commission rejected the appeal of the transgender applicant from **Iran**, whose asylum application was rejected in November 2019,<sup>759</sup> and confirmed the stance of the first instance authority that the fact that Iranian state authorities formally acknowledged her gender transition implies that she would be safe in Iran.<sup>760</sup> However, the Asylum Commission, in the same manner as the Asylum Office, disregarded the threats and attacks she received from her family, but also from members of Iranian society and her former employer. The applicant was granted mandate status by UNHCR and was resettled to another country.<sup>761</sup>

In 2024, a total of 7 decisions in which the appeal was rejected were related to the arbitrary application of national security grounds. The common feature, as it is the case with decisions of the Asylum Office, is that not a single Asylum Commission decisions contain facts on why someone was declared as the national security risk. Thus, the Asylum Commission simply confirmed the standing of the Asylum Office and confirmed the flawed manner in which security assessments are performed, depriving applicants of any possibility to challenge such assessments.

In September 2021, the Asylum Commission upheld an appeal of a Libyan citizen whose asylum procedure had been pending since 2018 and who was declared to be a security risk due to his connections

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<sup>753</sup> Asylum Commission, Decision Nos. AŽ 11/23, 5 May 2023 and AŽ 11/23, 5 May 2023.

<sup>754</sup> Asylum Commission, Decision Nos. AŽ 38/23, 19 February 2024 and AŽ 02/24, 29 February 2024.

<sup>755</sup> Asylum Commission, Decision No. AŽ 8/21, 27 June 2022.

<sup>756</sup> Asylum Commission, Decision No. AŽ 26/24, 8 October 2024.

<sup>757</sup> Asylum Commission, Decision No. AŽ 42/44, 23 October 2024.

<sup>758</sup> Asylum Commission, Decision No. AŽ 04/21, 8 March 2021.

<sup>759</sup> Asylum Office, Decision No. 26-1592/18, 20 November 2019.

<sup>760</sup> Asylum Commission, Decision No. AŽ 44/19, 30 January 2020.

<sup>761</sup> *Ibid.*

with the former Ghaddafi regime.<sup>762</sup> An appeal was upheld after the Commission obtained from BIA a positive security assessment, even though this assessment was different in January 2021 when asylum application was rejected.<sup>763</sup> This case perfectly illustrates that BIA conducts security assessment of each and every applicant and prior to the first instance decision. This case irresistibly resembles on the case of family A. whose asylum application was rejected on the same grounds in 2016. They were granted subsidiary protection after their case was communicated to the ECtHR. Mr. G. from Libya was finally granted subsidiary protection in February 2022. In October 2021, the Asylum Commission rejected the appeal of the four member family from Jordan as unfounded.<sup>764</sup> However, in 2023, the Asylum Commission rejected an appeal related to national of Afghanistan whose asylum application had been rejected on national security grounds.<sup>765</sup> Similar decision was rendered in 2022 when, the Asylum Commission rejected the appeal of a Ukrainian national whose request for temporary protection was rejected on the basis of the negative security assessment of BIA which was not delivered to his legal representatives. This case is examined in details in the separate part of the 2022 AIDA report dedicated to Ukrainian refugees.<sup>766</sup>

The Asylum Commission rejected an appeal of a Turkish political activist who is a member of HDP, confirming once again that Turkish political activists and in general Turkish people who have fled political persecution, **stand no chance** to obtain international protection in Serbia.<sup>767</sup>

#### 1.4.2 Onward appeal ('complaint') before the Administrative Court

The Administrative Court does not have a department or panel specialised in reviewing asylum cases and it rules on the lawfulness of a final administrative act in three-member judicial panels. Moreover, only a few judges are tasked to decide upon asylum complaints, but the case files have shown that all judges of the Administrative Court can find themselves seized of asylum cases.

At several conferences and roundtables that took place in in the past several years, judges from the Administrative Court have been highlighting the problem of understaffing, lack of knowledge of international refugee law and international human rights law (mainly the relevant jurisprudence of the ECtHR) and have repeatedly outlined the need for relevant national and international organisations (NGOs and UNHCR) to facilitate more training and workshops regarding asylum and migration law.<sup>768</sup> The first training was facilitated by the UNHCR in 2019, but the training planned for 2020 was postponed due to COVID-19. In December 2021, the UNHCR facilitated a training on credibility assessment which included judges from the Administrative Court, while in 2022 judges were taken for study visits to Italy. It is also reasonable to assume that judges are also invited to take part in trainings organised under the auspices of EU accession. In 2023, there were several trainings organized by the UNHCR in the second half of the year.

The lawfulness of an administrative act may be challenged by a claim in an administrative dispute:

- ❖ In the event it was adopted by an authority lacking jurisdiction;
- ❖ At the authority's discretion, in the event the authority had exceeded its legal powers or the decision had not been adopted in accordance with the objective for which the authority had been granted specific powers;
- ❖ In the event the law or another general act had not been enforced properly;
- ❖ In the event the procedural rules have been violated during the procedure;
- ❖ In the event the facts were established in a manner that was incomplete or inaccurate, or an incorrect conclusion was drawn from the facts.

<sup>762</sup> Asylum Commission, AŽ-29/19, 23 September 2021.

<sup>763</sup> Asylum Office, Decision No. 26–1389/17, 19 January 2021, see also BCHR, *Right to Asylum in the Republic of Serbia 2021*, p. 55.

<sup>764</sup> Asylum Commission, Decision No. AŽ 24/21, 11 October 2021.

<sup>765</sup> Linked to: Asylum Office, Decision No. 26-2276/21, 27 January 2023.

<sup>766</sup> Asylum Commission, Decision No. AŽ 20/22, 12 August 2022.

<sup>767</sup> Asylum Commission, Decision No. AŽ 31/23, 12 February 2024.

<sup>768</sup> Roundtables were organised through the project 'Novelties in the Asylum and Migration System in the Republic of Serbia and Challenges in their Application', implemented by the AIRE Centre, IOM and the British Embassy in Serbia.

According to the Asylum Act, the initiation of an administrative dispute has an automatic suspensive effect.<sup>769</sup>

In practice, the Administrative Court has not itself held any hearings on asylum claims to date. Its decisions so far have merely confirmed the lawfulness of the asylum authorities' practice of automatically applying the safe third country concept despite the fact that it had not first been established that the third countries were actually safe for the asylum seekers *in casu*. Also, to this date, the Administrative Court has never decided on a complaint on the merits.

It can be concluded with certainty that the corrective role of the Administrative Court in relation to the first and second instance authorities is basically non-existing. In 2024, as it was the case in 2023, and 2022, the Court failed to deliver a judgment which could have positively affected the practice of lower instances (see below).

#### Statistical Overview of the Administrative Court Practice 2009-2024

Year	Decision rejecting a complaint	Decision upholding a complaint	Decision dismissing a complaint	Decision on discontinuing of asylum procedure	Total
2009	11	2	0	0	13
2010	1	1	0	1	3
2011	10	1	0	0	11
2012	9	0	1	0	10
2013	9	0	0	0	9
2014	5	4	0	0	9
2015	1	6	0	1	8
2016	8	1	0	0	9
2017	20	5	0	3	28
2018	15	9	2	0	26
2019	14	4	1	1	20
2020	22	0	3	2	27
2021	10	9	1	2	22
2022	20	1	0	2	23
2023	18	3	0	1	22
2024	14	2	0	0	16
<b>Total</b>	<b>165</b>	<b>48</b>	<b>8</b>	<b>13</b>	<b>234</b>

#### Administrative Court Practice in 2024

No.	Case file No.	Date of judgment	Country of origin	No. of persons	Outcome	Type of issue	Length of procedure (months)
1.	U 80/23	12.01.2024	Türkiye	1	Rejected	Subsequent asylum application	12,5
2.	U 7899/20	22.02.2024	Unknown	1	Upheld	Religious persecution	46
3.	U 11355/20	22.02.2024	Unknown	1	Rejected	Unknown	38
4.	U 16013/20	15.03.2024	Afghanistan	1	Rejected	Religious persecution	42

<sup>769</sup> Article 96 Asylum Act.



5.	U 10094/23	12.04.2024	Iran	1	Rejected	Religious persecution	6
6.	U 29079/21	26.04.2024	Iran	4	Upheld	Family unity	30
7.	U 10674/23	17.05.2024	Burundi	1	Rejected	SGBV	6
8.	U 2142/21	14.06.2024	Afghanistan	1	Upheld	Silence of administration	40
9.	U 14149/2019	14.06.2024	Afghanistan	1	Rejected	Persecution by Taliban	57
10.	3056/2024	16.08.2024	Cuba	1	Rejected	Discontinuation	5
11.	U 4753/2021	06.09.2024	Burundi	1	Rejected	Political persecution	30
12.	19229/2019	13.09.2024	Ghana	1	Rejected	Ethnic persecution	58
13.	U 16735/2021	11.10.2024	Unknown	1	Rejected	Unknown	38
14.	U 6662/24	30.10.2024	Syria	1	Rejected	National security grounds	3
15.	U 4751/18	08.11.2024	Unknown	1	Rejected	STCC	68
16.	U 8347/19	09.12.2024	Iran	1	Rejected	Religious persecution	67
<b>TOTAL</b>	<b>DECISIONS: 16</b>		<b>PERSONS: 19</b>				

Source: Administrative Court, response to the request for the information of public importance no. 4/25 of 23 January 2025.

In 2024, the Administrative Court delivered 16 decisions regarding 19 persons from the following countries: Iran (7), Unknown (3), Afghanistan (3), Burundi (2), Türkiye (1), Cuba (1), Syria (1) and Ghana (1). Only three complaints were upheld, but two of them for procedural reasons related to family unity and inclusion of a newborn baby in the procedure and silence of administration. Only one complaint was upheld on the basis of substantive grounds, and in relation to the applicant who claimed religious persecution and who was also in extradition procedure. Still, and due to excessive anonymization it was not possible to determine the country of origin of the applicant.<sup>770</sup>

What is important to note is that from this year's response to the request for the information of public importance, it was possible to determine the length of all procedures before the Court. The findings on the length in 2024 judgments give serious reasons for concern. Namely, most of the procedures in which the merits of the claim were subject of examination, the procedure lasted for 30, 38, 40, 57, 67 and 68 months.<sup>771</sup> Procedures which lasted from 3 months to 1 year were usually related to subsequent asylum application or national security grounds cases.<sup>772</sup>

What can be safely reiterated is that there is no corrective influence of the Administrative Court in relation to the poor credibility assessment conducted by the Asylum Office and the Asylum Commission. Administrative Court confirmed once again the decision which implied the automatic application of the safe third country concept which was rendered back in 2018 reflects the complete lack of the capacity of this body to conduct individualized and rigorous assessment of the risks of *refoulement* in third countries or countries of origin.<sup>773</sup> The safe third country concept has not been applied in practice for at least 5 years, and it is worrying how the Administrative Court has disregarded its responsibility recognize that fact.<sup>774</sup> This further corroborates that there is not practice analysis within the Court which should lead to

<sup>770</sup> Administrative Court, Judgment U 7899/20, 22 February 2024.

<sup>771</sup> See the Table above.

<sup>772</sup> *Ibid.*

<sup>773</sup> Administrative Court, Judgment U 4751/18, 8 November 2024.

<sup>774</sup> On the flawed and automatic application of the safe third country concept which plagued Serbian asylum system in the period 2008 - 2018 read more in, ECRE, AIDA Country Report: Serbia - 2019 Update, p. 55-59.

the harmonization of the practice, and in line with the Article 141, paragraph 4 of the GAPA and which has been flagged as another systemic issue of the [Asylum Office](#). Thus, it is important to reiterate the practice from 2023 in which more such judgments rendered. For instance, that was the case with an Afghan national, who initiated third instance procedure in January 2018 claiming that Bulgaria cannot be considered as safe in his particular case. The Administrative Court rejected the complaint as unfounded, reviving the automatic application of the STCC, but also procrastinating third instance asylum procedure of the applicant to 4 years.<sup>775</sup> Identical judgment was rendered in February 2022 in relation to 4 member Iranian family.<sup>776</sup> An identical outcome was provided in the judgment rendered in the same month and in relation to Syrian applicant who had also been the victim of the automatic application of the STCC, but in relation to North Macedonia. His case also lasted for almost 4 years before the Administrative Court.<sup>777</sup> And finally, automatic application of the STCC occurred in relation to Libyan applicant who spent some time in Egypt before applying for asylum in Serbia.<sup>778</sup> In none of these cases the Administrative Court has determined that there was complete lack of assurances that applicants would, after spending years in Serbia, be allowed to access territory of countries proclaimed as safe, their asylum systems, adequate reception conditions and other necessary requirements. In 2023, additional two judgments confirming the flawed and automatic application of the safe third country were delivered and in relation to a person of unknown nationality (excessive anonymization)<sup>779</sup> and national of Pakistan.<sup>780</sup> Both procedures lasted for almost 4 years.

In relation to the applicants from Burundi, the Administrative Court has continued to confirm the practice in which people who claim political persecution and provide some of the individual evidence (such as membership cards, arrest warrants, summons to the police, etc.) are subjected to the similar patterns of rejections regardless of the differences in their individual circumstances.<sup>781</sup> Moreover, the Administrative Court has confirmed the practice in which SGBV survivors are systematically rejected on the basis of the information which the Asylum Office considered as Col and which are related to the description of legal framework for the protection of rape survivors published on the website of [UK Foreign Office](#).<sup>782</sup> Thus, the protection of SGBV survivors in asylum procedure in Serbia is flawed and basically non-existing in all three instances. Also, the burden of proof which is imposed on the applicants from Burundi basically implies that it is impossible to obtain international protection in Serbia, regardless of the amount of individual evidence lodged, but also due to automatic (copy-paste) of the same Col by the Asylum Office. These two 2024 judgments also confirm the practice of both Asylum Office and Asylum Commission which disregards credible reports and ignored Col steaming from the [UN Treaty Bodies](#) and [UN Special Procedures](#).

In 2024, the Administrative Court rejected the complaint of Afghan applicant who outlined that his return to his country of origin would expose him to the risk of persecution due to the fact that many of his family members were killed by the Taliban, which was not disputed by the Asylum Office and the Asylum Commission.<sup>783</sup> Still, that was not enough to determine the existence of a well-founded fear. Thus, this represents a continuation of the practice from previous years. In all the judgments from previous years it can be seen that UNHCR position paper on returns to Afghanistan which contains moratorium has been completely ignored, but also that new circumstances which arose after August 2021 and return of Taliban were not taken into account *proprio motu* and *ex nunc* and in 3 procedures in which Afghan nationals applied for asylum before that. In the remaining two procedures, Administrative Court acted more effectively, deciding upon the appeals within 6 months, but confirming second instance decisions of the Asylum Commission, including in relation to an Afghan national who was declared as a national security threat.<sup>784</sup> In the later judgment, the Administrative Court confirmed the flawed practice of lower instance

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<sup>775</sup> Administrative Court, Judgment U 1803/18, 6 January 2022.

<sup>776</sup> Administrative Court, Judgment U –U 8549/20, 2 February 2022.

<sup>777</sup> Administrative Court, Judgment U 3950/18, 24 January 2022.

<sup>778</sup> Administrative Court, Judgment U 11333/22, 17 November 2022.

<sup>779</sup> Administrative Court, Judgment U 12907/19, 21 September 2023.

<sup>780</sup> Administrative Court, Judgment U U 8234/19, 12 April 2023.

<sup>781</sup> Administrative Court, Judgment U 4753/21, 6 September 2024.

<sup>782</sup> Administrative Court, Judgment U 10674/23, 17 May 2024.

<sup>783</sup> Administrative Court, Judgment U 14149/2019, 14 June 2024.

<sup>784</sup> Administrative Court, Judgments U 15156/18, 16 November 2023; U 3268/20, 26 July 2023 and U 14095/20, 13 June 2023.

authorities which is based on the simple invocation of the national security grounds without outlining a single fact which would allow the applicant to challenge such assessment.<sup>785</sup>

The flawed and arbitrary application of the national security grounds continued in 2025, and it is clear that the resolution of this flawed practice will have to be addressed before the Constitutional Court and international bodies for the protection of human rights.<sup>786</sup>

In January 2022, a Turkish citizen who belongs to Gulenist movement was rejected in merits. In other words, the Administrative Court has once again confirmed the practice in which political dissidents from Türkiye, members of the Gulenist movement, journalists and other persons perceived as opponents to the Government and labelled as terrorists, do not stand a chance to obtain international protection in Serbia.<sup>787</sup> In 2021, another Turkish applicant was rejected with the final judgment of the Administrative Court.<sup>788</sup> The case referred to a man who was also in extradition proceedings. He claimed that he would face persecution in Türkiye because of his Kurdish ethnic origin. There are several other cases pending before the Administrative Court which are related to Turkish applicants who are also facing extradition to their country of origin. Another Turkish citizen was rejected in December 2022, but his case cannot be considered as credible, but as an attempt to avoid extradition to Türkiye for charges which cannot be considered as politically motivated or staged.<sup>789</sup>

In January 2022, the Administrative Court rejected the complaint related to the subsequent application of Iranian converts from Islam to Christianity, confirming that these types of application have had limited prospect of success in the past several years.<sup>790</sup> An identical outcome occurred in January 2021.<sup>791</sup> There were no decisions on subsequent asylum applications in 2023. In January 2024, the subsequent asylum application of Mr. Ecevit Piroglu was dismissed with the final decision of the Administrative Court.<sup>792</sup> What is important to outline for this judgment is that it raises serious concerns with regards to the independence of the Administrative Court in cases which have strong political backgrounds (meaning that the persecution of the applicants in their country of origin originated from their legitimate political actions), as Mr. Piroglu's case had had while he was in Serbia. The judgment was rendered and delivered on the same day when his detention in one of the correctional facilities expired and solely with an aim for him to be detained under the Foreigners Act. Thus, until March 2025, not a single subsequent application was declared as admissible.

In 2022, the Administrative Court also rejected as unfounded complaints of applicants who claimed persecution on the basis of their Arab ethnicity in Iran. So far, members of Arab minority have never managed to obtain international protection in Serbia, as it can be seen from previous AIDA reports.<sup>793</sup> The same can be said with regards to Azeri minority in Iran whose claim was also rejected with the final decision of the Administrative Court.<sup>794</sup> Another Iranian who claimed political persecution due to his criticism of Iranian system, but also his religion (atheist), was rejected with the final judgment of the Court.<sup>795</sup> The same outcome occurred in the case of a 4 member Iranian family who claimed problems with Sepah, but failed to produce credible evidence.<sup>796</sup> Two more judgments were rendered in 2024 in relation to Iranian converts from Islam to Christianity, and both were negative.<sup>797</sup>

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<sup>785</sup> Administrative Court, Judgment U 7828/23, 16 November 2023.

<sup>786</sup> Administrative Court, Judgment U U 6662/24 30 October 2024

<sup>787</sup> Administrative Court, Judgment U 20811/11, 21 January 2022.

<sup>788</sup> Administrative Court, U 21427/21, 26 October 2021.

<sup>789</sup> Administrative Court, U 31740/22, 20 December 2022.

<sup>790</sup> Administrative Court, Judgment U U 19000/21, 5 January 2022.

<sup>791</sup> Administrative Court, Judgment, U 11006/20, 28 January 2021.

<sup>792</sup> Administrative Court, U 80/23, 12 January 2024.

<sup>793</sup> Administrative Court, Judgments U 2113/20, 12 January 2022 and U 20256/19, 16 September 2022.

<sup>794</sup> Administrative Court, Judgment U 4758/20, 8 June 2022.

<sup>795</sup> Administrative Court, Judgment U 15562/20, 29 September 2022.

<sup>796</sup> Administrative Court, Judgment U 3975/20, 24 February 2022.

<sup>797</sup> Administrative Court, Judgments U U 8347/19, 9 December 2024 and U 10094/23, 12 April 2024.

## 1.5 Legal assistance

### Indicators: Regular Procedure: Legal Assistance

1. Do asylum seekers have access to free legal assistance at first instance in practice?
 

☐ Yes
☐ With difficulty
☒ No

❖ Does free legal assistance cover:
 

☒ Representation in interview
☒ Legal advice
  
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?
 

☐ Yes
☐ With difficulty
☒ No

❖ Does free legal assistance cover:
 

☒ Representation in courts
☒ Legal advice

On 1 October 2019, the Free Legal Aid Act (FLA) came into force. The right to free legal aid is explicitly guaranteed to asylum seekers,<sup>798</sup> refugees and persons granted subsidiary protection.<sup>799</sup> However, the Free Legal Aid Fee Schedule Regulation (FLA Regulation)<sup>800</sup> envisages free legal aid only for administrative dispute procedures conducted before the Administrative Court. This means that asylum seekers could apply for the State funded free legal aid only if they reach the third instance authority. So far, not a single asylum seeker has used State funded free legal aid,<sup>801</sup> but in the course of 2022, 2023, and 2024 several attorneys at law provided legal representation to asylum seekers who had their own financial means. In total 14 out of 64 first instance procedures which resulted in the decision of the Asylum Office, asylum seekers had private lawyers. They were mostly from Cuba and were represented by one lawyer who had previous CSO experience in migration issues, but who apparently assisted dozens of Cuban nationals whose temporary residency expired and was not renewed. In order to legalize their stay in Serbia they lodged asylum applications. Also, in 12 out of 45 cases before the Asylum Commission, applicants had private lawyers. And finally, at least two applicants had private lawyers in the procedure before the Administrative Court.

The fact that free legal aid is only guaranteed in the third instance can be considered as an extremely bad solution, taking into account the level of development of the Serbian asylum system in general, but also the quality of the decision-making process of the first and the second instance authority. In more than 90% of the cases which reached the Administrative Court, the negative decision will most likely be confirmed.

Additionally, the quality of legal aid provided by CSOs who are recognized through the Asylum Act is also highly questionable, taking in consideration the fluctuation of lawyers in different CSOs, lack of clear recruitment criteria, lack of experience and necessary training. However, it is fair to say that asylum seekers who enjoy CSO's legal support from the beginning of the asylum procedure have more chance for a positive outcome, than those who do not have such support. Still, it is clear that a migration lawyer profile does not exist in Serbia as it is the case in EU countries in which asylum systems have been established several decades ago. This means that most of the expertise comes from persons who act as legal representatives on behalf of CSOs, while attorneys at law are rarely interested to provide legal assistance in asylum procedure. Unfortunately, there are no signs that such profile will be established in the near future taking in consideration that practising other branches of law is more lucrative and attractive to attorneys at law.

The right to free legal aid is also guaranteed by the Asylum Act, as well as the right to receive information concerning asylum.<sup>802</sup> The Asylum Act further provides that an asylum seeker shall have access to free legal aid and representation by UNHCR and CSO whose objectives and activities are aimed at providing free legal aid to refugees. In practice, the vast majority of persons who submit an asylum application in

<sup>798</sup> Article 4 (2-6) FLA.

<sup>799</sup> Article 4 (2-7) FLA.

<sup>800</sup> Free Legal Aid Fee Schedule Regulation (*Uredba o tarifi za pružanje besplatne pravne pomoći*), Official Gazette of the RS No. 74/2019.

<sup>801</sup> This conclusion is drawn from the fact that legal representatives in all Administrative Court judgments were CSOs.

<sup>802</sup> Article 56(3)-(4) Asylum Act.

Serbia use the services of CSO lawyers before both national and international bodies. Their work and assistance is not a public service, but project funded and the main donors are UNHCR, EU and other donors. CSOs represent asylum seekers in all three instances, and in front of the Constitutional Court.

It is important to highlight that not all persons who wish to apply for asylum have the possibility to have effective legal representation. The first reason is that in 2024 only 4 civil society organisations (CSO) were providing legal aid in Serbia: APC, BCHR, and IDEAS and KlikAktiv. The total number of active lawyers in these CSOs is between 10 and 13 out of which many are also tasked with other project activities or are hired part-time.<sup>803</sup> Other, non-CSOs lawyers, occasionally provide legal aid. All of these CSOs are based in **Belgrade**. Thus, their presence in asylum and reception centres located in the south or east is rare,<sup>804</sup> and refugees and asylum seekers are not only forced to wait longer to have assistance in lodging of asylum applications, but also to wait for initial legal advice by a competent lawyer.

Given that, in 2024, the approximate number of persons likely in need of international protection was at least 65% of the total foreign national population who entered Serbia and received registration certificates (a total of 850), it is clear that current number of CSOs is still not sufficient. CSOs still deny legal assistance to applicants whose asylum claim has less prospect of success due to the lack of capacity to handle higher number of cases. Still, from the total number of applications (219), it can be safely said that IDEAS assisted 111, while other CSOs probably assisted several dozen more. With the decrease in arrivals in general, it can be said that the ratio of asylum seekers who received at least basic support (drafting and lodging of asylum applications) improved in comparison to previous years.

However, most legal representatives from respective CSOs have between 1 to 3 years of experience,<sup>805</sup> which is usually the period after which many of them decide to leave the field of asylum and migration. This trend continued in 2024. As a result, the capacity and quality of legal assistance provided by CSOs remains limited. While certain CSO lawyers are successful, the large majority of them do not obtain positive outcomes or have one or two positive decisions in 5 years and 90% of decisions in which the outcome is negative.

The following cases from 2018-2024 also contain examples of poor legal representation:

- Applicants who had strong asylum claims were not adequately prepared for their interview and, for instance, provided more detailed statements to their psychologist than to their lawyer. It resulted in contradictory statements in the asylum interview which ensued was the reason why the Asylum office rejected their claims.<sup>806</sup>
- Another example is the lack of coordination in preparation for the asylum interview of a Tunisian gay couple.<sup>807</sup>
- One UASC applicant absconded a couple of months before he was granted asylum due to the violence to which he was subjected in the social care home. His legal representative was not aware of the fact that he absconded, even though the violence was reported to him by the boy.<sup>808</sup>
- Oner UASC had only had a half an hour meeting with two different legal representatives within a year and decided to abscond to Bosnia.<sup>809</sup> Since he was not able to cross to Croatia, he came back to Serbia and attempted to lodge a subsequent application, but was unsuccessful and eventually decided to abscond from Serbia.<sup>810</sup>

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<sup>803</sup> IDEAS had 4, APC had at least 3 and BCHR at least 3 lawyers who were solely providing legal aid to asylum seekers. Klikaktiv has at least 1, but who is also tasked with other activities.

<sup>804</sup> IDEAS visits all facilities at least two times per month.

<sup>805</sup> Some of them less than a year and without previous training and experience in the field of asylum and migration.

<sup>806</sup> Asylum Office, Decision No. 26-378/19, 11 February 2020.

<sup>807</sup> Asylum Office, Decision No. 26-2038/19, 30 July 2020 and 26-2039/19, 17 August 2020.

<sup>808</sup> Asylum Office, Decision No. 26-2573/19, 15 October 2020. This boy fled to Bosnia where he got in touch with his former legal representative who changed jobs.

<sup>809</sup> The boy decided to return to Serbia and, with the help of IDEAS lawyers, submitted a subsequent application.

<sup>810</sup> Asylum Office, Decision No. 26-3229/19.

Specific issues in relation to the provision of legal assistance include a lack of assessment of Col information and individual circumstances, lack of thorough preparations of clients for their personal interview and failure to conduct evidentiary activities such as medical expert opinion.<sup>811</sup> In 2022, two attorneys at law, who also acted as legal representatives in extradition proceeding failed to prepare one Turkish and one Kyrgyzstan citizen for their asylum interviews, and were not capable to fill out asylum application form. The representative of the applicant from Kyrgyzstan cancelled his power of attorney right before the interview, while the attorney of the Turkish applicant failed to lodge the complaint to Administrative Court.

- ❖ In 2023, a three-member family was granted refugee status after several years of being in the asylum procedure and having been rejected on the merits on multiple occasions. One of the reasons for such outcome is the fact that the legal representative failed to deliver individual evidence timely in the first instance procedure, which was one of the reasons why their application was rejected. Only after the Administrative Court ordered that this evidence must be taken into consideration, the applicants were granted refugee status. Thus, if the evidence had been delivered at an earlier stage of the first instance procedure, the Iranian family would not have had to go through several years of legal ordeal.<sup>812</sup> One most notable example of reckless and unprofessional service provision relates to the case of an alleged victim of genital mutilation from Somalia whose lawyer failed to lodge an appeal against the first instance decision in time. This case clearly demonstrates not only the lack of capacity among providers of free legal aid, but also the need for the establishment of responsibility mechanisms for those legal representatives whose inadequate behaviour has led to a situation in which highly vulnerable and traumatised people were let down by individuals who are not capable to follow statutory deadlines and perform the roles of legal representatives.<sup>813</sup>
- ❖ A similar case occurred in 2022 when the legal representative failed to lodge an appeal against the first instance decision rejecting a Burundian applicant.
- ❖ A Cuban LGBTQI+ applicant with a serious medical condition was initially told by one of the legal aid providers that his case is not credible for asylum, but due to his persistence and finding of another representative, he was eventually granted subsidiary protection.<sup>814</sup>
- ❖ In October 2023, in the case of the applicant from Brazil who was in extradition detention, his attorney at law failed to lodge the complaint against the Asylum Office decision rejecting his application on the national security grounds.<sup>815</sup>
- ❖ In November 2023, another attorney at law also failed to lodge a complaint against Asylum Office decision on rejecting of asylum application of woman from Kazakhstan who was also in extradition detention from where she applied for asylum.<sup>816</sup>
- ❖ An applicant from Burundi whose asylum application was rejected in merits in December 2023 disclosed to his new legal representatives an entire set of new individual circumstances which were not outlined from the onset of his asylum procedure.<sup>817</sup>
- ❖ The Col submission of two applicants from Russian Federation who claimed draft evasion as grounds for their asylum claim and lodged by his legal representatives were printed out word documents with only links but without analysis of their content.<sup>818</sup>

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<sup>811</sup> Asylum Office, Decision No. 26-2177/19, 20 August 2020.

<sup>812</sup> Asylum Office, Decision No. 26-1607/18, 14 October 2022.

<sup>813</sup> Asylum Office, Decision No. 26-1599/19, 22 November 2019 and AŽ 51/20, 24 December 2020.

<sup>814</sup> Asylum Office, Decision No. 26-688/22, 15 September 2022.

<sup>815</sup> Asylum Office, Decision No. 26-1045/23, 5 October 2023.

<sup>816</sup> Asylum Office, Decision No. 26-1425/23, 6 November 2023.

<sup>817</sup> Asylum Office, Decision No. 26-546/22, 8 December 2023.

<sup>818</sup> Asylum Office, Decisions No. 26-2862/22, 4 December 2023 and 26-2884/22, 14 November 2023.



There were no flagrant cases observed in 2024 by the author of this report in terms of the missed deadlines to lodge remedies. Still, it is not possible to assess the quality of work of all individual or CSO lawyers only through the examination of decisions, but only entire case files.

Thus, it is reasonable to assume that several more cases of a similar nature might go unreported.<sup>819</sup> These cases clearly indicate that the number of applicants, but also of positive decisions might have been higher if not for the restrictive and shallow approach some lawyers from different CSOs display during the initial assessment. This would also mean that recognition rates would have been higher. Thus, the low number of applicants and the low recognition rate, in a system such as Serbia's, can also be attributed to the low quality of legal service provided to the applicants. The role of CSOs at this stage of development of the Serbian asylum system is still crucial and a proactive approach is necessary. For that reason, as it is the case with the assessment of decisions of the asylum authorities, it is also important to conduct an analysis of all stages through which beneficiaries rely on legal representatives and to introduce a quality assurance control of free legal aid providers.

The lack of any legal response is evident in cases which concern pushbacks and the risk of violations of the *non-refoulement* principle. The poor quality of legal assistance is particularly evident in cases where access to the territory and asylum procedure is at stake. Even though thousands of pushbacks to **North Macedonia** have been recorded, there was never an attempt to legally challenge such practice. There is only one case litigated by the APC concerning an informal expulsion from Belgrade to North Macedonia.<sup>820</sup> It appears, however, that most of the CSOs providing legal aid are mainly focused on persons who wish to apply for asylum and who are accommodated in asylum or reception centres after they successfully avoided harmful border practices. This can be explained by lack of capacity, but also lack of funding.

To conclude, it is necessary to improve the quality of the work of legal representatives employed in different CSOs. Furthermore, it is also important to facilitate training on CoE and UN standards regarding International Refugee and International Human Rights Law. The recruitment procedures should be designed, but also volunteer and internship systems should be established so all potential asylum seekers can have at least technical assistance when lodging asylum applications. And finally, the system of free legal aid must be reformed so that it allows attorneys at law to provide legal assistance from the first instance procedure. This would mean that FLA and FLA Regulation have to be amended, and that extensive trainings of attorneys at law should be facilitated so that each person who expresses the wish to apply for asylum is provided with assistance.

## 2. Dublin

Serbia does not participate in the Dublin system. For information related to persons sent back to Serbia as a result of pushbacks or readmission agreements, please see [Access to asylum procedure for persons expelled/returned from neighbouring States](#).

## 3. Admissibility procedure

There is no admissibility procedure in **Serbia**. However, the Asylum Office may dismiss an application without examining the merits when one of the following grounds applies:<sup>821</sup>

1. The applicant comes from a [First Country of Asylum](#);
2. The applicant comes from a [Safe Third Country](#);
3. The applicant makes a [Subsequent Application](#) with no new elements.

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<sup>819</sup> The author of this Report only analysed cases in which he had an opportunity to assess in details personal circumstances of the applicants with regards to their asylum claims, but also their experience with regards to the Serbian asylum system.

<sup>820</sup> ECtHR, *A.H. v. Serbia and North Macedonia*, and *A.H. v. Serbia*, Application Nos. 60417/16 79749/16, 19 October and 27 December 2016 respectively, available at: <https://bit.ly/3oVp8dz>

<sup>821</sup> Article 42(1) and (3) Asylum Act.

Rules on interview, appeal and legal assistance are the same as in the [Regular Procedure](#), with the exception of appeals against the inadmissibility of a subsequent application which must be lodged within 8 days before the Asylum Commission.<sup>822</sup>

In practice, the admissibility of an application is examined during the asylum interview.

The Asylum Office dismissed 4 asylum applications as inadmissible in 2021 and in relation to 4 persons. There were no such cases in 2022, 2023 and 2024.

#### 4. Border procedure (border and transit zones)

The Asylum Act foresees a border procedure which is regulated by Article 41. This provision states that the asylum procedure can be conducted 'at a border crossing point, or in a transit zone of an airport or an inland port', but only if the applicant is provided with adequate accommodation and subsistence and:

1. The application can be rejected as unfounded for the grounds set out in the [Accelerated Procedure](#);<sup>823</sup>
2. The application is a [Subsequent Application](#).<sup>824</sup>

The representatives of the organisations providing legal aid, as well as UNHCR, are guaranteed effective access to border crossings points, or transit zones in airports or inland ports in accordance with the state border protection regulations.<sup>825</sup> However, for reasons of national security and public order, an attorney at law or a representative of an organisation providing legal aid could be temporarily restricted access to an asylum seeker.<sup>826</sup> This has not happened in practice so far.

The deadline for the Asylum Office to take a decision is 28 days from the lodging of the asylum application.<sup>827</sup> In case the deadline is not met, the asylum seeker shall be allowed to enter the territory of Serbia in order for the regular procedure to be conducted.<sup>828</sup>

The border procedure foresees different rules for appeals compared to the [Regular Procedure: Appeal](#). The deadline for the appeal to the Asylum Commission is 5 days from the notification of the decision.<sup>829</sup>

The border procedure was not used in the course of 2022, 2023 and it is unlikely that this will change in the near future since there are no adequate facilities for that purpose within the transit zone of **Nikola Tesla Airport** or any other border-crossing point. The planned reconstruction of Belgrade Airport has been finalised, but the premises provided still do not meet the criteria for the longer stay.<sup>830</sup>

#### 5. Accelerated procedure

The Asylum Act provides an accelerated procedure, which can be conducted where the applicant:<sup>831</sup>

- ❖ Has presented only facts that are irrelevant to the merits of the application;
- ❖ Has consciously misled the Asylum Office by presenting false information or forged documents, or by failing to present relevant information or by concealing documents that could have had a negative effect on the decision;

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<sup>822</sup> Article 42(4) Asylum Act.

<sup>823</sup> *Ibid*, citing Article 38(1)(5) which refers *inter alia* to Article 40.

<sup>824</sup> Article 41(1) Asylum Act.

<sup>825</sup> Article 41(2) Asylum Act.

<sup>826</sup> Article 41(3) Asylum Act.

<sup>827</sup> Article 41(5) Asylum Act.

<sup>828</sup> Article 41(6) Asylum Act.

<sup>829</sup> Article 41(7) Asylum Act.

<sup>830</sup> The Ombudsman, *Представници компаније Belgrade Airport у посети Заштитнику грађана*, 16 December 2020, no longer available as of 30 June 2024.

<sup>831</sup> Article 40(1) Asylum Act.

- ❖ Has destroyed or concealed documents that establish his or her identity and/or nationality in bad faith so as to provide false information about his or her identity and/or nationality;
- ❖ Has presented manifestly inconsistent, contradictory, inaccurate, or unconvincing statements, contrary to the verified information about the country of origin, rendering his or her application non-credible;
- ❖ Has lodged a [Subsequent Application](#) that is admissible;
- ❖ Has lodged an asylum application for the clear purpose of postponing or preventing the enforcement of a decision that would result in his or her removal from the Republic of Serbia;
- ❖ Presents a threat to national security or public order; or
- ❖ Comes from a [Safe Country of Origin](#).

The decision on the asylum application in the accelerated procedure shall be made within 30 days from the date of the asylum application or the admissibility of the subsequent application.<sup>832</sup> The Asylum Office shall inform the applicant that the application is to be processed in the accelerated procedure.<sup>833</sup> In practice, this means that a decision to apply the accelerated procedure is made by the asylum officer during the course of the personal interview.

Rules on appeals differ from the [Regular Procedure: Appeal](#). The deadline for an appeal to the Asylum Commission is 8 days from the notification of the decision.<sup>834</sup>

In 2022, the Asylum Office applied an accelerated procedure on three occasions. It was not applied in 2023 and 2024.

## 6. National protection statuses and return procedure

### 6.1 National forms of protection

The Foreigners Act envisages different types of temporary residency which asylum seekers who were rejected with the final decision are eligible to apply for in most of the cases. First of all, it is important to highlight that temporary residence is a permit granted to a foreign national who intends to stay in Serbia for over 90 days.<sup>835</sup>

The grounds for temporary residency in Serbia are the following:

- 1) Employment;
- 2) Education or learning of the Serbian language;
- 3) Studies;
- 4) Participation in international exchange programmes for pupils or students;
- 5) Specialist, professional training and practice;
- 6) Scientific research or other scientific or educational activity;
- 7) Family reunification;
- 8) Performing religious service;
- 9) Treatment or care;
- 10) Ownership of immovable property;
- 11) Humanitarian grounds;
- 12) Status of presumed victim of trafficking in human beings;
- 13) Status of victim of trafficking in human beings;
- 14) Other legitimate reasons in accordance with the law or an international treaty.<sup>836</sup>

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<sup>832</sup> Article 40(2) Asylum Act.

<sup>833</sup> Article 40(3) Asylum Act.

<sup>834</sup> Article 40(5) Asylum Act.

<sup>835</sup> Article 40 (1) Foreigners Act.

<sup>836</sup> Article 40 (1) Foreigners Act.

The general requirements for almost any type of temporary residency is that the foreign national has entered into Serbia regularly and does not require a visa for entry or has entered into Serbia with a Long-Term Visa.<sup>837</sup> Alongside the application for approval or extension of a temporary residence permit, the foreigner should also provide evidence of meeting the additional general requirements:

- 1) Valid personal or service passport;
- 2) Evidence of means of subsistence during the planned stay;
- 3) Registered address of residence in the Republic of Serbia;
- 4) Evidence of health insurance during the planned stay;
- 5) Evidence that the application for temporary residence permit is justified;
- 6) Proof of payment of the prescribed administrative fee.<sup>838</sup>

From the above outlined criteria, it can be safely assumed that asylum seekers who arrived regularly to Serbia and applied for asylum before applying for temporary residency can apply for most of the types of temporary residency. Those asylum seekers who arrived irregularly but possess a valid travel document can also apply for different types of temporary residency but, in practice, the issue of their irregular entry can be raised by an acting immigration officer.

However, temporary residency on humanitarian grounds (TRHG) is one of the rare types of residencies in Serbia which does not require for the applicant to meet the general requirements. One of the common issues shared by most asylum seekers in Serbia is that they do not possess a valid passport or their passport has expired and they cannot renew it.<sup>839</sup>

Since the introduction of the TRGH into the Serbian legal framework, this type of residency has been granted to 366 persons. Most people who might be in need of international protection and who were granted TRHG in the period from 2019 - 2024 were from Afghanistan (33), Palestine (27), Ukraine (26), Libya (19), Iraq (10) and Iran (8).

After the decisions on rejecting or dismissing an asylum request becomes final, the foreign national has a voluntary return period to leave Serbia (up to 30 days). In case that they fail to leave, their stay in Serbia will be considered unlawful in terms of the Article 74, paragraph 1, point 8 of the Foreigners Act and they will be served with the expulsion order in line with the Article 74, paragraph 2.

Year	2019	2020	2021	2022	2023	2024	Total
<b>Afghanistan</b>	2	2	29	0	0	0	<b>33</b>
<b>Palestine</b>	0	0	0	2	2	23	<b>27</b>
<b>Ukraine</b>	0	0	0	15	8	3	<b>26</b>
<b>Libya</b>	4	5	4	0	6	0	<b>19</b>
<b>Iraq</b>	2	2	0	4	2	0	<b>10</b>
<b>Iran</b>	1	1	2	3	1	0	<b>8</b>
<b>Syria</b>	0	0	2	0	0	0	<b>2</b>
<b>Others</b>	10	14	37	87	64	29	<b>241</b>
<b>Total</b>	<b>19</b>	<b>24</b>	<b>74</b>	<b>111</b>	<b>83</b>	<b>55</b>	<b>366</b>

Source: Ministry of Interior - Border Police Department's Response to the request for the information of public importance no. 26-311/25, 5 June 2025 (received on 16 June 2025).

## 6.2 Return procedure

In case of a negative decision (in-merits or inadmissible) to an asylum application, the asylum seeker has 15 days to lodge an appeal to the Asylum Commission. This appeal has an automatic suspensive effect, as also a complaint to the Administrative Court. A negative decision also contains an order to leave the country and a deadline to do so, which can be up to 30 days. However, when the rejection decision becomes final (i.e., it is confirmed by the Administrative Court), the relevant Mol unit for foreigners renders

<sup>837</sup> Article 41 (2) Foreigners Act.

<sup>838</sup> Article 43 Foreigners Act.

<sup>839</sup> Article 61 Foreigners Act.

an additional expulsion decision in cases where the applicant has failed to voluntarily leave the territory of Serbia within the given deadline.<sup>840</sup> Only the expulsion decision creates grounds for forcible removal and potential immigration detention imposed for the purpose of forced removal, in line with the Foreigners Act. An expulsion decision can be challenged, but this appeal does not have an automatic suspensive effect.<sup>841</sup>

In 2024, a total of 13 asylum seekers were rejected with a final decision of the Administrative Court,<sup>842</sup> but the author of this Report is familiar with only one case in which the applicant was served with an expulsion order but was not removed to Türkiye due to risks of ill-treatment.<sup>843</sup> As for the other persons, it remains unclear if they were served with an expulsion order or they regulated their stay in line with the Foreigners Act.

## D. Guarantees for vulnerable groups

### 1. Identification

#### Indicators: Special Procedural Guarantees

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers? ☐ Yes ☒ For certain categories ☐ No
  - ❖ If for certain categories, specify which: unaccompanied and separated children and victims of human trafficking
2. Does the law provide for an identification mechanism for unaccompanied children? ☐ Yes ☒ No

The Asylum Act explicitly envisages that, in the course of the asylum procedure the specific circumstances of certain categories of applicants requiring special procedural or reception guarantees will be taken into consideration. This category includes minors, unaccompanied minors, persons with disabilities, elderly persons, pregnant women, single parents with minor children, victims or survivors of trafficking in human beings, severely ill persons, persons with mental disorders, and persons who were subjected to torture, rape, or other serious forms of psychological, physical or sexual violence, such as women who were victims of female genital mutilation.<sup>844</sup>

However, it remains unclear how in practice and in which kind of specific procedure relevant asylum authorities are conducting vulnerability assessments, what kind of decision do they issue and how they design special and individualised programmes for meeting the special needs of the above-listed categories in different contexts (accommodation, provision of psycho-social support, provision of medical support, in asylum or integration procedure, etc.).

#### 1.1 Screening of vulnerability

Article 17 of the Asylum Act envisages that the procedure for identifying the personal circumstances of a person is carried out by the 'competent authorities on a continuous basis and at the earliest reasonable time after the initiation of the asylum procedure, or the expression of the intention to submit an asylum application at the border or in the transit zone'.<sup>845</sup>

However, the registration of foreign nationals who are willing to lodge their asylum application is usually conducted in different police units around Serbia (rarely in border or transit zones), and this process is deprived of any type of vulnerability assessment. It is conducted without interpreters and acting police officers simply take biometric data from foreigners and issue them with registration certificates. They do

<sup>840</sup> Article 74 (1-8) Foreigners Act.

<sup>841</sup> Article 80 Foreigners Act.

<sup>842</sup> See above the Table of the practice of the Administrative Court in 2024.

<sup>843</sup> Administrative Court, Judgment No. U 80/23, 12 January 2024

<sup>844</sup> Article 17(1) and (2) Asylum Act.

<sup>845</sup> Article 17(3) Asylum Act.

not use any kind of screening tools (e.g. questionnaires specially designed for specific vulnerable groups) and do not indicate in the registration certificate observations which can potentially indicate to some type of vulnerability. Thus, it can be safely said that there is no vulnerability assessment during 'the expression of the intention to submit an asylum application at the border or in the transit zone', or in other police departments within the mainland.

The admission process into asylum and reception centres also is deprived of any systemic screening except for the basic health care assessment which, if a medical condition is discovered, can further lead to more complex and specialist examinations and adequate support. However, there are no screening tools which CRM workers are applying for other categories, such as survivors of trafficking in human beings, LGBTQI+ persons, SGBV or torture survivors. HRC recommended to Serbia to *enhance efforts to systematically identify, prevent and combat trafficking in migrants, refugees and asylum-seekers, especially those at heightened risk, such as unaccompanied and separated children*.<sup>846</sup> An entire set of recommendations was also issued by GRETA.

In 2024, IDEAS published two assessment which clearly showed that vulnerable asylum seekers who belonged to LGBTQI+ community or who are SGBV survivors<sup>847</sup> do not undergo any type of screening when arriving to asylum centre or during their stay. Both Analysis have clearly shown that refugees and asylum seekers who belong to this category experience challenges in all stages of their stay in Serbia. "

As already outlined, it is still not entirely clear in which form the Asylum Office, Asylum Commission or Administrative Court determines that an asylum seeker is in need of special procedural guarantees. Most of the vulnerabilities are flagged by legal representatives in the asylum procedure, or during the in-depth legal counselling which implies in depth interviews which are usually conducted prior to the initiation of the asylum procedure. Thus, the CSOs are the ones who flag vulnerabilities prior and during the asylum procedure.

Accordingly, the practice has shown that vulnerability assessments for the purpose of procedural or reception guarantees have never been conducted through a special procedure or through a separate decision which is issued in some sort of procedure. It is also not clear if the CRM has any role in that regards, and in relation to reception guarantees, but the practice has shown that many vulnerable applicants have never benefitted from special reception guarantees.

The Asylum Office has been so far the only asylum authority which highlighted vulnerabilities of certain applicants in the reasoning of its decisions. In almost all decisions related to UASCs, the first instance authority explicitly stated that special procedural and reception guarantees were secured in UASC's cases since they were appointed a legal guardian, a legal representative and were accommodated in social care institution designated for children.<sup>848</sup> This practice has remained unchanged in all of the UASC cases which were positively decided in 2022. In 2023 and 2024, there were no decisions related to UASCs, but there was a BID assessment in the case of an Afghan minor whose case is still pending before the Asylum Office.<sup>849</sup>

And indeed, accommodation of children in specialised social care institutions reflects special reception guarantees, while the appointment of the temporary legal guardian provides for the additional procedural security in asylum, but also other procedures. In all of these decisions, the Asylum Office invoked Article 10 of the Asylum Act (best interest of a child principle) and Article 17 (special procedural guarantees).

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<sup>846</sup> HRC, Concluding observations on the fourth periodic report of Serbia\*, CCPR/C/SRB/CO/4, 3 May 2024, available at: <https://docs.un.org/en/CCPR/C/SRB/CO/4>.

<sup>847</sup> Marko Milanović, *Assessment of LGBTQI+ Asylum Seeker Experiences in Serbia: Analysis of Reception Conditions, Support Services, and Recommendations for Policy Reform*, IDEAS 2024, available at: <https://ideje.rs/wp-content/uploads/2024/09/Assessment-of-LGBTIQ-Asylum-Seeker-Experiences-in-Serbia.pdf> and Marko Milanović, *Bridging the Gap: Enhancing Support for GBV Survivors in Serbia's Asylum System*, IDEAS 2024, available at: <https://ideje.rs/wp-content/uploads/2024/09/Enhancing-Support-for-GBV-Survivors-in-Serbias-Asylum-System.pdf>.

<sup>848</sup> Asylum Office, Decision No. 2573/19, 15 October 2020, Decision No. 26-374/19, 14 February 2020 and Decision No. 26-1946/18, 9 October 2020.

<sup>849</sup> Asylum Office, Case File No. 854/24.



Also, it has become undisputable since 2020, and in some of the cases even earlier,<sup>850</sup> that certain types of vulnerabilities should be, and in practice are, identified by other state institutions, but also CSOs. Identification of such vulnerabilities is done through different forms such as decisions, reports, findings or expert opinions. Asylum authorities have been taking these into consideration during the decision-making process, which so far has been the case predominately with regards to UASCs, but also other vulnerable applicants:

1. UASC - the best interest determination assessment (BID) which is accompanied by a BID decision is conducted by the Social Welfare Centres (under the supervision of IDEAS - implementing partner of UNHCR). This decision contains description of different vulnerabilities which the temporary legal guardian, but also the case worker within the competent Social Welfare Centre, have determined and which are relevant for granting international protection;
2. Survivors of trafficking in human beings - decision on granting the status of the survivor of the trafficking in human beings which is conducted by the Government's Centre for Human Trafficking Victims' Protection (CHTV) and which contains relevant segments of applicants' vulnerability, but also description of different forms of exploitation, some of which can be qualified as acts of persecution;
3. Sexual and gender-based violence report (SGBV report) – is only drafted and provided by the SGBV officer at the Dutch Refugee Council, Ms. Bojana Balević, which basically means that this kind of vulnerability assessment is conducted by one of the CSOs, not a state institution. In 2024, DRC was not providing SGBV reports due to the lack of funding and thus, asylum seekers who had SGBV component were deprived of this type of evidence;
4. Psychological reports – drafted and provided by CSOs PIN and IAN and which are frequently cited in positive decisions. This also means that psychological reports are provided mainly by CSOs who are contacted by legal representatives;
5. Psychiatric reports – drafted and provided by psychiatrists hired by PIN or IAN, and in rare situations by the State psychiatrist. The later one are usually provided in a form which is not suitable for the asylum authorities because very often they only contain the diagnosis and therapy, but not the causal link between the traumatic event which could amount to persecution and the symptoms which are being displayed or determined by the psychiatrist. This is not the case if the CSO providing legal aid have funds for psychiatrists who are trained to provide reports in line with the Istanbul Protocol. Still, there are many problems in practice to obtain a proper Istanbul Protocol report;
6. Medical reports – provided by different medical institutions and professionals which can also be used to flag the vulnerability of applicants to the asylum authorities and which was the case in several positive decisions;
7. Forensic medical reports – usually drafted and provided by forensic experts with extensive experience with torture survivors, but also the practice has shown that medical experts opinion were provided by psychiatrists, gynaecologists (for rape survivors) and infectious disease specialist (for HIV+ applicants) also upon the request of CSOs.

To reiterate, it is safe to say that vulnerability screening within reception facilities does not exist. Even when the vulnerability is determined, special reception conditions are not provided for anyone except potentially for survivors of human trafficking and women at the imminent risk of SGBV (placed in CSO Atina's safe house), and also UASC who decided to apply for asylum. For all other categories, they are provided with regular accommodation unless they are not suffering from medical conditions that are so serious that their health can significantly deteriorate or life can be threatened if not accommodated in a medical institution.

Regardless of the type of vulnerability, the common feature of all kinds of screening mechanisms is that they largely depend on the work of and referrals made by different CSOs, but are in many cases conducted in cooperation with different state institutions. Thus, the State support system can be described

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<sup>850</sup> For instance, Asylum Office, Decisions No. 4329/18, 26 December 2017 – person with the status of the victim of trafficking in human beings.



as partially effective with regards to UASCs and survivors of human trafficking, and strongly dependant on the limited resources of CSOs who assist UASC, survivors of trafficking in human beings, victims of SGBV, persons with health and mental issues, torture survivors, etc.

It should be also borne in mind that the capacities of CSOs are also limited and not always of the highest quality. For that reason, it is safe to say that only small numbers of vulnerable persons that may be in need of international protection receive the comprehensive support and mainly after they are channelled through the asylum procedure. For persons who are in need of international protection but are not registered as asylum seekers, the limited support is almost exclusively provided by CSOs, or not at all. However, the past several years has shown some improvements in the joint work of state institutions and CSOs. The biggest problem are the so called front line workers who are getting in first contact with persons that might be in need of international protection and who are employed in asylum and reception centres, CSOs, but also international organizations, and who are providing first information to potential asylum seekers. There is no screening tools systematically applied and the practice has shown that identified cases are usually the one which are most flagrant or most obvious, while for many other cases where survivors and vulnerable beneficiaries are not obviously displaying signs of vulnerability remain under the radar and leave Serbia without getting specific information relevant for their problem. The following several cases corroborate this statement and reflect the recommendations of international bodies for the protection of human rights such as HRC and GRETA:

1. In 2022, a woman from Cameroon was qualified by most of the state and non-state front line workers as an economic migrant who resided in the Asylum Centre in Krnjača for months. After an in-depth interview with a qualified lawyer and SGBV officer from DRC, it was determined that she is a survivor of trafficking in human beings who escaped her traffickers after she was pushed back from Hungary, that she had a GPS tracker placed in her thigh and that she was receiving continuous threats;
2. An Indian transgender woman was qualified as non-credible individual, not in need of international protection who resided for more than 6 months in RC Preševo, AC Sjenica and AC Krnjača where she was assessed by state and non-state (national and international) as a non-credible case. After she was assessed by qualified lawyer, she was granted refugee status as a survivor of trafficking in human beings.
3. The most striking case from 2024 is a case of an unaccompanied girl from Cameroon who arrived to AC Krnjača in July, registered in September as adult and referred at the of October to legal representative as a single woman without any other data that might indicate additional layers of vulnerability. After the assessment, it turned out that she was underage, that she survived different types of gender-based exploitation and that she was a SGBV survivor. For three months she went under the radar of all CRM employees, CSOs and international organizations front-line workers and resided in the facility for adults. After all the facts had been determined by a competent lawyer, she was transferred to the ATINA safe house, provided with specialized services and was registered as a child, and obtained the status of survivor of trafficking in human beings. Her asylum procedure is ongoing.

### **Unaccompanied and separated children**

UASCs who decide to apply for asylum undergo a detailed vulnerability assessment through the Best Interest Determination Procedure (BID) conducted by the CSW. BID is requested either by the Asylum Office or by legal representatives and then are used, processed and cited in the decision-making process. In the past two years, CSOs were the only ones who were requesting BID from CSW.

The Family Law provides that everyone is obliged to be guided by the best interests of the child in all activities concerning the child.<sup>851</sup> The Social Protection Act (SPA), as one of the principles of social protection, prescribes the best interest of beneficiaries, as well as the right of beneficiaries to participate in decision-making.<sup>852</sup> The legislative framework also explicitly stipulates that the UASC case manager

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<sup>851</sup> Article 6 (1) Family Law.

<sup>852</sup> Article 26 and 35 Social Protection Act.

and the supervisor from the CSW must respect the best interests of the beneficiaries in all proceedings.<sup>853</sup> Also, the Asylum Act provides that all activities carried out with the child must be in accordance with the best interests of the child.<sup>854</sup>

The relevant framework does not define the procedure for assessing the best interests of the child, but the Centre for Social Work, as a guardianship authority, is responsible for making decisions on protection of children's rights and best interests. All professional and legal decisions are rendered in the process which is called **the case management method**. When CSW identifies a UASC, the caseworker shall instantly initiate **the procedure of the case management** which starts with the official activity which is called **initial assessment**.<sup>855</sup> The initial assessment is performed in order to determine the further content of support to the child and the facts collected during the initial assessment are the basis for future decision-making, including decision on BID.<sup>856</sup> In this sense, the case management process is established as a basis for assessing the best interest of a child, including for the purpose of asylum procedure. Finally, the relevant CSW provides a BID which is drafted in the form of an Expert Opinion on an individual applicant.

Thus, in practice, only UASC who have a genuine desire to apply for asylum in Serbia undergo a detailed vulnerability and needs assessment, which in the best-case scenario is concluded with the best interest determination assessment (BID).<sup>857</sup> According to the UNHCR, 973 UASC were recorded entering Serbian territory in 2022, but only 82 of them were issued with the registration certificate, and only 4 effectively lodged an application for international protection.<sup>858</sup> Out of the 82 children with a registration certificate, almost all received a more detailed support, and at least 25 underwent best interest assessments (BIA).<sup>859</sup> Thus, substantial support was provided to less than 3% of all recorded UASC. BID decisions were issued in 8 instances, and in relation to UASC who applied for asylum or temporary residence on humanitarian grounds. The situation remained unchanged in 2023, when 761 UASC entered Serbia and resided mainly in RC Šid, while only 30 was registered and not a single UASC lodged asylum application in 2023. Thus, there were no BID decisions in 2023.

In 2024, a total of 2,637 children were recorded in asylum and reception centres, as well as social care institutions, out of which 1,829 were put under the care of SCWs.<sup>860</sup> This means that some children remain only for several days and are not put under the custody of social care worker. It takes 2 to 5 days for the decisions on guardianship to be rendered. As for the number of children who was registered in line with the Article 36 of the Asylum Act, the data obtained from the Mol and MoLEVSA differs. According to the Mol, only 17 UASCs were registered in 2024, while MoLEVSA outlined that 40 UASC were issued with the registration certificates.

### **Survivors of human trafficking or persons at risk of human trafficking**

Also, CHTV can be considered as an authority that can contribute to the effective implementation of Article 17 of the Asylum Act. In 2022, CHTV identified only 3 persons who belonged to the refugee population as survivors of human trafficking – 3 women from Uganda, Cameroon and Burundi.<sup>861</sup> Still, in the majority of cases, CSOs are the ones who report alleged cases of human trafficking. In 2023, CHTV identified 6 foreign nationals as survivors of trafficking in human beings originating from: India (3), Ukraine (1), Iran (1) and Pakistan (1).<sup>862</sup> In 2024, CHTV identified 16 foreign nationals as survivors of human trafficking:

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<sup>853</sup> Article 30 and 32 Rulebook on the Work of Centre for Social Work

<sup>854</sup> Article 10 Asylum Act.

<sup>855</sup> Article 48 Rulebook on the Work of Centre for Social Work.

<sup>856</sup> Only 20 in 2019, and for the purpose of asylum procedure.

<sup>857</sup> Only 20 in 2019, and for the purpose of asylum procedure.

<sup>858</sup> UNHCR statistics are available at: <https://bit.ly/2LkIrZY>.

<sup>859</sup> The difference between BIA and BID can be found in UNHCR, *Guidelines on Assessing and Determining the Best Interests of the Child*, November 2018, available at: <https://bit.ly/2WaByiA>, 30 and 44-45.

<sup>860</sup> MoLEVSA, Response to the request for the information of public importance no. 003611250 2024 13400 009 001 041 001, 8 January 2025.

<sup>861</sup> CHTV, *Annual Statistical Report*, available at: <https://bit.ly/3xCcp4D>.

<sup>862</sup> CHTV, *Annual Statistical Report for 2023*, available at: <https://bit.ly/4cOcFPD>.

Nigeria (5), Ukraine (2), Burundi (2), Colombia (2), China (2), Brazil (1), Congo (1) and Russian Federation (1).<sup>863</sup>

If a police officer, CSO, or any other entity assumes that a person in need of international protection is a survivor of human trafficking, they are obliged to immediately inform the CSW and the CHTV, who then take measures to care for the alleged victim. The CHTV will then start the process of identifying the victim and, at the same time, inform the Ministry of the Interior about the initiation of the identification procedure.<sup>864</sup> The CHTV then issues a **decision on the recognised status of the victim of human trafficking** which is then used during the course of asylum procedure. In 2023, one person belonging to Hijra community in India was recognized as survivor of human trafficking and was granted refugee status of those grounds, as well as on the grounds of sexual orientation and SGBV.<sup>865</sup> Out of 16 recognized survivors, Congolese<sup>866</sup> and Ukrainian<sup>867</sup> women were granted refugee status, acts of exploitation were recognized as acts of persecution

In 2023, GRETA recommended that the Serbian authorities take further measures to strengthen prevention of human trafficking through social, economic and other measures for vulnerable groups, including members of the Roma community, migrants and asylum seekers.<sup>868</sup> GRETA also highlighted that the Serbian authorities should take further steps to ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures contained in the Convention, in particular by:

- ❖ encouraging law enforcement officials, social workers, asylum officials, and other relevant actors to adopt a more proactive approach and increase their outreach work to detect victims of human trafficking for different forms of exploitation;
- ❖ increasing the involvement of specialised NGOs in the identification of victims of trafficking and strengthening multi-disciplinary co-operation between all relevant partners;
- ❖ paying increased attention to detecting and identifying victims of trafficking among migrants and asylum seekers;
- ❖ providing sufficient staff and resources to the Centre for the Protection of Victims of Trafficking to enable it to carry out timely identification of victims of trafficking.<sup>869</sup>

### **Asylum seekers with mental health issues and survivors of torture**

The psychological assessment for the purpose of the asylum procedure is usually conducted by the Psychosocial Innovation Network (PIN) and IAN. In 2024, PIN and IAN identified, were occasionally present in asylum centres. Only few psychological assessments were lodged with the Asylum Office for the purpose of asylum procedure, and upon the request of legal representatives.

When it comes to the vulnerability assessment of survivors of torture, it is usually conducted by CSOs who have funds for forensic medical or psychiatric examinations. These reports are then delivered to the Asylum Office. In 2023, only 1 Istanbul Protocol Report was drafted and submitted to the Asylum Office in relation to an individual from Burundi who was subjected to different forms sexual violence, but also reports from more narrowly specialized psychosocial workers. According to the content of first instance decisions, in several cases legal representatives lodged psychological reports, while Asylum Office did not request any assessment. In 2024, there were no Istanbul Protocol Reports lodged to the Asylum Office.

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<sup>863</sup> CHTV, *Током 2024. године идентификован највећи број жртава трговине људима*, 3 January 2024, available at: <https://centarzztlj.rs/tokom-2024-godine-identifikovan-najveci-broj-zrtava-trgovine-ljudima-u-poslednjih-6-godina/>

<sup>864</sup> Article 62 Social Protection Act.

<sup>865</sup> Asylum Office, Decision No. 26-1562/22, 14 December 2023.

<sup>866</sup> Asylum Office, Decision No. 26-1969/24, 10 June 2024.

<sup>867</sup> Asylum Office, decision No. 26-296/24, 29 October 2024.

<sup>868</sup> GRETA, *Evaluation Report Serbia*, 16 June 2023, available at: <https://bit.ly/4ciaeE5>, para. 198.

<sup>869</sup> *Ibid*, para. 210.

## Persons at risk of SGBV, SGBV survivors and LGBTQI+ persons

In 2022, DRC implemented projects which aimed to provide assistance to SGBV survivors in refugee and asylum seekers' populations. This organisation was the only one who provided legal assistance to the refugees and asylum seekers in cases of SGBV in 2022 outside the asylum procedure. Additionally, DRC established the first Women Safe Space inside the Asylum Centre in **Krnjača**. The space was used by 3 organisations (DRC, ADRA and Atina) where they conducted activities raising awareness on women rights and provided direct assistance to the beneficiaries. Community-based protection has been an integral part of DRC field activities and therefore DRC trained three female asylum seekers to be gender focal points in AC Krnjača. In 2022, DRC has identified 23 survivors of SGBV who had the status of asylum seekers, produced 7 SGBV reports and contributed to the positive decision of two applicants – 1 from Burundi and 1 from Afghanistan. There is no available data for 2023 and in 2024, DRC stopped providing assistance to SGBV survivors.

CRM who is in charge of asylum and reception centres does not provide any kind of vulnerability assessment upon arrival, including in relation to SGBV survivors and LGBTQI+ persons. Accordingly, CSOs who provide legal and other assistance to asylum seekers are the ones who usually provide care to vulnerable applicants in terms of referral to appropriate accommodation, medical care, psychological or other needs assessment. Also, the fact that the asylum authorities have recognised an asylum seeker's vulnerability (age, state of health or other vulnerability) can mainly be found in positive decisions of the Asylum Office, while rejection decisions usually disregard the vulnerabilities of the minor applicants put forward by their legal representatives.

There is a reported the lack of screening of SGBV survivors upon their arrival to the camp and the lack of any kind of reception guarantees.<sup>870</sup>

### LGBTQI+ Persons

In the same way, LGBTQI+ applicants have outlined the lack of information and their challenges in reception facilities.<sup>871</sup>

## 1.2 Identification and age assessment of unaccompanied children

Serbia considers as an unaccompanied child 'a foreigner who has not yet reached eighteen years of age and who, at the time of entry into the Republic of Serbia or upon having entered it, is not accompanied by their parents or guardians.'<sup>872</sup>

Although the Asylum Act prescribes that children for whom it can be determined reliably and unambiguously that they are under 14 years of age shall not be fingerprinted at registration,<sup>873</sup> it is not prescribed how the age is to be established, leaving it up to the competent authorities to arbitrarily ascertain the age of persons lacking personal documents from their country of origin. On 16 September 2020, IDEAS received a legal opinion from the Ministry of Justice, as per which Serbia does not have an age assessment procedure in its legal framework.<sup>874</sup>

According to the current legal framework, the Mol and the social protection system are primarily responsible for protecting the rights of unaccompanied and separated children in the Serbian asylum

<sup>870</sup> *Bridging the Gap: Enhancing Support for GBV Survivors in Serbia's Asylum System*, available at: <https://ideje.rs/wp-content/uploads/2024/09/Enhancing-Support-for-GBV-Survivors-in-Serbias-Asylum-System.pdf>, pp. 23-25.

<sup>871</sup> *Assessment of LGBTIQ+ Asylum Seeker Experiences in Serbia: Analysis of Reception Conditions, Support Services, and Recommendations for Policy Reform*, available at: <https://ideje.rs/wp-content/uploads/2024/09/Assessment-of-LGBTIQ-Asylum-Seeker-Experiences-in-Serbia.pdf>, pp. 20-21, 32-33.

<sup>872</sup> Article 2 Asylum Act.

<sup>873</sup> Article 35(6) Asylum Act.

<sup>874</sup> Ministry of Justice, Legal Opinion No. 011-00-125/2020-05, 16 September 2020.

system, but the health care system also plays a significant role. In line with the MoI Instruction on Standard Operating Procedures for Profiling, Search and Registration of Irregular Migrants (SoP), during the first contact with the child (at the border or within the mainland), the police officer is obliged to determine whether there is an urgent need for provision of health care<sup>875</sup> and if so, the police officer is obliged to contact the competent health-care services.<sup>876</sup> Also, a UASC identified at the border shall not be served with a decision on refusal of entry but will receive a decision granting them entry.<sup>877</sup>

The identification of UASC, which includes the assessment of the child's age, is done through the procedure of verification and identification, which is performed by a police officer. Identity verification is performed through inspection of an identification document which contains a photograph, or exceptionally, based on the statement of the person whose identity is being verified.<sup>878</sup> Regarding UASC who do not have identification documents, and if the identity cannot be verified in another way, the identity will be determined using data from forensic records, applying methods and using means of 'criminal tactics' and forensics, medical or other appropriate expertise.<sup>879</sup> It is not clear what kind of tests and forensic analysis is implied through this provision because that kind of age assessment has never been performed. In order to establish their identity, the child can be brought to the official premises of the police.<sup>880</sup> The police officer is obliged to inform the child about the reasons for their presence at the police premises, their right to inform family or other persons of their choice and other rights of persons deprived of liberty and in a language that the child understands.<sup>881</sup>

When a police officer determines that an individual is a UASC, they are obliged to compile a report which also contains the identity determined in line with the above-described methods, which in practice is only the statement of a child, unless they have a document.<sup>882</sup> This report should be then submitted to the competent Centre for Social Work (CSW) in order for a child to be taken over by the social-care system.<sup>883</sup> A police officer shall contact a representative of the CSW without delay, if there is a reasonable suspicion that the person concerned is a child and in order to gather additional information important to establish facts from their life and provide adequate protection.

On the basis of the Memorandum of Understanding signed with the Ministry for Social Affairs, IDEAS has been conducting supervision of all social care workers in Serbia working with UASC. This assistance implies counselling on individual cases, providing general guidelines and assistance in conducting BID. Thus, out of 973 children recorded in 2022, only 82 were registered, 4 lodged asylum application, while the rest remained in legal limbo, being at risk of being issued with expulsion order or penalised in the misdemeanour proceeding. Moreover, since the registration certificate does not provide for any legal status, even the children issued with this document were in the same situation as those children who were not registered at all. In 2024, a total of 40 children were issued with registration certificate according to MoLEVSA, and according to the MoI, 11 UASCs were registered in line with the Article 35 of the Asylum Act.

The screening of UASC vulnerability is conducted by the temporary legal guardians legal guardians funded by IOM and who were deployed from IDEAS in 2020. However, this is not done in line with Article 17 of the Asylum Act, but in line with the Family Act and social care professional standards. The Asylum Office did not submit any request for BID in 2022<sup>884</sup> and in general, in 2022, only 4 UASC applied for asylum. Thus, the age is determined on the basis of the statement of a child. What is also a concerning practice is that MoI officers who are tasked with issuing the registration certificates usually ask children how old they are. When a child says the number of years, the police officer then subtracts that number from the number of the given year (e.g., 2021) and puts 1 January as a date of birth. This practice is not

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<sup>875</sup> Page 20 SoP.

<sup>876</sup> *Ibid.*

<sup>877</sup> Article 15 Foreigners Act.

<sup>878</sup> Article 76 Police Act.

<sup>879</sup> Article 77 Police Act.

<sup>880</sup> Article 12 (2) Rulebook on Police Powers.

<sup>881</sup> Article 85 Police Act.

<sup>882</sup> Which is usually not the case taking in consideration that the vast majority of children are UASC.

<sup>883</sup> Article 12 (2) Rulebook on Police Powers.

<sup>884</sup> All the information was obtained from IDEAS.

in line with the principle of *in dubio pro reo*, i.e., the principle of the benefit of the doubt established by the CRC.<sup>885</sup> Thus, if a child who is 17 arrives in Serbia in 2021, his date of birth would be set at 1 January 2004. This means that a person under the age of 18 could be treated as adult before coming of age, which is contrary to the Asylum Act, the Constitution and international standards. The benefit of the doubt criterion would be respected only if the registration certificate mentioned 31 December of the given year as birth date.

To reiterate, there is no proper or developed method for ascertaining an asylum seeker's age, meaning that the asylum seeker's word and the official's personal observations are the only criteria for identifying minors in the greatest number of cases.<sup>886</sup> On 4 April 2018, the Ministry of Labour, Employment, veteran and Social Affairs adopted the Instruction on Procedures of Social Work Centres<sup>887</sup> which envisages that the field social worker is in charge for identifying and coordinating support to UASC as long as the child is not put under the care of a professional social worker.<sup>888</sup>

Still, the identification of unaccompanied minors continues to be done on the spot by officials (most often police officers) and CSO employees, establishing first contact with potential asylum seekers. The SWC are understaffed and they usually react when the MoI or CSO inform them of a UASC's presence within the territory of Serbia. Thus, it is clear that a large number of children residing in Serbia have never been recorded and that the numbers published by different state authorities, but also non-state entities (CSOs, UNHCR, IOM) significantly differ.<sup>889</sup> The Committee on the Rights of the Child,<sup>890</sup> and the Human Rights Committee,<sup>891</sup> underlined these problems as well.

## 2. Special procedural guarantees

### Indicators: Special Procedural Guarantees

1. Are there special procedural arrangements/guarantees for vulnerable people?

☐ Yes

☐ For certain categories

☒ No

None of the bodies tasked with conducting the asylum procedure (Asylum Office, Asylum Commission and Administrative Court) have specialised subdivisions responsible for asylum claims of vulnerable applicants. As it was already outlined, the Asylum Act foresees that care will be taken during the asylum procedure of asylum seekers with specific needs, including minors, persons lacking or having limited legal capacity, children separated from their parents or guardians, persons with disabilities, the elderly, pregnant women, single parents with underage children and persons who had been subjected to torture, rape or other forms of grave psychological, physical or sexual violence.<sup>892</sup>

In 2022, there were 10 decisions in which members of particularly vulnerable groups were granted asylum. However, in most of the cases their asylum procedure did not differ from any other procedure. Moreover, the length of the procedure can be described as extensive. However, it is important to note that in these decisions the Asylum Office took into consideration the vulnerability of the applicants' in terms of their age, state of health, gender or psychological state.<sup>893</sup> Also, there were several procedures which lasted between 3 to 8 months, which is more acceptable than the cases which lasted for more than 1 year. In 2023, there was only one case – previously mentioned – related to an Indian national who was granted

<sup>885</sup> CRC, *General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin*, 1 September 2005, CRC/GC/2005/6, available at: <https://bit.ly/2Kls2S5>.

<sup>886</sup> There is no record that an age assessment procedure has ever been conducted in line with the Family Act.

<sup>887</sup> Instruction on Procedures of Social Work Centres – Guardianship Authorities for the Accommodation of Unaccompanied Migrant/Refugee Children, Ministry of Labour, Employment, Veteran and Social Affairs, No. 019-00-19/2018-05.

<sup>888</sup> Section II, para. 2 of the Instruction on Procedure of Social Work Centres.

<sup>889</sup> BCHR, *Right to Asylum in the Republic of Serbia 2019*, 97-98.

<sup>890</sup> CRC, *Concluding observations on the combined second and third periodic reports of Serbia*, 7 March 2017, CRC/C/SRB/CO/2-3, pp. 56-57.

<sup>891</sup> HRC, *Concluding observations on the third periodic report of Serbia*, 10 April 2017, CCPR/C/SRB/CO/3, available at: <https://bit.ly/3T8zneH>, paras. 32-33.

<sup>892</sup> Article 15 Asylum Act.

<sup>893</sup> The most important decisions regarding vulnerable applicants are analysed in the Chapter C.1. – Asylum Practice in 2021.



refugee status. In 2024, there were two decisions in which vulnerable applicants were granted refugee status (see the table below).

**Overview of the cases in which vulnerability was taken into account in positive decisions of the Asylum Office in the period 2021-2024**

No.	Case No.	Date of Asylum Application	Date of Decision	Country of Origin	Type of protection	Length of procedure	Vulnerability
1.	26-1437/21	April 2021	31.03.2022	Niger	Subsidiary Protection	11 months	UASC
2.	26-1569/21	23.08.2021	24.06.2022	Syria	Subsidiary Protection	10 months	Single mother with children at risk of SGBV
3.	26-2296/22	15.03.2021	29.06.2022	Burundi	Refugee Status	3,5 months	Survivor of SGBV
4.	26-346/21	24.02.2021	29.06.2022	Cameron	Subsidiary Protection	14 months	Serious physical disability
5.	26-277/21	12.02.2021	13.07.2022	Afghanistan	Subsidiary Protection	15	UASC
6.	26-1635/21	31.08.2021	17.08.2022	Afghanistan	Refugee Status	11,5 months	Survivor of SGBV and her family
7.	26-730/22	28.02.2022	31.08.2022	Afghanistan	Subsidiary Protection	6 months	UASC
8.	26-688/22	24.03.2022	15.09.2022	Cuba	Subsidiary Protection	7 months13 months	LGBTQI+ and HIV+
9.	26-281/11	20.10.2021	10.11.2022	Afghanistan	Refugee Status	13 months	UASC
10.	26-1177/22	April 2022	01.12.2022	Syria	Subsidiary Protection	8 months	UASC
11.	26-1562/22	10 June 2022	14 December 2023	India	Refugee Status	18 months	Survivor of SGBV and human trafficking and LGBTQI+
12.	26-1969/24	10 October 2024	10 June 2024	Congo	Refugee Status	4 months	Survivor of SGBV and human trafficking
13.	26-296/24	29 October 2024	14 February 2024	Ukraine	Refugee Status	7,5 months	Survivor of SGBV and human trafficking

National law further foresees the exemption of unaccompanied children from accelerated and border procedures.<sup>894</sup>

### 3. Use of medical reports

**Indicators: Use of medical reports**

1. Does the law provide for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm? ☒ Yes ☐ In some cases ☐ No
2. Are medical reports taken into account when assessing the credibility of the applicant's statements? ☒ Yes ☐ No

<sup>894</sup> Articles 40(4) and 41(4) Asylum Act.



Medical or psychological reports may be used in order to substantiate asylum claims; as is prescribed by the General Administrative Procedure Act.<sup>895</sup> The number of decisions in which Asylum Office refers in the reasoning of its decisions to medical and psychological reports has increased. In the vast majority of cases, the legal representatives are the ones who are hiring forensic, psychiatric or psychological experts in order to support their client's claims. Still, in 2022, 2023 and 2024 the Asylum Office did not submit any request to PIN or IAN, but there were several of cases in which lawyers provided such reports.

The Asylum Office has continued to issue decisions in which medical and/or psychological reports were used with the aim to assess the vulnerability of the applicant but also the credibility of their statement. On the other hand, there were several cases in which the Asylum Office, but also the second and the third instance authorities failed to take into consideration the medical or psychological state of the applicant.

The first time the Asylum Office took into consideration a medical report was in December 2016, in the case of an Iraqi applicant who was granted subsidiary protection. The report that was examined was issued by the psychiatrist at one of the Belgrade clinics. However, it was the legal representative who provided the Asylum Office with the report.<sup>896</sup>

The second time the Asylum Office directly took into consideration the state of health of an applicant was in December 2017, when one Nigerian<sup>897</sup> and one Bangladeshi<sup>898</sup> nationals were granted subsidiary protection due to paraplegia and quadriplegia, respectively. In both cases, the Asylum Office took into consideration the ECtHR principles established in *D. v. United Kingdom* which were invoked by their legal representative.

Also, in December 2018, the Asylum Office explicitly cited Article 17 of the Asylum Act and took into consideration that an unaccompanied girl from Nigeria was recognised as a victim of human trafficking.<sup>899</sup> The same was done in the decision 26-1719/18 from 11 December 2019, when an asylum seeker from Iraq was granted subsidiary protection. In 2019, a psychological report was taken into consideration in several more decisions,<sup>900</sup> as well as the BID,<sup>901</sup> while the report of the psychiatrist was taken in consideration in the case of Uyghur applicant from China who is a torture victim.<sup>902</sup> This practice continued in 2021 and in cases of Afghan<sup>903</sup> and Pakistani<sup>904</sup> UASC, Iranian torture victim<sup>905</sup> and two torture victims from Burundi.<sup>906</sup> An Afghan applicant received subsidiary protection due to inability to receive medical treatment in his country of origin. Pakistani boy was psychologically assessed and CHTV decision granting him the status of the victim of human trafficking was also taken in consideration. The Asylum Office closely examined forensic medical reports from two Burundian applicants, as well as a psychological report lodged by torture victim from Iran.

In 2022, the Asylum Office took into consideration an Istanbul Protocol report drafted in relation to an SGBV survivor from Burundi,<sup>907</sup> as well as SGBV survivor from Afghanistan.<sup>908</sup> Both of these cases also contained SGBV reports from DRC and psychological reports from PIN or IAN. All reports were provided by legal representatives. Also, every UASC's legal representative lodged BID. A medical report was also

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<sup>895</sup> Article 128 GAPA. It should be borne in mind that, should the authorities doubt the veracity of such documents, expert witnesses may be summoned in order to examine said veracity.

<sup>896</sup> ECtHR, *D. v. UK*, Application No 30240/96, Judgment of 2 May 1997, EDAL, available at: <http://bit.ly/37TOAEN>.

<sup>897</sup> Asylum Office, Decision No. 26-4370/15, 27 December 2017.

<sup>898</sup> Asylum Office, Decision No. 26-5044/15, 25 December 2017.

<sup>899</sup> Asylum Office, Decision No. 26-329/18, 28 December 2019.

<sup>900</sup> Asylum Office, Decisions Nos. 26-2348/17, 28 January 2019; 26-2643/17, 30 January 2019; 26-1605/18, 15 March 2019.

<sup>901</sup> Asylum Office, Decision Nos. 26-2348/17, 28 January 2019 and 26-784/18, 20 November 2019.

<sup>902</sup> Asylum Office, Decision No. 26-2050/17, 12 September 2019.

<sup>903</sup> Asylum Office, Decision No. 26-1084/20, 7 June 2021

<sup>904</sup> Asylum Office, Decision No. 26-3064/19, 14 September 2019.

<sup>905</sup> Asylum Office, Decision No. 26-108/20, 27 August 2021.

<sup>906</sup> Asylum Office, Decisions Nos. 26-1337/20, 29 June 2021 and 26-103/20, 30 June 2021.

<sup>907</sup> Asylum Office, Decision No. 26-2296/22, 29 June 2022.

<sup>908</sup> Asylum Office, Decision No. 26-1635/21, 17 August 2022.

used in the case of a Cuban applicant<sup>909</sup> and the Asylum Office made a reference to relevant ECtHR jurisprudence which is related to the risks of inhumane and degrading treatment due to the lack of adequate health care.<sup>910</sup>

In 2024, the Asylum Office took into consideration psycho-social reports in cases of Congolese and Ukrainian SGBV and human trafficking survivors.<sup>911</sup> In the latter, the case report of the psychiatrist was also taken into account.

#### 4. Legal representation of unaccompanied children

##### Indicators: Unaccompanied Children

1. Does the law provide for the appointment of a representative to all unaccompanied children?  
☒ Yes ☐ No

A slightly higher number of children, including unaccompanied and separated children in particular, was registered in the course of 2022 and at the same time the number of genuine asylum seekers out of this population remains low. In total, 82 UASC were issued with the registration certificate (compared to 60 in 2019). However, only 4 of them submitted asylum application. In 2023, at least 761 UASCs entered Serbia, but only 27 of them were registered while the others left Serbia: Syria (10), Afghanistan (8), Egypt (3), Tanzania (1), Iraq (1), India (1), Türkiye (1), Pakistan (1) and Sierra Leona (1). None of them lodged asylum application in 2023.

In 2024, a total of 11 UASCs were registered according to the Mol, while MoLEVSA reported 40. Data regarding their nationalities was not provided.

In the history of the Serbian asylum system, only 16 UASC were granted asylum in Serbia:

No.	Decision No.	Date of Decision	Country of Origin	Type of Protection	Grounds for Asylum
1.	26-329/18	28 December 2018	Nigeria	Refugee Status	Human Trafficking – Sexual Exploitation
2.	26- 2348/17	28 January 2019	Iraq	Refugee Status	Forced recruitment by Iraqi Kurdish armed forced Peshmerga
3.	26-2643/17	30 January 2019	Afghanistan	Subsidiary Protection	Forced recruitment by Taliban
4.	26-784/18	20 November 2019	Afghanistan	Refugee Status	Forced recruitment by Taliban
5.	26-218/19	20 February 2020.	Stateless	Refugee Status	Forced recruitment by Syrian armed forces
6.	26-2573/19	15 October 2020	Afghanistan	Refugee Status	Forced recruitment by Taliban
7.	26-1271/19	15 October 2020	Iran	Subsidiary Protection	Conversion from Islam to Christianity
8.	26-2474/19	15 October 2020	Afghanistan	Subsidiary Protection	Honour killing arising from the family dispute
9.	26-1084/20	7 June 2021	Afghanistan	Subsidiary Protection	Medical condition and the lack of medical treatment in country of origin

<sup>909</sup> Asylum Office, Decision No. 26-688/22, 15 September 2022.

<sup>910</sup> E.g., ECtHR, *D. v. UK*, Application No. 30240/96, Judgment of 2 May 1997, EDAL, available at: <http://bit.ly/37TOAEN>.

<sup>911</sup> Asylum Office, Decisions Nos. 26-1969/24, 10 October 2024 and 26-296/24, 29 October 2024.

10.	26-3064/19	14 September 2019	Pakistan	Refugee Status	Human Trafficking – Sexual and Labour Exploitation
11.	26-1437/21	31 March 2022	Niger	Subsidiary Protection	State of general insecurity – Boko Haram
12.	26-277/21	13 July 2022	Afghanistan	Subsidiary Protection	State of general insecurity caused by Taliban
13.	26-1635/21	17 August 2022	Afghanistan	Refugee Status	Ethnic persecution
14.	26-730/22	31 August 2022	Afghanistan	Subsidiary Protection	State of general insecurity caused by Taliban
15.	26-1177/22	1 December 2022	Syria <sup>912</sup>	Subsidiary Protection	State if general insecurity in Syria

The legal framework that aims to protect unaccompanied and separated children in the course of the asylum procedure is largely in line with the international standards, however, it is clear that the authorities do not have the capacities to meet the established level of protection.<sup>913</sup>

The Asylum Act explicitly prescribes the principle of the best interests of the child. Accordingly, when assessing the best interests of the child, the competent authorities must take into account the well-being, social development and background, their views depending on their age and maturity, the principle of family unity and the need to provide assistance, particularly it is if suspected that the child might be a victim of human trafficking, a victim of family violence or other forms of gender-based violence.<sup>914</sup>

The guardianship for an unaccompanied child is governed by the Family Act that prescribes conditions and rules for the placement of children without parental care under guardianship. The appointed guardians are persons with personal characteristics and abilities necessary to perform the duties of a guardian and who have agreed to be guardians. In order to establish whether one fulfils the conditions to be a temporary guardian of a child, a procedure defined in the Family Act and the accompanying by-laws must be conducted. This decision may only be taken by a guardianship authority and it includes a guardianship plan.<sup>915</sup>

A temporary guardian must be appointed immediately after it has been established that the child is unaccompanied / separated and no later than prior to the lodging of their asylum application.<sup>916</sup> The police cannot register an unaccompanied child who has expressed the wish to seek asylum in the absence of a temporary guardian.<sup>917</sup>

The temporary guardian must be present with the child in all the procedures before the State authorities and represent their interests. It is also prescribed that a temporary guardian must be a person with personal characteristics and abilities necessary to perform the duty of a guardian, and this assessment is made by a competent territorial guardian authority, under the provisions of the Family Act and accompanying by-laws. A guardian may not be, *inter alia*, a person whose interests go against the best

<sup>912</sup> Brother and sister.

<sup>913</sup> Committee on the Rights of the Child, *Concluding observations on the combined second and third reports of Serbia*, 7 March 2017, CRC/C/SRB/CO/2–3, available at: <https://bit.ly/3T8zneH>, paras 12-13, 22-23, 54 (d), 56-57, 62 (a) and 68 (d); Human Rights Committee, *Concluding observations on the third periodic report of Serbia*, 10 April 2017, CCPR/C/SRB/CO/3, available at: <https://bit.ly/46njRy9>, paras. 32-33.

<sup>914</sup> Article 10(2) Asylum Act.

<sup>915</sup> Articles 125 and 126 Family Act.

<sup>916</sup> Article 12 Asylum Act.

<sup>917</sup> Article 11 Asylum Act.

interest of a child put under their guardianship, and a person who due to different reasons cannot be expected to properly perform the activities of a guardian.<sup>918</sup>

One of the greatest challenges in practice has been the fact that guardianship authorities lacked sufficient human resources to ensure effective support to each individual child.<sup>919</sup> For instance, it was a frequent situation that one guardian was appointed to dozens of UASC, making it impossible for them to develop a meaningful and trusting relationship with the children notwithstanding their enormous efforts and motivation.<sup>920</sup> Thus, only those children who apply for asylum are provided with the possibility to establish a deeper connection with the multidisciplinary team which involves a legal representative, a temporary legal guardian and a psychologist. The children who do not apply for asylum are mainly provided with accommodation, urgent health care and food, but their other necessary needs are not assessed at all.

It is worth mentioning that a special instruction was issued by the Government which stipulates that field social workers inform the territorially competent guardianship authority immediately upon the information or direct knowledge about an unaccompanied child.<sup>921</sup> The next step is the urgent appointment of a temporary guardian to the child.

In 2022, **IDEAS** did not notice any difference in the treatment of unaccompanied children in comparison to adult asylum seekers in terms of the length of the asylum procedure, (except in one case where the procedure lasted for 6 months), interviews and the behaviour of asylum officers. There were still situations in which the personal interview lasted for hours. However, in several decision standards regarding International Child Law (ICL) were thoroughly taken into consideration during the asylum procedure. On the other hand, there were instances in practice in which child-specific guarantees were entirely neglected (e.g., due to the inadequate BID and the length of asylum interview) in terms of ICL standards. Since there were no decisions in relation to UASCs in 2023 and 2024, it is not possible to provide an updated assessment.

In March 2022, CESCR recommended that Serbia provides all unaccompanied and separated children with alternative care arrangements and guardianship protection and ensure that they continue education with adequate support, including adequate language learning.<sup>922</sup> Similar recommendation was issued by the Human Rights Committee.<sup>923</sup>

## E. Subsequent applications

### Indicators: Subsequent Applications

Does the law provide for a specific procedure for subsequent applications? ☒ Yes ☐ No

Is a removal order suspended during the examination of a first subsequent application?

At first instance ☒ Yes ☐ No

At the appeal stage ☒ Yes ☐ No

Is a removal order suspended during the examination of a second, third, subsequent application?

At first instance ☒ Yes ☐ No

At the appeal stage ☒ Yes ☐ No

<sup>918</sup> Article 128 Asylum Act.

<sup>919</sup> Human Rights Committee, Human Rights Committee, *Concluding observations on the third periodic report of Serbia*, 10 April 2017, CCPR/C/SRB/CO/3, available at: <https://bit.ly/46njRy9>, paras 32-33; Committee on the Rights of the Child, *Concluding observations on the combined second and third reports of Serbia*, 7 March 2017, CRC/C/SRB/CO/2-3, paras 56-57.

<sup>920</sup> That was the case in AC in Bogovadja, which was designated for the accommodation of UASC in 2020, as well as AC in Sjenica.

<sup>921</sup> Instruction of the Ministry of Labour, Employment, Veteran and Social Affairs on procedures of centres for social welfare – guardianship authorities in accommodation of minor migrants /unaccompanied refugees, no. 019-00-19/2010-05 of 12 April 2018, Chapter II.

<sup>922</sup> CESCR, *Concluding observations on the third periodic report of Serbia*, 4 March 2022, E/C.12/SRB/CO/3, available at: <https://bit.ly/47AhcCo>, paras. 32-33.

<sup>923</sup> HRC, *Concluding observations on the fourth periodic report of Serbia\**, CCPR/C/SRB/CO/4, 3 May 2024, available at: <https://bit.ly/3zSmiyo>, paras. 32-33.

The Asylum Act envisages that a foreigner whose asylum application has been rejected on the merits 'may submit a subsequent asylum application if:

- ❖ they can provide evidence that the circumstances relevant to recognising their right to asylum have changed substantially or;
- ❖ if they can provide any evidence that they did not present in the previous procedure due to justified reasons.<sup>924</sup>

The precondition for the subsequent application is that the initial application was rejected by a final decision as unfounded or discontinued due to applicant's failure to appear for the asylum interview.<sup>925</sup> The applicant must provide all the above and bring forward evidence in a comprehensible manner.<sup>926</sup> The Asylum Office shall assess the admissibility of subsequent applications in line with the new facts and evidence, and in connection with the facts and evidence already presented in the previous asylum procedure.<sup>927</sup>

If it has been established that the subsequent asylum application is admissible, the competent authority shall revoke the previous decision. On the contrary, the subsequent asylum application shall be rejected if it has been established that it is inadmissible due to a lack of new evidence. The decision on a subsequent application will be issued within 15 days from the date of the application.<sup>928</sup>

What is important to note is that, since the institute of subsequent asylum application has been introduced in the Asylum Act from 2018, not a single applicant successfully lodged it.

In 2018, there was one case where the family A. from **Libya** was allowed to submit the subsequent application, but in line with the old Asylum Act. This was the consequence of the ECtHR communicating their case to the Government of Serbia.<sup>929</sup> In 2020, only 2 subsequent applications were submitted, while in 2021 a total of 11 subsequent asylum applications were lodged: Iran (6), Bulgaria (3), Cameroon (1) and Pakistan (1). All subsequent applications were rejected as unfounded and all applicants were already on the territory of the Serbia. The same practice continued in 2022 when two subsequent asylum applications were rejected as unfounded. In 2023, 3 subsequent asylum applications from applicants from Bulgaria, Afghanistan and Russia were rejected. The Afghan applicant absconded, the Bulgarian applicant was considered as non-credible *prima facie* as she had returned to Bulgaria prior to lodging her subsequent asylum application to obtain a new passport, even though she claimed to face 'risk for her life'.<sup>930</sup> In 2024, a total of 3 subsequent asylum applications were lodged by citizens of Brazil, Algeria and Kazakhstan.

Two decisions from 2021 are worth mentioning because they were both based on subsequent asylum applications which contained new facts and evidence which were not examined in the initial asylum procedure. The applicants' (4-member Iranian family who converted from Islam to Christianity) argument in the first case referred to the fact that they failed to outline new evidence because they were not aware of such possibility. The impugned evidence was a witness statement of an applicant's brother as well as decision on refugee status which the brother received in the Netherlands. The Asylum Office emphasized that it is the applicant's fault that they failed to provide such evidence, and that the fact that they had a legal representative is an additional argument that goes in favour of their position that there is no justification for not bringing that up in the initial procedure.<sup>931</sup> The second case gives serious reasons for concern as it was related to an UASC from Pakistan who lodged his asylum application, but then absconded because his lawyer was not answering his calls. Thus, there was never a decision on his case. After he re-presented himself to the authorities, he expressed the will to apply for asylum a second time.

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<sup>924</sup> Article 46(1) Asylum Act.

<sup>925</sup> Ibid.

<sup>926</sup> Article 46(2) Asylum Act.

<sup>927</sup> Article 46(3) Asylum Act.

<sup>928</sup> Article 46(4), (5) and (6) Asylum Act.

<sup>929</sup> ECtHR, *A. and Others v. Serbia*, Application No 37478/16, Communicated on 12 December 2017.

<sup>930</sup> Asylum Office, Decision No. 26-1637/20, 31 January 2023.

<sup>931</sup> Asylum Office, Decision No. 26-2404/18, 7 June 2021.

However, his subsequent application was rejected, without taking into account the motivations he presented. The essence of the reasoning behind the reject decision was that he had legal representatives who should have ensured that he outlined all the evidence. Also, the argument that his case has never been examined on the merits, but simply discontinued was completely ignored. This further means that subsequent applications can only be considered as theoretical and illusory in case of absconding, but also in case of inadequate legal representation.<sup>932</sup> The unfortunate outcome is that both the Iranian family and Pakistani UASC left Serbia and it is not possible to assess how the higher instance authorities would have decided in these cases.

In 2022, two similar cases, this time also involving a national security assessment by BIA, were discontinued because they were not provided with adequate legal support in their initial asylum procedure.

In a 2022 case of Turkish Political activist,<sup>933</sup> the applicant failed to underline an entire set of crucial evidence which indicate his political persecution in Türkiye. His lawyer failed to fill out the asylum application form. He did not prepare the applicant for the interview while in extradition detention either, nor did he conduct Col research and submitted the Col report. After asylum application and the ensuing appeal were rejected, the lawyer failed to lodge a complaint to the Administrative Court and the case was discontinued.

In another case from 2022, a legal representative cancelled the power of attorney granted to him by a Kyrgyz national who was in extradition detention, before his asylum interview. When realizing that he did not have legal representative the distressed applicant refused to take part in his asylum interview, which was conducted in extradition detention. As a result, his asylum procedure was discontinued.<sup>934</sup>

Both applicants, with the help of their new legal representatives, decided to lodge subsequent asylum application outlining now in details with an entire set of facts which were not put forward in their past procedures, but also some new facts which arose in the meantime. As it was the case in subsequent asylum procedure of the Pakistani boy, the Asylum Office outlined the following:

- ❖ the facts outlined were not new
- ❖ the fact that applicants had legal representatives in previous asylum procedure was taken as a safeguard that applicants were able to outline all the crucial facts, but there was not assessment of their competence and commitment
- ❖ the incompetence of legal representatives was not considered at all as the argument for subsequent application.

In the case of the Kyrgyz national, where the first instance procedure was concluded before the first instance decision was issued, it is clear that the Asylum Office never took into consideration a single fact which corroborated his alleged persecution and, instead, declared that the facts set forth in the subsequent asylum application were insufficient. In other words, the Asylum Office denied the applicant of the possibility to have his case examined on the merits.

The decisions rejecting their subsequent asylum applications were confirmed by the Asylum Commission<sup>935</sup>. It is worth mentioning that, in both cases, the CAT indicated interim measures to the Government of Serbia. Both measures were lifted after their extraditions were rejected by Serbian Courts. While the complaint presented by the Kyrgyz national to the Administrative Court of is still pending; on 12 January 2024, the complaint from the Turkish national was instead rejected.<sup>936</sup>

As for 2023, it is worth mentioning that the circumstances arising from the Russian aggression on Ukraine were not consider as new circumstances in the subsequent application of Russian national who never claimed his anti-war sentiment and risk of mobilization in his initial asylum procedure. The Asylum Office

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<sup>932</sup> Asylum Office, Decision No. 26-3229/19, 21 May 2021.

<sup>933</sup> Asylum Office, Decision No. 26-1247/21, 30 August 2022.

<sup>934</sup> Asylum Office, Decision No. 26-2052/21, 23 August 2022.

<sup>935</sup> Asylum Commission, Decision Nos. AŽ 24/22, 12 October 2022 and AŽ 27/21, 7 November 2022.

<sup>936</sup> Administrative Court, Judgment U 80/23, 12 January 2024.

claimed that he did not provide any evidence which would corroborate such claims, but the question that remains open is if this assessment was supposed to be done during the examination of the admissibility of subsequent asylum application, or in the newly reopened asylum procedure.<sup>937</sup>

In 2024, one applicant from Brazil outlined an entire set of new facts which he was not able to provide in his initial asylum procedure because of the fact that most of the evidence was placed on his laptop which was taken away from him while he was in extradition detention. As it was the case in previous years and other subsequent asylum applications for other applicants, this subsequent application was also dismissed.<sup>938</sup>

There were no instances in which applicants who had been returned to their countries of origin came back to Serbia and lodged subsequent applications. Applicants who lodge subsequent applications are considered to be asylum seekers and are entitled to material reception conditions.

## F. The safe country concepts

### Indicators: Safe Country Concepts

- |  |   |
|--|---|
| 1. Does national legislation allow for the use of 'safe country of origin' concept?  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| ❖ Is there a national list of safe countries of origin?                              | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| ❖ Is the safe country of origin concept used in practice?                            | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 2. Does national legislation allow for the use of 'safe third country' concept?      | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| ❖ Is the safe third country concept used in practice?                                | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 3. Does national legislation allow for the use of 'first country of asylum' concept? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

The concepts of safe country of origin, first country of asylum and safe third country are set out in the Asylum Act.<sup>939</sup>

The application of the safe third country and the first country of asylum concept may lead to an asylum application being declared as inadmissible by the Asylum Office, although asylum seekers may be able to prove that the country in question is not safe in their individual case. As for the safe country of origin concept, the Asylum Office may reject asylum application in merits and under the Article 40 of the Asylum Act which governs accelerated procedure.

In 2021, the Asylum Office dismissed 4 asylum applications of citizens of Iran (1), Pakistan (1), Libya (1) and Burundi (1). Since the author of this Report could not obtain these decisions, it remains unclear to which of the below described concepts they referred. In 2022, 2023 and 2024, there were no such decisions which can be described as positive and having in mind that most of asylum seekers arrive to Serbia from North Macedonia and Bulgaria, often outlining different flawed practices to which they were subjected.

### 1. Safe country of origin

A country shall be considered as a safe country of origin where, on the basis of the legal situation, the application of the law, and the general political circumstances, it is clear that there are no acts of persecution in the sense of Article 1 of the Refugee Convention, nor any risk of treatment contrary to the absolute prohibition of torture and other cruel, inhumane and degrading treatment or punishment which can be qualified as irreparable and serious harm.<sup>940</sup> The assessment of safety is conducted in line with the following criteria:

- ❖ The relevant laws and regulations of the country, and the manner in which they are applied;

<sup>937</sup> Asylum Office, Decision No. 26-1529/18, 27 October 2023.

<sup>938</sup> Asylum Office, Decision No. 26-10-45, 20 September 2024.

<sup>939</sup> Article 43-45 Asylum Act.

<sup>940</sup> Article 44 Asylum Act.



- ❖ Observance of the rights and freedoms guaranteed by the ECHR, particularly Article 15(2), the ICCPR and the UN CAT;
- ❖ Observance of the *non-refoulement* principle;
- ❖ Application of effective legal remedies.<sup>941</sup>

The Asylum Act explicitly recognises that the safe country of origin assessment implies the use of information from sources such as EUAA, UNHCR, the Council of Europe, and other relevant international organisations. Also, the fulfilment of the conditions for the application of the safe country of origin concept shall be established on a case-by-case basis.<sup>942</sup>

However, it is prescribed that the Government shall determine a List of Safe Countries of Origin, on the proposal of the Ministry of Foreign Affairs which can be revised as needed, taking into account the above-listed criteria,<sup>943</sup> as well as ‘the views of the competent authorities specified by this Law.’<sup>944</sup> A country included in the List of Safe Countries of Origin may be considered a safe country of origin in a specific case only if the applicant holds the nationality of that country or had habitual residence (in case of statelessness) and has failed to explain why the country in question cannot be considered safe in their case.<sup>945</sup> This list is yet to be adopted.

The safe country of origin concept was applied only once in practice so far and in relation to a citizen of **Montenegro**.<sup>946</sup> This decision was confirmed during the course of 2019 by both the Asylum Commission<sup>947</sup> and the Administrative Court.<sup>948</sup> No decisions relying on the safe country of origin concept were issued in 2020, 2021, 2022, 2023 and 2024 according to the author’s knowledge.

## 2. Safe third country

The flawed and automatic application of the safe third country concept used to be a major problem of the Serbian asylum system since its very establishment<sup>949</sup> and was severely scrutinized by many relevant international actors and bodies.<sup>950</sup> Throughout the years, the asylum authorities automatically relied on the Safe Countries List denying *prima facie* refugees the possibility for their asylum claim to be decided on the merits.<sup>951</sup> Moreover, this practice was equally damaging for the applicants who did not have *prima facie* claims regarding their country of origin, but had an arguable claim<sup>952</sup> in terms of the risk of torture and other forms of ill-treatment in the third countries through which they had travelled before arriving in Serbia and which were designated as ‘safe’ in the asylum procedure. In the previous Asylum Act, which has not been in force since 1 October 2018, the safe third country concept was poorly governed and automatically applied on the basis of the list of the said list drafted by the Government.

Although the new law significantly improved the framework of the safe third country concept, there are still ambiguities that may limit its adequate application. Namely, according to Article 45 of the Asylum Act, a ‘safe third country’ is a country where the applicant is safe from persecution, as well as from the risk of suffering serious harm. Additionally, the safe third country must ensure that the applicant enjoys protection

<sup>941</sup> Article 44 (1) Asylum Act.

<sup>942</sup> Article 44 (2) and (5) Asylum Act.

<sup>943</sup> Article 44 (3) Asylum Act.

<sup>944</sup> Article 44 (4) Asylum Act.

<sup>945</sup> Article 44 (6) Asylum Act.

<sup>946</sup> Asylum Office, Decision No. 26-1720/18, 21 December 2018.

<sup>947</sup> Asylum Commission, Decision AŽ 2/19, 1 March 2019.

<sup>948</sup> Administrative Court, Judgment U 5037/19, 12 June 2019.

<sup>949</sup> AIDA, *Country Report: Serbia – Update on the year 2020*, March 2021, available [here](#), 57-58.

<sup>950</sup> Including UNHCR, CAT, CERD, CCPR, Amnesty International and national civil society organizations, see the detailed analysis of this flawed practice in the AIDA, *Country Report: Serbia – Update on the year 2018*, March 2019, available [here](#), 41-53.

<sup>951</sup> ECtHR, *El-Masri v. ‘The Former Yugoslav Republic Of Macedonia’*, Application No 39630/09 Judgment of 13 December 2012, para 165; *M.S.S. v. Belgium and Greece*, Application No 30696/09, Judgment of 21 January 2011, EDAL, available at: <https://bit.ly/2ErG9VZ>, para 296.

<sup>952</sup> Council of Europe Committee of Ministers, *Recommendation on the Right of Rejected Asylum Seekers to an Effective Remedy Against Decisions on Expulsion in the Context of Article 3 of the European Convention on Human Rights*, 18 September 1998, Rec(98)13, Rec. 1.

from *refoulement*, which includes access to an efficient asylum procedure.<sup>953</sup> In establishing conditions for the application of the safe third country, each asylum application is assessed individually, examining whether the country fulfils the conditions set by Article 45(1), and whether there is a connection between that country and the applicant on the basis of which it could be reasonably expected that they could seek asylum there.<sup>954</sup> The new approach of the Asylum Act is better than the previous one, as it requires an individual consideration of each case and not the application of the Safe Countries Decision or any other regulation proclaiming a country 'safe' without transparent criteria.

Article 45(3) states that applicants will be informed in due time about the application of the safe third country concept so they can have the possibility to challenge it. It may be reasonable to assume that the information should be provided by the authorities before the interview, when the asylum seeker would outline facts and circumstances which could indicate that safety in the country in which he resided previously. This assumption is supported through the content of Article 37 of Asylum Act, which provides that an officer of the Asylum Office authorised for interviewing shall establish facts related to the travel routes of the applicant after leaving their country of origin or habitual residence, and whether applicants had previously sought asylum in any other country. However, so far it is not possible to make remarks on the implementation of the new norm.

Also, and Interpreting the Asylum Act as a whole, it follows from Article 32 that the Asylum Office collects and considers all the relevant facts, evidence and circumstances when deciding on the merits of the asylum application as well as on the assessment of a certain third country as 'safe'. Under 'facts, evidence and circumstances' it considers 'current reports about the situation in... countries of transit [of the applicant], including the laws and regulations of these countries and the manner in which they are applied – as contained in various sources provided by international organizations including UNHCR and the European Asylum Support Office... and other human rights organisations.'

Another provision which might be relevant for the application of the safe third country concept is Article 17 of the Asylum Act, which refers to specific personal circumstances. These circumstances have to be taken into account during the decision-making process and as a part of vulnerable individual's right to enjoy special procedural and reception guarantees. Specific circumstances exist if the applicant is a child, including unaccompanied or separated children, person with disabilities, elderly person, single parent with underage children, survivors of human trafficking, severely ill person, a person with mental disorder and persons who survived torture and other forms of ill-treatment, survivors of sexual and gender-based violence. By analogy and following a logical interpretation of the above provision, it is evident that a person falling within one of the above categories must be granted equal reception guarantees in the receiving country if subject to application of the safe third country concept. Moreover, the competent authorities must consider *proprio motu* the extent to which these special guarantees could be enjoyed in the receiving country.

The issue that remains unclear in the provisions regarding the safe third country concept is the certificate that the Asylum Office issues to the applicant, having ruled on dismissing their application due to application of the concept. Namely, the new Asylum Act only states that the certificate shall include an information for the authorities of a third state that the Republic of Serbia has not examined the asylum application on the merits. Consequently, it is not clear whether applicants will have to go to the border crossing points themselves and present the certificate on the 'safe third country' to the authorities or if the authorities of the safe third country are officially informed that the application of a certain individual had been dismissed as it was concluded that it could and should have been examined on the merits in that country. It is still not clear how this will function in practice.

Practical ambiguities of this provision aside, the issue of major concern is the absence of clear and accurate provisions on individual guarantees, the key issue relating to every forcible removal procedure. The issues that remain after the beginning of the implementation of the Asylum Act are the manner in which the said guarantees would be obtained from the states assessed to be safe, what exactly would

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<sup>953</sup> Article 45(1) Asylum Act.

<sup>954</sup> Article 45(2) Asylum Act.

these guarantees include, and to what extent would they be personalised to each individual. Based on the above, however, it follows that, before the final evaluation, it is necessary to wait for the first decisions of the Asylum Office that will apply the safe third country concept in line with the Asylum Act.

Finally, the Asylum Act provides that the Republic of Serbia would examine a foreigner's application on the merits if a third country considered safe refuses to admit them.

Since the Asylum Act came into force on 1 October 2018, the safe third country concept has been rarely applied. Since 2020, the Asylum Office almost completely stopped applying this concept, which has led to a significant improvement in practice and the sharp increase of the cases being decided on the merits. Apart from legislative changes, another main reasons for the shift of the Office's attitude towards the safe third country notion is the fact that there are two relevant cases pending before ECtHR at the time of updating of this Report.<sup>955</sup>

The concept was applied in a total of 10 decisions in 2019 concerning 11 persons, and none in 2020. In 2021, maximum of 4 applicants could have been subjected to the STCC decision (Iran, Pakistan, Libya and Burundi), but since the author did not succeed in obtaining these decisions, it is not possible to claim with certainty if this concept was applied. In 2022, 2023 and 2024 there were no STC decisions.

### 3. First country of asylum

The Asylum Act stipulates that the first country of asylum is the country in which the applicant has been granted refugee status and where the applicant is still able to avail him or herself of that protection, or in which the applicant enjoys effective protection, including the guarantees arising from the *non-refoulement* principle.<sup>956</sup>

The applicant is entitled to challenge the application of the concept of first country of asylum in relation to their specific circumstances.<sup>957</sup>

The first country of asylum concept was applied twice in 2020, including in relation to a gay man from **Burundi** who was granted refugee protection in Uganda,<sup>958</sup> but the author of this report cannot say with certainty if this concept was applied in 2021.

In the first case, according to the BCHR legal representatives, the Asylum Office failed to assess the risk and problems that the applicant faced as a gay man in Uganda and the persecution that he was subjected to by Ugandan security forces. Another problem that was flagged by BCHR lawyers is the fact that the applicant was left only one day to provide evidence and challenge the application of the first country of asylum concept.<sup>959</sup> The Asylum Commission rejected BCHR's appeal, but the Administrative Court upheld it stating in essence that the time which was left to the applicant to dispute the safety in the first country of asylum was insufficient.<sup>960</sup>

The second case concerns a client of APC, whose asylum application was dismissed because he was granted UNHCR refugee mandate status in Türkiye. All three instances held that Türkiye should be considered as first country of asylum, even though the protection was granted by UNHCR.<sup>961</sup>

In 2022, 2023 and 2024 there were no decisions in which asylum authorities invoked first country of asylum concept.

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<sup>955</sup> ECtHR, *A.K. v. Serbia*, Application No 57188/16, Communicated on 19 November 2018; *M.H. v. Serbia*, Application No 62410/17, Communicated on 26 October 2018.

<sup>956</sup> Article 43(1) Asylum Act.

<sup>957</sup> Article 43(2) Asylum Act.

<sup>958</sup> Asylum Office Decision No. 26-1515/19 of 13 August 2020.

<sup>959</sup> BCHR, *Right to Asylum in the Republic of Serbia - Periodic Report for July-September 2020*, available at: <https://bit.ly/46pjYtd>, 22-23.

<sup>960</sup> See more in, BCHR, *Right to Asylum in the Republic of Serbia 2021*, available at: <https://bit.ly/3Gdazu0>, 60.

<sup>961</sup> Administrative Court, Judgment U 13967/20, 13 November 2020.

## G. Information for asylum seekers and access to NGOs and UNHCR

### Indicators: Information on the Procedure

1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice? ☐ Yes ☒ With difficulty ☐ No

❖ Is tailored information provided to unaccompanied children? ☒ Yes ☐ No

A foreigner who has expressed their intention to seek asylum in Serbia, as well as a person who lodged their asylum application shall have the right to be informed about their rights and obligations throughout the asylum procedure.<sup>962</sup>

The provision of relevant information, as well as something which can be considered as legal orientation is a primary task of the State and relevant police stations and police departments in which foreigners who might be in need of international protection should be the first line of information provision. Still, the reality has shown that information for refugees and migrants is provided by an entire set of state and non-state actors.

The main entry points to Serbia are from North Macedonia on the southern and Bulgaria on the eastern border. For that reason, and especially with regards to people coming from North Macedonia, the first place where persons in need of international protection can receive information is the RC in Preševo. However, and taking into consideration the fact that Serbia is facilitating pushback operations, it would be highly unlikely that refugees and asylum seekers would consider border police departments as places where they could obtain information on the asylum procedure in Serbia.

Another reality in practice is that most of the foreigners go directly to reception facilities in Belgrade or in border areas with EU countries (at least until November 2023). Thus, in most instances, they tend to avoid initial reception facilities, but also police departments in which they could be registered and potentially provided with legal information.

Thus, most of the information is provided in reception facilities in Belgrade, although many CSOs and international organizations also distribute information leaflets in all other reception facilities and outside official reception facilities. Basically, UNHCR, IOM and around 5 CSOs have designed their own leaflets and posters, which are multilingual, adapted to the special needs of children or other vulnerable categories and others.

However, the fact that only 193 out of 108,808<sup>963</sup> foreigners recorded entering Serbia decided to apply might also be in part due to issues regarding the quality of information provision and legal orientation. A similar situation was recorded in 2024 when 219 foreign nationals lodged an asylum application out of 19,603 arrivals. Nevertheless, most people on the route through Serbia already have their migratory project, with a country of destination in mind, which might be one of the main drivers not to stay. All information sessions came down to the distribution to technical information and leaflets and group counselling which apparently yielded no results in 2023 or 2024.

Police departments around Serbia tasked with issuing the registration certificates have started to provide information through State-developed leaflets. According to the information provided by the members of the Asylum Office, these leaflets were distributed to all police departments in January 2023. However, these leaflets have also yielded limited results having in mind that the number of asylum applicants in 2023 and 2024 was on a very low level.

As for persons in need of international protection who are detained by police forces on the grounds of their irregular stay in border areas, if not pushed back, it is unclear to which extent they are provided with access to rights of persons deprived of their liberty. CSOs, as well as UNHCR do not have access to

<sup>962</sup> Article 56(1) Asylum Act.

<sup>963</sup> Information obtained from CRM.

these people, nor these people in practice are provided with the information on their right to apply for asylum. This conclusion is drawn from the relevant legal framework and the Rulebook on Police Powers which governs the provision of information to persons deprived of their liberty and which does not explicitly prescribe the responsibility of acting police officers to inform detained foreign nationals of their right to apply for asylum.<sup>964</sup>

## H. Differential treatment of specific nationalities in the procedure

### Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? ☐ Yes ☒ No
2. Are applications from specific nationalities considered manifestly unfounded?<sup>965</sup> ☐ Yes ☒ No

In principle, there is no differential treatment of asylum seekers coming from different countries and the challenges of the national asylum system equally affects almost all foreign nationals who seek international protection in Serbia. In general, the quality of the credibility assessments realised in 2023 and 2024 significantly deteriorated, to the point of risking affecting the overall effectiveness of the asylum system.

However, in the past there have been several cases in which certain nationalities or persons claiming specific grounds were easily recognized as refugees by the Asylum Office. More recently, however, it became impossible to obtain international protection on identical or similar grounds. These trends have been observed in the past 17 years, and were characterised by large groups of nationals from the same countries who had been applying for asylum due to flexible visa regimes with their countries of origin (Iran and Burundi) or close ties which implied cooperation in the field of education (e.g. Libyans).

For instance, Iranian converts from Islam to Christianity were granted refugee protection without major problems in the period 2016-2019, while afterwards it became almost impossible to be recognized on those grounds. To put it in more simple words, the same people who were granted refugee status on the basis of their conversion from Islam to Christianity in the period 2016-2019, would likely see their asylum applications rejected as unfounded in the present.

Something similar can be outlined in relation to Tutsi political activists from Burundi or people perceived to be politically active against the major ruling party in this country. They were able to obtain international protection quite easily in the period 2017-2019, after which the restrictive approach was gradually increasing (as the number of applicants was increasing), to the moment in which in 2023, it was impossible to obtain asylum for people claiming political (political opposition) and ethnic persecution (Tutsi) in Burundi. Regardless of the quality of evidence provided (which sometimes includes forensic medical examinations, witness statements, corroborative Col), Burundian nationals are currently rejected when seeking asylum in Serbia, which is a shift in practice, the reason for which is not evident when taking into account the previous practice. It should be highlighted that this shift occurred at the same time as Serbia introduced a visa regime for Burundian nationals, in April 2023. The practice from 2024 confirms the continuation of such practice.

It is also important to note that based on current practice, Turkish nationals, who could be political activists, journalists, academics, members of Fetullah Gulen movement, activists of Kurdish origin and others have no prospect of receiving international protection.

In 2022, and for the first time in the history of the Serbian asylum system, temporary protection was introduced as a form of international protection for refugees fleeing Ukraine (see [Annex on Temporary Protection](#)). This can only be described as differential treatment and in relation to more than million Syrians who transited through Serbia in 2015/2016, when the temporary protection system was not triggered.

<sup>964</sup> Rulebook on Police Powers, Official Gazette no. 41/2019 i 93/2022, available in Serbian at: <https://bit.ly/2JOilh1>.

<sup>965</sup> Whether under the 'safe country of origin' concept or otherwise.

Since the entry into force of the Asylum Act in 2008, the asylum authorities in Serbia have issued 172 decisions granting asylum (refugee status of subsidiary protection) to 243 persons from 29 different countries,<sup>966</sup> including from Libya (47), Syria (43), Afghanistan (32), Iran (23), Ukraine (16), Iraq (15), Cuba (13), Burundi (11), Sudan (5), Somalia (5), Pakistan (4), Ethiopia (3), Russian Federation (3), Cameroon (3), DR Congo (3), Nigeria (2), Türkiye (2), Stateless (2), Egypt (1), Tunisia (1), South Sudan (1), Lebanon (1), Kazakhstan (1), Bangladesh (1), China (1), Mali (1), Congo (1), Niger (1) and India (1)

For detailed information on the practice regarding each nationality, please see [Regular Procedure – General](#).

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<sup>966</sup> The author of this Report has collected 153 out of 165 decisions. The number of decisions and applicants was counted by the author of this Report and on the basis of a unique database which is established in IDEAS. Namely, the official number of persons who received international protection in Serbia is 248. However, this number includes the cases which were not final in the given year. For instance, there is at least 7 asylum procedures in which legal representatives appealed the decision on subsidiary protection claiming that their clients are entitled to a refugee status. The Asylum Commission or Administrative Court upheld appeals and onward appeals respectively and sent the case back to the Asylum Office. However, the Asylum Office issued the same decision, granting subsidiary protection, with regards to the same persons. The lawyers appealed again. There were instances in which 1 person received 3 decisions on subsidiary protection in the period of 7 years and was eventually granted refugee status. However, it is possible that the statistics provided by the author of this Report are not 100% accurate. Still, the author believes that this is the most accurate statistics which can be provided for now and potential variations cannot be higher than maximum 3 decisions regarding 3 applicants.



## Reception Conditions

### Short overview of the reception system

The Commissariat for Refugees and Migration (CRM) is in charge of governing asylum and reception centres in Serbia.<sup>967</sup> There are 7 Asylum Centres (AC) and 11 Reception Centres (RC) which can be put in use for accommodation of refugees, asylum seekers and other categories of people on the move. What is important to note is that most of these facilities were established in 2015/2016 with significant financial support provided to Serbia from the EU, but also by international organisations such as the UNHCR and IOM, individual countries/embassies and agencies. The main purpose of these facilities was temporary accommodation of hundreds of thousands of persons who transited through Serbia in 2015/2016. For those reasons, the structure and materials available in the reception facilities are mostly designed for a short-term stay.

In 2023, a total of 17 asylum and reception centres were operational for entire or at least the part of the year. Asylum Centre in Bogovađa and Reception Centre in Bela Palanka - Divljana were not operational at all.<sup>968</sup>

In 2024, a total of 12 asylum and reception centres were operational for at least part of the year. RC Principovci was designated for accommodation of UASC after RC Šid had been closed. RC Šid was in operation only during the first half of the year, and that was also the case with RCs Pirot, Dimitrovgrad and Bosilegrad. On the other hand, RCs Bujanovac and Preševo were active throughout the year. As for asylum centres, AC Tutin was closed in the second half of the year, while ACs Krnjača, Obrenovac, Sjenica and Vranje were operational throughout the entire year. At the end of 2024, ACs Krnjača, Obrenovac, Vranje and Sjenica, as well as RCs Preševo, Bujanovac and Principovci.<sup>969</sup> The reception Centre in Bela Palanka - Divljana was permanently closed.

Even though the official data of the CRM indicated that total capacities of all reception facilities were 8,155 in 2022, in 2023 and 2024, the capacities outlined show more realistic picture - 5,625, plus additional 500 beds which can be secured in AC Bogovađa and RC Divljana. Thus, around 6,125 beds could have been secured if needed in 2023.<sup>970</sup> In 2024, this number was 6,846. In saying that, the reception capacity is mostly measured in terms of available beds and not in accordance with certain standards, for instance, EUAA Guidelines,<sup>971</sup> or other standards developed by other bodies such as CPT,<sup>972</sup> or the CESCR.<sup>973</sup>

It remains unclear why capacity fluctuates every year, but it is important to outline that no entity has ever performed an independent, non-biased, impartial, thorough and objective assessment of reception conditions in Serbia and in relation to various human rights criteria which imply adequate housing, safety, privacy, hygiene, food, medical assistance, safeguards for vulnerable groups, access to other services, etc. Only after this assessment realistic and human rights-based capacities can be determined and they are significantly lower the official one.

<sup>967</sup> Article 23 Asylum Act; Chapters II and III Migration Management Act.

<sup>968</sup> Data obtained from UNHCR office in Serbia and practice-informed observation by IDEAS.

<sup>969</sup> Data obtained from UNHCR office in Serbia and practice-informed observation by IDEAS.

<sup>970</sup> Data obtained by the UNHCR office in Serbia.

<sup>971</sup> EASO, *EASO Guidance on reception conditions: operational standards and indicators*, September 2016, available at: <http://bit.ly/3j1XabQ>.

<sup>972</sup> See for example CPT, *Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 19 April 2018*, 19 February 2019, CPT/Inf (2019) 4, available at: <https://bit.ly/3gbcH7y>, paras. 103-105.

<sup>973</sup> CESCR, *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*, 13 December 1991, E/1992/23, available at: <http://bit.ly/2KyNBRC>.



Year	Asylum Centres	Reception Centres	Total
2021	3,050	3,155	6,205
2022	3,050	5,105	8,155
2023	3,050	3,075	6,125
2024	3,050	3,075	6,125
2025	3,190	2,756	6,846

In 2024, **AC Krnjača** was mostly accommodating vulnerable applicants: families with small children, persons with disabilities, persons with health and psychosocial needs, LGBTQI+ applicants, SGBV survivors and others. **AC Obrenovac**<sup>974</sup> and **AC Sjenica** accommodate single males, but most of them were not willing to apply for asylum. As of 20 April 2022, **AC Vranje**<sup>975</sup> accommodated on average 40 to 70 refugees from Ukraine.

It is also worth reiterating that the asylum procedure was mainly conducted in asylum centres, in 2024 mainly in **AC Krnjača** and sometimes in **AC Obrenovac**, while AC Sjenica was visited several times at the end of 2024. Thus, most of the people accommodated in AC Sjenica do not have effective access to an asylum interview, but also they can only lodge asylum applications in writing. This contributes to an extensive length of the first instance asylum procedure.

On the other hand, RCs in **Adaševci**, **Sombor**, **Principovci**, **Šid**, **Kikinda**, **Subotica** and other facilities located closer to borders with **Romania**, **Croatia** or **Hungary** were closed down in the first quarter of 2024 and only RC Principovci remains operational for UASCs. Accommodation in these facilities did not require registration certificates and these were usually large-scale facilities designed for a short-term stay in tents or other improvised shelters. **RC Pirot**, **RC Bosilegrad** and **RC Dimitrovgrad** are located at the entry points from Bulgaria, while **RC Preševo** and **RC Bujanovac** are located in the south, in the vicinity of the border with North Macedonia. RC Preševo and RC Bujanovac remained open, while the eastern centres were closed until the end of July 2024.

According to Klikaktiv, most of the squats in the border area with EU countries which were active in the period 2022-2023 were empty in 2024.<sup>976</sup>

In a 2022 press statement, the Government declared that 'since the start of the migrant crisis in 2015 until today, including the grant agreement worth €36 million signed today, the EU has helped Serbia with €200 million for strengthening institutional capacity for migration management.'<sup>977</sup> It was further highlighted that since 2015, more than 1.5 million refugees and migrants passed through Serbia and over 10 million overnight stays were made.<sup>978</sup> Out of €160 million provided before the signing of the new agreement in October 2022, €130 million was designated for migration management and for the prevention of illegal migration, while €30 million were allocated to border security.<sup>979</sup>

One of the major issues in 2024 was the fact that most of the registered foreigners were referred to **AC Sjenica** and **AC Tutin**, two asylum centres in which applicants' asylum procedure cannot be conducted effectively, as they generally do not organise asylum interviews. Namely, in 2023, the Asylum Office visited these two facilities only once,<sup>980</sup> even though several dozen persons lodged their asylum applications in writing, while in 2024, AC Sjenica was visited several times at the end of the year. In comparison to 2022, the CRM and MoI did not allow transfers from these two centres to **AC Krnjača** or **AC Obrenovac**, where the Asylum Office can organise asylum interviews, unless people belonged to one

<sup>974</sup> Decision of the Government of the Republic of Serbia, no. 02–5650/2021, available at: <https://bit.ly/3nqLK4Z>.

<sup>975</sup> *Ibid.*

<sup>976</sup> Klikaktiv, Under the Line of Marginalization: The Shadowing Games and the Erosion of Rights for People on the Move, available at: [https://static1.squarespace.com/static/5e3766f903c72c513a16796c/t/67fe5aaf94d91e2066859997/1744722623203/Klikaktiv\\_The-annual-report-2024\\_PAGES.pdf](https://static1.squarespace.com/static/5e3766f903c72c513a16796c/t/67fe5aaf94d91e2066859997/1744722623203/Klikaktiv_The-annual-report-2024_PAGES.pdf), p. 42.

<sup>977</sup> The Government of the Republic Serbia, Press Statement, EU to help Serbia prevent illegal migration, 7 October 2022, available at: <https://bit.ly/41w4qli>.

<sup>978</sup> *Ibid.*

<sup>979</sup> *Ibid.*

<sup>980</sup> Information obtained from IDEAS field officers.

of the vulnerable categories (SGBV or LGBTQI+ for instance), when they are allowed to move to **AC Krnjača**.

As outlined in the previous parts of the Report and according to the Asylum Act, a foreigner obtains the status of asylum seeker only after having lodged an asylum application.<sup>981</sup> Prior to that, persons issued with registration certificates are not considered to be asylum seekers and thus are not entitled to rights and obligations envisaged in the Asylum Act, which encompass the right to accommodation.<sup>982</sup> Accordingly, even though the vast majority of foreigners were accommodated in asylum and reception centres in the course of 2024, they were not explicitly entitled to it under the Asylum Act, the Foreigners Act or any other law governing the field of asylum and migration.

Only 219 out of 19,603 foreigners detected by the CRM were officially entitled to stay in reception facilities, as they lodged asylum applications or subsequent asylum applications. This represents a continuation of the trend observed in previous years, which implies that the vast majority of persons in need of international protection who have been transiting through the territory of Serbia since 2008 have been in a legal *limbo*, deprived of any status, but provided with their minimum existential needs in Serbia. Their stay in Asylum and Reception Centres was tolerated – rather than regulated - by legal framework. Still, it is important to note that the final draft of Amendments to the Asylum Act intends to remedy this situation, as it recognises a new category of persons in need of international protection – persons issued with the registration certificate who did not lodge an asylum application and who will be afforded with most of the material reception conditions.<sup>983</sup> The election of the new Government in May 2024 can potentially bring those amendments to the Parliament's agenda.

Asylum seekers who are granted asylum are entitled to stay in asylum centres up to one year after their decision on asylum became final or if they are provided with financial support they have to leave from the moment the support is granted.<sup>984</sup> In practice, most of these people already live at a private address when they receive a positive decision.

Finally, and taking into consideration that there is no vulnerability assessment upon admission to reception facilities of the newly arrived foreigners, many vulnerable foreign nationals remain unidentified. Even when they are identified, in most cases they are not granted additional support or different conditions than other less vulnerable categories of people on the move.

## A. Access and forms of reception conditions

### 1. Criteria and restrictions to access reception conditions

#### Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law make material reception conditions to asylum seekers in the following stages of the asylum procedure?
 

❖ Regular procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Dublin procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Admissibility procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Border procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Accelerated procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ First appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Onward appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Subsequent application	<input type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input checked="" type="checkbox"/> No
  
2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions?
 

❖ Accommodation	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
❖ Social assistance and emergency aid	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	

<sup>981</sup> Article 2 (1) (4) Asylum Act.

<sup>982</sup> Article 48 Asylum Act.

<sup>983</sup> The amendments to the Asylum Act are available in Serbian on the following link: <https://bit.ly/3yepU9U>.

<sup>984</sup> Article 61 Asylum Act.

The CRM is mandated to provide material reception conditions to asylum seekers and persons granted asylum in Serbia.<sup>985</sup>

In the course of the asylum procedure, asylum seekers are entitled to be accommodated in one of the 7 Asylum Centres or other designated facility established for that purpose,<sup>986</sup> which consist of 12 Reception Centres.

Persons issued with a registration certificate by the Mol are expected to present themselves at the reception facility indicated in the certificate (the name of the facility is introduced in the registration certificate) from where they can lodge their asylum application. The CRM shall confirm reception of the applicant with a mention to that end in the registration certificate.<sup>987</sup>

It can be said with certainty that 111 foreign nationals lodged asylum application with the assistance of IDEAS.<sup>988</sup>

As already outlined, the majority of reception centres accommodate foreigners who were not issued registration certificates, and who do not enjoy any other status in line with the Foreigners Act or other legislation. For that reason, they can be subject to different arbitrary practices such as denial of access to the reception centre during the night or denial of access to food or even medical care. In practice, almost every foreigner has the possibility to be accommodated in one of the reception facilities.

If the asylum seeker has the financial means to do so, they may stay outside the reception facilities bearing the cost of accommodation, and exclusively upon prior consent of the Asylum Office, which shall be given after the asylum application has been lodged. The current legal framework does not contain any provision on the obligation of asylum seekers to disclose their resources to the asylum authorities. Exceptionally, consent may also be given beforehand, if that is required for reasons of security of a foreigner whose intention to seek asylum has been registered.<sup>989</sup> Thus, in practice, the asylum seeker usually has to wait to lodge an asylum application and then submit the request to stay at a private address, which will be included in their ID card as their place of residence.

## 2. Forms and levels of material reception conditions

### Indicators: Forms and Levels of Material Reception Conditions

1. Amount of the monthly financial allowance/vouchers granted to asylum seekers as of 31 December 2024 (in original currency and in €): 11,919.00 RSD / 101 € for a single adult

Asylum seekers staying in centres have the right to material reception conditions including accommodation, food, clothing and a cash allowance.<sup>990</sup> Since 2018, the new Asylum Act provides for the possibility of a cash allowance for personal needs.<sup>991</sup> However, cash allowances have rarely been granted according to the author's knowledge, and such practice was reported by beneficiaries of AC in **Krnjača** in 2022 only few times, while in 2023 and 2024 no allowance was granted.<sup>992</sup> They explained that cash assistance of around 4,000 dinars (EUR 34) was monthly provided to families and vulnerable applicants, usually those with serious medical conditions.

<sup>985</sup> Article 23 Asylum Act; Chapters II and III Migration Management Act.

<sup>986</sup> Article 51(1) Asylum Act.

<sup>987</sup> Article 35(12) Asylum Act.

<sup>988</sup> Information obtained through the field work of IDEAS legal officers.

<sup>989</sup> Article 50(8) Asylum Act.

<sup>990</sup> Article 50(1) Asylum Act and the Rulebook on social allowances for persons seeking or granted asylum, Official Gazette, no. 12/2020, available at: <https://bit.ly/3MNLEIk>.

<sup>991</sup> Article 50(2) Asylum Act.

<sup>992</sup> Information received through the CRM response on IDEAS request for the information of public importance no. 019-827/1-2024 on 25 April 2024.

Persons seeking asylum and accommodated at an Asylum or a Reception Centre do not have the right to access social welfare. This remains a possibility for persons staying in private accommodation.<sup>993</sup> Social assistance in these cases shall take the form of a monthly cash allowance provided that the person is not accommodated in an Asylum or Reception Centre and that they and the members of their family have no other income, or that this income is below the legally prescribed threshold for the establishment of the amount of social allowance. The Decision on Social Assistance sets out the following monthly amounts:<sup>994</sup>

- ❖ Single adult: RSD 11,919.00 (€101)
- ❖ Family member: RSD 5,960.00 (€50)
- ❖ Minor child: RSD 3,576.00 (€30)

The decision on the request to exercise the right to monthly allowance is made by the SWC in the municipality of residence of that person. The request is to be supplemented by an ID of the asylum seeker or a person granted asylum and other supporting evidence which mainly revolves around the monthly incomes and the fact that the applicant has to prove that he does not have any income, or their income is lower than the available social allowance. Additional requirement is the certificate of unemployment issued by NES. The procedure itself is conducted in line with the GAPA provisions.

The conditions for exercise of the right to monthly allowance are reviewed *ex officio* once a year. However, the monthly amount received from the SWC is very limited and generally insufficient to ensure a dignified existence. There have not been instances in which social allowances were granted to asylum seekers accommodated at private address and it is not clear how many persons granted asylum enjoyed this right since the beginning of the Serbian asylum system.

There have not been any reports regarding difficulties in accessing public funds (local, national or EU funds) which could have hampered or limited the provision of reception conditions.

### 3. Reduction or withdrawal of reception conditions

#### Indicators: Reduction or Withdrawal of Reception Conditions

1. Does the law provide for the possibility to reduce material reception conditions?  
☒ Yes ☐ No
2. Does the law provide for the possibility to withdraw material reception conditions?  
☒ Yes ☐ No

Material reception conditions may be reduced or withdrawn if the asylum seeker possesses their own financial assets or if they start to receive income from employment and which is sufficient to cover material reception conditions, as well as if they misuse the allowance received.<sup>995</sup>

A decision on reduction or withdrawal of material reception conditions shall be issued by the CRM and can be challenged before the Asylum Office.<sup>996</sup> If a decision has been made to reduce or withdraw the cash allowance, the appeal will not have a suspensive effect.<sup>997</sup> In practice, CRM has never applied this possibility.

<sup>993</sup> Article 53 Asylum Act.

<sup>994</sup> Decision on nominal amounts of social assistance, Official Gazette, no. 42/22025, available at: <https://www.paragraf.rs/propisi/resenje-o-nominalnim-iznosima-novcane-socijalne-pomoci.html>.

<sup>995</sup> Article 50(4) Asylum Act.

<sup>996</sup> Article 50(5) and (6) Asylum Act.

<sup>997</sup> Article 50(7) Asylum Act.

## 4. Freedom of movement

### Indicators: Freedom of Movement

1. Is there a mechanism for the dispersal of applicants across the territory of the country?  
☐ Yes ☒ No
2. Does the law provide for restrictions on freedom of movement? ☒ Yes ☐ No

All asylum seekers have right to move freely on the territory of the Republic of Serbia, regardless of the reception facility to which they are referred.<sup>998</sup> There is no official scheme on where asylum seekers would be referred, but it is clear that Mol and CRM communicate on the availability of spaces in different asylum centres. Still, since the end of 2023, all registered persons are referred to AC Sjenica, while AC Obrenovac and AC Krnjača which are the closest to the headquarters of the Asylum Office remain almost completely empty.

Provision of material conditions is not subject to actual residence in a specific place and there are no individual decisions in that regards and thus no possibility to appeal the placement in a specific asylum centre. Still, it is clear that referral to AC Sjenica limits the possibility of asylum seekers to find employment taking in consideration that the most developed area in Serbia is Belgrade area. This kind of practice further discourages asylum seekers from remaining in Serbia.

## B. Housing

### 1. Types of accommodation

#### Indicators: Types of Accommodation

1. Number of reception centres:<sup>999</sup>

❖ Asylum Centres	7
❖ Reception Centres	11
2. Total number of places in the reception centres:

❖ Asylum Centres	3,050
❖ Reception Centres	3,075
3. Total number of places in private accommodation: There is no private accommodation funded by the Government.
4. Type of accommodation most frequently used in a regular procedure:  
☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☐ Other
5. Type of accommodation most frequently used in an accelerated procedure:  
☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☐ Other

Both Asylum Centres and Reception Centres are established by Government decision.<sup>1000</sup> The work of Asylum Centres and Reception Centres is managed by the CRM.<sup>1001</sup>

Persons entering the asylum procedure in Serbia are usually accommodated at one of the 7 asylum centres spread out across the country, but those asylum seekers who can afford to stay at a private residence may do so, should they so desire. These facilities should not be confused with the temporary reception centres that had been set up by the Government throughout 2015 in response to the mass influx of refugees and migrants transiting through Serbia, as they were not foreseen for the housing of persons seeking asylum in Serbia.

<sup>998</sup> Article 48 (1)(8) Asylum Act.

<sup>999</sup> Both permanent and for first arrivals.

<sup>1000</sup> Article 51(2) and (3) Asylum Act.

<sup>1001</sup> Article 51(4) Asylum Act.

One of the issues that remained in 2024 continued to be a lack of profiling and differentiation between those persons with a genuine interest in applying for asylum in Serbia, and those who were in need of a temporary shelter where they would stay before leaving to one of the EU countries. Still, in 2024, most of the registered persons were referred to AC Sjenica. The problem that remains is the fact that the Asylum Office rarely conducted the visit to AC Sjenica for the purpose of asylum interviews. This is one of the reasons why asylum seekers abscond.

## 1.1 Asylum Centres

There were 6 active Asylum Centres in Serbia in 2024 and one inactive:

Asylum Centre.	Capacity
Banja Koviljača	120
Bogovađa	200
Tutin	380
Sjenica	440
Krnjača	830
Vranje	220
Obrenovac	1,000
<b>Total</b>	<b>3,190</b>

Source: Migration Profile of CRM<sup>1002</sup>

Only the Asylum Centre in **Banja Koviljača** is a permanent centre *per se*; the other centres are 'temporary' locations for the housing of asylum seekers. The overall reception capacity of the Asylum Centres according to the CRM is 3,190. However, the capacity of the centres is estimated only by the number of available beds, rather than their overall facilities, including toilets, bathrooms and kitchens.

## 1.2 Temporary reception centres

In the second half of 2015, the Government opened 12 temporary receptions centres in order to provide emergency reception conditions for persons who were irregularly entering Serbia and transiting towards their preferred destination countries in the European Union. The one in Bela Palanka was permanently closed in 2024.

These centres are: **Preševo**, **Bujanovac**, **Piroć**, **Dimitrovgrad**, **Bosilegrad**, **Šid**, **Principovac**, **Adaševci**, **Sombor**, **Subotica** and **Kikinda**.

In 2024, the respective capacities of the temporary reception centres were as follows:

Temporary reception centre	Border location	Capacity
Preševo	North Macedonia	950
Bujanovac	North Macedonia	230
Sombor	Croatia	300
Principovac	Croatia	200
Adaševci	Croatia	900
Subotica	Hungary	220

<sup>1002</sup> Available at: <https://kirs.gov.rs/lat/azil/profil-centara>.

Bela Palanka (Divljana)	Bulgaria	Permanently closed
Dimitrovgrad	Bulgaria	90
Bosilegrad	Bulgaria	110
Pirot	Bulgaria	190
Kikinda	Romania	300
Šid	Croatia	140
<b>Total</b>		<b>3,630</b>

Source: Migration Profile of CRM<sup>1003</sup>

## 2. Conditions in reception facilities

### Indicators: Conditions in Reception Facilities

- Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places? ☐ Yes ☒ No
- What is the average length of stay of asylum seekers in the reception centres? Unknown
- Are unaccompanied children ever accommodated with adults in practice? ☒ Yes ☐ No
- Are single women and men accommodated separately? ☐ Yes ☐ No  
☒ In some occasions

Overcrowding, lack of privacy and poor hygiene have been just some of the reported issues in the previous years. These deficiencies were already highlighted in the 2017 report of the Council of Europe Special Representative of the Secretary General on migration and refugees who emphasized that standards of accommodation in both Asylum and Reception Centres could potentially raise issues under Article 3 ECHR.<sup>1004</sup> However, and due to the significant reduction in arrivals, the reception facilities which were operational in 2024 were not overcrowded. Still, the dilapidated and worn-out state of most of the facilities, accompanied with poor hygiene, remained a problem.<sup>1005</sup>

### 2.1 Conditions in asylum centres<sup>1006</sup>

#### Asylum Centre in Banja Koviljača

AC **Banja Koviljača** was established in 2008 as the first Asylum Centre in Serbia and is located in an urban area near **Loznica** town. The closest public services, primary school and police are approximately 1 km away from the AC, which represents an example of good practice. With a capacity of 120 persons, the overall conditions in the centre were of the highest quality, especially after its refurbishment. The centre operates an open regime and the living conditions in it are satisfactory: families with children and persons with special needs are prioritised in terms of accommodation, with single women residing in separate rooms from single men. Asylum seekers accommodated there usually do not have many negative remarks concerning the reception conditions.

The centre in Banja Koviljača has three floors with eleven rooms each, and there are eight showers and eight toilets on each of the floors. The centre has a TV room and a children corner where various creative workshops and activities are organised every day. Measures are taken for the preservation of family unity

<sup>1003</sup> Available at: <https://kirs.gov.rs/lat/azil/profil-centara>.

<sup>1004</sup> Council of Europe, *Report of the fact-finding mission by Ambassador Tomáš Boček, Special Representative of the Secretary General on migration and refugees to Serbia and two transit zones in Hungary*, 12-16 June 2017, available at: <http://bit.ly/2DwCnI2>.

<sup>1005</sup> Information obtained from IDEAS field officers.

<sup>1006</sup> For those instances where a source is not provided, the information was obtained from IDEAS field officers.



and of ethnic affiliation on reception and placement of persons. This means that members of different ethnic communities are placed on different floors or that the selection is made on the basis of the language the beneficiaries of accommodation speak. The AC also has eight indoor cameras inside the facility, and eight outdoor cameras, and the AC gate is locked during the night. The AC has its own heating system and it does not depend on the external heat supply. Asylum seekers are provided meals three times a day, and the meals are specially adjusted to their religious and health needs.

An auxiliary building within the Asylum Centre was adapted for provision medical services with a view to securing the permanent presence of medical staff.

A room has been designated for legal counsel and associations providing legal counselling to asylum-seekers. Still, AC Banja Koviljača was not operational in 2024.

### **Asylum Centre in Bogovađa**

AC **Bogovađa** remained closed in 2024. It was a Red Cross facility 70 km away from Belgrade, that was used for the accommodation of asylum seekers since 2011 with an overall capacity of 200 (which could be extended to 280, as was the case during the COVID-19 lockdown). In 2022, the AC was gradually used less and less, and it was finally closed in 2023.

While conditions improved since the renovation of the main building in 2018, during the time it was open it was clear that AC was not properly maintained and that most of the premises and sanitary facilities were in a dilapidated state with a poor level of hygiene. Its location in a weekend village surrounded by a forest also made it difficult for asylum seekers to use all the services they needed, with the exception of attending the primary school.

When in use, however, inspectors of the Asylum Office regularly visited the AC, and charity organisations also had access to it. Furthermore, a medical team used to be present in the centre every working day and, in case healthcare needs could not be addressed within the AC healthcare centre, the asylum seekers were transported to the outpatient clinic in Bogovađa, the Health Centre in Lajkovac or the hospital in Valjevo.

### **Asylum Centre in Tutin**

AC **Tutin** opened in January 2014 in the 'Dalas' former furniture factory. It was located there until March 2018, when a new accommodation facility for asylum seekers was opened in **Velje Polje**, four kilometres away from downtown Tutin, and 295 km away from Belgrade. In July 2024 AC Tutin was closed and all residents were transferred to AC Sjenica.

As a new building, the accommodation conditions in this centre had significantly improved compared to earlier years (including with a doctor present twice a week, security staff present 24 hours a day, workshops being facilitated by the CRM, and CSOs providing interpretation services).

However, the location of the town of Tutin was problematic, especially during the winter months when access by CSOs and the Asylum Office is severely hindered due to unfavourable weather conditions. Since 2020, the Asylum Office failed to regularly conduct the asylum procedure-related activities (and it only visited this facility in December 2023), which meant that asylum seekers there did not have effective access to the asylum procedure.<sup>1007</sup> This situation remained unchanged until its closure in 2024.

Officially, the centre could accommodate 230 persons. In 2023, AC Tutin was operational from January to March 2023 and then it was closed until the end of July. After it was reopened, it functioned normally until the end of October in terms of the number of residents. However, and after the CRM and MoI decided

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<sup>1007</sup> APC, Azilni postupak nedostižan za izbeglice, 27 November 2020, available in Serbian at: <https://bit.ly/39BgZnj>.

to transfer all asylum seekers to AC Sjenica and AC Tutin, AC Tutin became overcrowded hosting between 250 and 330 residents in the period of November-December, until it finally closed in July 2024.

### **Asylum Centre in Sjenica**

AC **Sjenica** was set up as a temporary centre in the former Hotel Berlin, in the town of Sjenica, to accommodate an increased number of asylum-seekers in Serbia in August 2013. In March 2017, the former textile factory Vesna was added to the Asylum Centre. The old Hotel Berlin, with inadequate conditions and collective dormitories in the hall, was closed in July 2018. The centre in Sjenica is now located only in the former factory Vesna, downtown Sjenica. Its reception capacity is of 440 persons, accommodated in 27 rooms. It is approximately 250 km away from Belgrade and the underdeveloped road infrastructure poses particular difficulties for the NGOs and the Asylum Office.

Within the AC, there is a children's area, a TV room, and a playground in front of the building. Meals are provided to asylum seekers three times a day and are specially adjusted to their religious and health needs. There is also a designated room for the social workers from the local SWC.

Mandatory examinations on admission into the AC for assessment of health status or identification of potential contagious diseases are conducted at the local Health Centre. A doctor is present in the AC from 8:30 a.m. to 4:30 p.m. on workdays. The asylum-seekers in need of specialised examinations and stationary treatment are transported to the hospitals in Novi Pazar or Užice.

In 2020, AC **Sjenica** was mainly used to accommodate UASCs but was mostly empty in 2021, with the exception of between 10 and 20 beneficiaries who required medical attention. In 2022, AC Sjenica hosted less than 80 residents on average and the turnover was high. The living conditions could be described as inadequate in the old part of the factory, while significant improvements were made during 2019 when the entrance, kitchen and a certain number of bedrooms were refurbished. The new part of the building provides more privacy and plenty of accommodation space. The children who used to be accommodated at the AC are satisfied with the organised activities. Between January and August 2023, AC Sjenica hosted between 40 and 200 residents on average. Since July 2024, AC Sjenica has been designated as the main facility for accommodation of single male adult asylum seekers. It accommodated around 120 persons on average.

### **Asylum Centre in Krnjača**

AC **Krnjača** was founded in the Belgrade municipality of **Palilula** in 2014 as a temporary centre for accommodation of asylum-seekers. The AC is located in the compound of workers' barracks used – since early 1990s – for accommodation of refugees from Croatia and Bosnia and Herzegovina as well as of IDPs from Kosovo. It can officially host 830 persons - making it the second biggest asylum centre destined to accommodating asylum seekers in Serbia. In practice, however, the AC's actual and realistic capacity is of approximately 500 to 600 residents, when taking into consideration other standards including privacy, safety, overcrowding and hygiene.

The conditions in the centre partially improved after the 2017 renovation of the older barracks. However, video surveillance was installed but the number of security staff is inadequate. Asylum seekers also often report poor hygiene and lack of privacy. Three meals per day are provided and are specially adjusted to asylum seekers' religious and health needs. The AC has a hair salon and a tailor shop, and civil society organisations organise various courses in the common premises so that accommodated asylum seekers can improve specific crafts or languages. Still, the fact that large number of people come and go has led to the situation in which most of the barracks are in dilapidated state, including the toilets and showers.<sup>1008</sup>

Free health care is available to all the persons residing in Krnjača, irrespective of their legal status. A medical team is present until 8 p.m. every day except Sunday in a designated area adapted for adequate provision of this type of services. Asylum seekers and others in need of specialised examinations are

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<sup>1008</sup> Observed by IDEAS legal representatives during regular visits.

referred to one of the hospitals in Belgrade and are assisted by interpreters and CRM representatives. The lack of interpreters can sometimes create problems in communication with doctors, and there were several instances in which ambulance failed to respond to the calls of CRM workers, which has led to a situation in which camp employees had to transfer applicants to the hospital themselves.

AC Krnjača hosts vulnerable applicants, including SGBV survivors, families with small children, women who travel alone, LGBTQI+ persons and others. Since 2023 many incidents have been reported including physical assaults and constant psychological abuse (people being offended, mocked and verbally bullied) by the residents of the nearby informal settlement. The most severe incidents were reported to the Police, but the ill-treatment continued and the abusers continue to act with impunity. In 2023, there was a serious physical altercation between the group of Russian asylum seekers and inhabitants of the informal settlement which led to physical injuries.<sup>1009</sup> Many asylum seekers have clearly outlined that they are afraid to walk to the AC during the night. In 2024, IDEAS published two assessments which clearly corroborate the lack of special reception guarantees to vulnerable asylum seekers in reception facilities in Serbia, and especially in AC Krnjača.<sup>1010</sup> Both publications clearly indicate that there is no vulnerability assessment of beneficiaries upon their arrival, nor are there specially-designed programs of support. Accommodation is identical for everyone, and the testimonies collected by IDEAS clearly indicate that CRM has failed to design special programs and that accommodation in general implies provision of the most basic needs such as food, shelter and clothes.

### Asylum Centre in Vranje

In May 2017, the Reception Centre in **Vranje** (220 places) opened, in a motel at the entrance of the town. The conditions in Vranje may be described as very positive bearing in mind their provisional nature, but the realistic capacities that would guarantee human dignity and a longer stay are several dozen less. In June 2021, this facility became an asylum centre, accommodating Ukrainian families (28 persons in total) at the end of March 2022, and 40 persons in mid-April. The living conditions in the AC Vranje are of the highest standards and this facility was completely refurbished and equipped with new furniture for Ukrainian refugees. In January 2023, AC in Vranje accommodated 83 refugees from Ukraine, while this number at the end of the year was around 50. In 2023, the official capacity according also to the CRM data, was reduced to 150, which is more reasonable. However, in 2024, the official capacity was once again 220 even though no major refurbishments or extensions were performed.

### Asylum Centre in Obrenovac

Another reception centre for the accommodation of a larger number of refugees and asylum seekers was opened in a military barracks in **Obrenovac** (1,000 places) in January 2017 - the capacities are assessed in relation to available beds. The capacity in 2020 and 2021 was estimated to be of 650 persons by the CRM. Still, this number was not realistic and it is clear that RC Obrenovac should not have hosted more than 400 persons at that time. The idea behind the opening of the centre was to provide accommodation for persons in need of international protection who used to stay in unhygienic and unsafe conditions in Belgrade. However, at the outset of its functioning, it started to suffer from overcrowding, which led to a number of violent incidents among its population. The presence of organised criminal groups involved in smuggling is evident.

In June 2021, this facility was turned into an Asylum Centre but no official activities of the Asylum Office were reported in 2022 and 2023. However, at the end 2021, detailed reconstruction of the facility started and in the last quarter of 2022, the capacities of this AC had extended to 1,000 beds officially. As

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<sup>1009</sup> Observed by IDEAS legal representatives during regular visits to AC Krnjača and reported to IDEAS by its clients.

<sup>1010</sup> IDEAS, *Assessment of LGBTQI+ Asylum Seeker Experiences in Serbia: Analysis of Reception Conditions, Support Services, and Recommendations for Policy Reform*, April 2024, available at: <https://ideje.rs/wp-content/uploads/2024/09/Assessment-of-LGBTIQ-Asylum-Seeker-Experiences-in-Serbia.pdf> and *Bridging the Gap: Enhancing Support for GBV Survivors in Serbia's Asylum System*, April 2024, available at: <https://ideje.rs/wp-content/uploads/2024/09/Enhancing-Support-for-GBV-Survivors-in-Serbias-Asylum-System.pdf>.

previously mentioned, the capacity of the centres should be lower, but newly refurbished areas are clean, provide privacy and smaller rooms, in combination with old bigger dormitories with 10 to 15 beds. The conditions in most of the areas in the AC are satisfactory. In 2023, AC Obrenovac hosted between 340 and 950 residents, while that number in 2025 was around 50. This fact clearly indicates that CRM's policy to refer people to AC Sjenica cannot be justified and that it further undermines the effectiveness of the Serbian asylum system. AC Obrenovac had sufficient capacity to host all persons who genuinely wanted to apply for asylum and who could have had their asylum interviews facilitated in a more timely manner due to the vicinity of this facility to the headquarters of the Asylum Office.

The number of foreigners accommodated in asylum centres and reception centres on 31 December 2024 were the following:

Asylum Centre	Capacity	Number of residents 30 June 2024	Number of residents on 31 December 2024	Overcrowding rate
Banja Koviljača	120	N/A	N/A	N/A
Bogovađa	200	N/A	N/A	N/A
Tutin	380	35	N/A	0%
Sjenica	440	119	78	0%
Krnjača	830	119	104	0%
Obrenovac	1,000	42	26	0%
Vranje	220	49	61	0%
<b>Total</b>	<b>3,190</b>	<b>364</b>	<b>269</b>	<b>0%</b>

Source: Migration Profile of the CRM<sup>1011</sup>

## 2.2. Conditions in temporary reception facilities

As already outlined, the number of refugees and migrants arriving in Serbia was significantly higher in 2022 in comparison to 2021, but the last quarter of 2022 saw a significant drop in arrivals, and thus in the number of people accommodated in RCs.<sup>1012</sup> In 2023, the number of arrivals was 108,808, while in 2024 the sharp decrease was detected leading to 19,603 arrivals.

The authorities started opening temporary reception facilities in 2015 in order to provide basic accommodation and humanitarian support to persons who were likely in need of international protection but were not interested in seeking asylum in Serbia. These are not Asylum Centres and are not meant for long-term stay, even though the Asylum Act provides for the possibility for the asylum procedure to be facilitated there. Persons in need of international protection and other categories of migrants were placed in the majority of these centres throughout the year.

### Reception centres on the South of the country

The reception ('one-stop') centre in **Preševo** (950 places), close to the border with North Macedonia, was opened during the summer of 2015. Emergency support was initially provided by Red Cross Serbia and the local municipality, but the Government soon decided to have a local tobacco factory adapted and turned into a registration and accommodation facility. The centre has a reception capacity for several hundred persons at any given moment.

On 3 January 2023, 768 persons were accommodated there, while that number in April 2022 was 1,511. In the period from 5 November 2023 until 31 December 2023 the number of residents varied from 727 to

<sup>1011</sup> Available at: <https://kirs.gov.rs/lat/azil/profil-centara>.

<sup>1012</sup> An average number of refugees and migrants residing in Serbia was between 7,000 to 8,500 on a daily basis in the first 9 months of 2022, after which this number dropped to 3500 to 5,000 persons, inside and outside reception facilities.

290. In January 2024 it accommodated 279 persons, while that number at the end of the year was 233.

It is important to highlight that RC **Preševo** is mainly built for short-term stays and is comprised of collective sleeping premises, with several dozen bunk beds and without the possibility to enjoy the right to privacy. In general, RC Preševo cannot be considered as suitable accommodation for persons in need of international protection and its realistic capacities that could meet relevant housing standards are significantly lower than 950, which is the 2024 official number.

Also, it is important to note that the geographical location of RC in Preševo is easy for identification, registration and vulnerability assessment of newly arrived foreign nationals because is located close to the border with North Macedonia, a main entry point into Serbia. However, vulnerability assessments are not conducted in practice, leaving this facility to be the place where people would spend several days and would move on with their journey.

RC **Bujanovac** (230 places) in Southern Serbia opened in October 2016, in a former automotive battery factory lying along the Belgrade-Skopje highway. The reception conditions may be described as satisfying, especially when the number of residents is lower than the official capacity. RC Bujanovac was not operational for most of 2021 and 2022, but was fully operational in 2023. Its occupation varied from 100 in January to 452 in November 2023 and remained overcrowded until the end of the year. In 2024, the occupancy varied from 82 to 116 maximum in February.

### Reception Centres on the north of the country

The reception centre in **Sombor** (300 places) opened in 2015, in the warehouse of a military complex close to the border with Croatia. The centre's capacity was increased to 160 places, in comparison to the 120 places available in 2021. On 19 December 2021, the overcrowding rate in this RC was 580%. On 26 September 2022, 768 persons were accommodated in this RC, while on 3 January 2023, this number significantly decreased to 384. In 2023, its official capacity was of 300 places and it hosted between 220 and almost 400 until November 2023 when it was official closed. It remained closed throughout 2024.

RC in Sombor is the facility that was known to be run by organised criminal groups involved in smuggling with dozens of security incidents, poor living conditions, lack of privacy and in general its failure to meet the requirements for the respect of human dignity (see section on [Access to the Territory](#)). In March 2023, a part of RC Sombor where people lived in tents burned down.<sup>1013</sup>

Additional centres operate in **Principovac** (200 places), **Adaševci** (1,000 places), and **Šid** municipality, close to the Croatian border. In 2022 at RC **Principovci** did not reach more than 250 people, while that number in 2023 varied from several dozen to 316. In September 2022, RC **Adaševci** accommodated 1,243 persons, but in the last quarter of the year, the numbers dropped to 195 persons, all accommodated in solid building outside the rubb halls.<sup>1014</sup> The drop-in number of residents mirrors that of general arrivals at that period. However, in 2023, RC Adaševci hosted several dozen to 929 foreign nationals. RC Adasevci has been closed since December 2023, while RC Šid has been closed since July 2024. RC Adaševci has been known for extremely overcrowding conditions, poor hygiene, lack of security and privacy and ill-treatment committed by the hands of employees towards residents.<sup>1015</sup>

The reception centre in **Subotica** (220 places) was opened in 2015 at the height of the refugee and migrant movement into Hungary. Like the other reception centres, it was inadequate for long-term residence. Residents are accommodated in group container rooms which do not guarantee privacy or the possibility to maintain hygiene. There were instances of attacks and stabbing reported by beneficiaries who resided there, as well as attacks from the local population.<sup>1016</sup> The RC Subotica was overcrowded in 2022, when it illustratively hosted 431 persons in September. In 2023, the highest recorded number of

<sup>1013</sup> RTV, *U požaru izgorio objekat u Prihvatnom centru u Somboru*, 2 March 2023, available at: <https://bit.ly/4ahzTvD>.

<sup>1014</sup> Rubb halls are big tent constructions used to accommodate up to 100 foreign nationals.

<sup>1015</sup> See more in *AIDA Country Report: Serbia - 2023 Update*, pp. 175-177.

<sup>1016</sup> APC Twitter, available at: <https://bit.ly/3ioXFgC>.

residents was 248. In November 2023, RC Subotica was closed and it remained closed in 2024.

In April 2017, an additional centre was opened in **Kikinda** (300), close to the Romanian border, in refurbished agricultural facilities. The vast majority of the persons accommodated Kikinda and Subotica used to be on the waiting list for entry to Hungary.<sup>1017</sup> For instance, during the COVID-19 lockdown, RC **Kikinda** hosted 660 refugees and migrants. The number remained unchanged on 10 January 2021, while on 6 June 2021, it hosted 884 persons. Only 216 beneficiaries were accommodated in Kikinda in September 2022. The highest number of residents was recorded in August 2023, when 172 foreign nationals were accommodated there. RC Kikinda has been closed since November 2023.

In mid-2016, the authorities of Serbia opened three additional centres in **Dimitrovgrad** (90), **Bosilegrad** (110) and **Pirot** (190) to handle the increasing number of arrivals from Bulgaria. Another reception centre was opened in **Bela Palanka** (280) on 30 December 2016. All of these centres offer very basic, ageing facilities and are inadequate for anything other than very short-term stay: for example, the centre in Dimitrovgrad only offers collective dormitories, and there are no separate male and female toilets. RC **Dimitrovgrad** was not operational in 2021 and 2022, while RC Pirot and RC Bela Palanka reopened but no overcrowding was recorded. In 2023, RC Dimitrovgrad became operational at the end of the year hosting between 40 and 75 residents, while RC Pirot was overcrowded for most of the year hosting around 350 persons in July, mainly from Morocco. RC Bosilegrad was opened for most of the year offering the best living conditions in a refurbished building with separate 4 to 8 bunk beds per room. It was briefly overcrowded in November 2023. RCs Pirot, Bosilegrad and Dimitrovgrad were closed in the first half of 2024. RC Bela Palanka was permanently closed in 2024.

In general, the majority of Reception Centres lack adequate living conditions due to their nature and purpose. Namely, the Reception Centres were established and designed during the 2015/2016 mass influx of refugees with the aim to provide a short-term stay not exceeding several days. However, as the border policies of neighbouring countries changed, and the time of stay in Serbia increased from several days to several weeks or months, the living conditions in the RCs deteriorated. For that reason, arguably the living conditions in the majority of RCs are inadequate and the main features are the following: overcrowding, poor hygiene, lack of privacy and safety, poor sanitation and lack of basic psycho-social services.

What is also important to note is the fact that every year capacities of different reception facilities are officially changed, even though major reconstructions were not undertaken. The criteria used by CRM when officially increasing or decreasing the official capacities are not clear, except for the one relating to the number of beds available.

Finally, it is also important to outline that CSOs in Serbia have not paid particular attention to the living conditions in Reception Centres and that all the data is collected through general observations made during the visits conducted for the purpose of legal counselling. Thus, thematic visits aimed at thoroughly documenting and reporting on the living conditions in the Reception Centres should be prioritised in the future. This is important for several reasons. First of all, the official narrative in the past was that Serbia can accommodate up to approximately 8,200 persons. However, this capacity is determined by the number of beds and not quality of the living conditions. This is also important for the future and potential cases of expulsions to Serbia, where sending states should bear in mind the quality of the reception conditions in respect to Article 3 of ECHR.<sup>1018</sup> And finally, more detailed data on the current state of asylum and reception centres could be used as an advocacy tool for improvement of the living conditions. According to the official data, but also reports published by the NPM, realistic capacities of reception centres are at least 30 to 50% lower than the official number, when one applies the standards of the EUAA and other human rights standards.

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<sup>1017</sup> AIDA, *Country Report: Hungary – Update on the year 2018*, March 2019, available [here](#), 18.

<sup>1018</sup> ECtHR, *Tarakhel v. Switzerland*, Application no. 29217/12, Judgment of 4 November 2014, EDAL, available at: <http://bit.ly/2RvQipS>.



Reception centre	Official Capacity	Number of residents on 1 January 2024	Overcrowding rate	Number of residents on 31 December 2024	Overcrowding rate
Preševo	950	279	0%	233	0%
Bujanovac	230	82	0%	36	0%
Sombor	300	N/A	0%	N/A	0%
Principovac	200	N/A	0%	28	0%
Adaševci	900	N/A	0%	N/A	0%
Subotica	220	N/A	0%	N/A	0%
Dimitrovgrad	90	10	0%	N/A	0%
Bosilegrad	110	33	0%	N/A	0%
Pirot	190	57	0%	N/A	0%
Kikinda	300	N/A	0%	N/A	0%
Šid	140	20	0%	N/A	0%
<b>Total</b>	<b>3,630</b>	<b>481</b>	<b>0%</b>	<b>297</b>	<b>0%</b>

Source: Migration Profile of CRM<sup>1019</sup>

## C. Employment and education

### 1. Access to the labour market

#### Indicators: Access to the Labour Market

- Does the law allow for access to the labour market for asylum seekers?  
❖ If yes, when do asylum seekers have access the labour market? ☒ Yes ☐ No  
9 months
- Does the law allow access to employment only following a labour market test? ☐ Yes ☒ No
- Does the law only allow asylum seekers to work in specific sectors?  
❖ If yes, specify which sectors: ☐ Yes ☒ No  
N/A
- Does the law limit asylum seekers' employment to a maximum working time?  
❖ If yes, specify the number of days per year ☐ Yes ☒ No  
N/A
- Are there restrictions to accessing employment in practice? ☒ Yes ☐ No

Asylum seekers did not have the right to work when the old Asylum Act was in force.<sup>1020</sup> Only after the Employment of Foreigners Act (EFA) was adopted at the end of 2014 were asylum seekers recognised as members of a specific category of foreigners entitled to obtain a work permit.<sup>1021</sup> EFA was amended in July 2023, introducing more favourable provisions on access to labour market. The novelties imply that access to labour market to asylum seekers is now allowed after 6 months of lodging of the asylum application. Additionally, it is no longer necessary to request working permit, but the right to work can be automatically enjoyed after the expiry of the 6 months deadline.<sup>1022</sup>

<sup>1019</sup> Available at: <https://kirs.gov.rs/lat/azil/profili-centara>.

<sup>1020</sup> A11, *Precondition for Integration*, February 2021, available at: <https://bit.ly/2ZYXZcS>, 14-16 and 55.

<sup>1021</sup> Article 2 (1) (9) Employment of Foreigners Act, Official Gazette of the Republic of Serbia, no. 128/2014, 113/2017, 50/2018, 31/2019 and 62/2023.

<sup>1022</sup> This has been done through the amendments of Article 3 of the EFA.



Persons entering the asylum procedure in Serbia do not have an *ipso facto* right to access the labour market.<sup>1023</sup>

Asylum seekers whose asylum applications have not been decided upon through no fault of their own within 6 months of being lodged have the right to be issued a work permit valid for as long as the asylum procedure is ongoing.<sup>1024</sup> Thus, the entire process is simplified and more favourable for asylum seekers and the only remaining problem remains the time necessary for registration and the 15+8 days deadline to lodge asylum application.<sup>1025</sup> Still, it is not necessary to extend the working permit every six months which makes the life of asylum seekers easier.

Another benefit of the 2023 amendments of EFA imply that it is no longer necessary to lodge request to the National Employment Service (NES), to pay the fee and to wait, sometimes extensively for the issuance of the working permit.

The only remaining documents that asylum seekers require, and which are mainly obtained with the help of CSOs who are providing legal assistance and from the Asylum Office are:

1. Certificate of lodging of the asylum application
2. Personal number of a foreigner

In practice, 4 out of 7 Asylum Centres are located in remote areas in Serbia, where the unemployment rate in general is quite high (**Tutin, Sjenica, Vranje and Bogovađa**) and where access to job opportunities is extremely limited. For that reason and bearing in mind that asylum seekers wishing to remain in the country strive to integrate into society as quickly as possible, referring asylum seekers to remote asylum centres or in reception centres has an evident and discouraging effect on their aspiration to stay in Serbia. In 2023, especially in the last quarter, most of the asylum seekers have been referred to AC Sjenica and AC Tutin. In 2024, most of the asylum seekers were referred to AC Sjenica.

However, as it was noted by A11, asylum seekers in Serbia do not have an effective access to the right to work due to the following reasons:

- ❖ There is no specialised State authority providing support to access the labour market.
- ❖ There is no regulation governing the manner in which support to access the labour market would be provided,
- ❖ The right to work is not exercised in practice with institutional support, but only with the support of the CSOs that are UNHCR partners.<sup>1026</sup>

Another issue is the fact that asylum seekers in general are not recognized as persons who are entitled to any kind of support, including the support in learning Serbian language. Thus, language barrier limits the opportunities in the job market.

All asylum seekers are recorded at the NES as unqualified workforce and the condition to register their qualification in the records is validation of their diplomas, which can prove their qualification degree. However, the majority of them do not hold original versions of their diplomas and documentation from their country of origin and most frequently, there is no real possibility to obtain them.<sup>1027</sup>

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<sup>1023</sup> Article 57 Asylum Act.

<sup>1024</sup> Article 3 EFA.

<sup>1025</sup> See more in AIDA, *Country Report: Serbia – Update on the year 2022*, May 2023, available [here](#), 168.

<sup>1026</sup> A11, *Precondition for Integration, February 2021*, available at: <https://bit.ly/2ZYXZcS>, pp. 55-58.

<sup>1027</sup> BCHR, *Right to Asylum in the Republic of Serbia – Periodic Report July-September 2020*, available at: <https://bit.ly/46pjYtd>, p. 41.

## 2. Access to education

### Indicators: Access to Education

- |  |   |
|--|---|
| 1. Does the law provide for access to education for asylum-seeking children? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 2. Are children able to access education in practice?                        | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

Pre-school education is not possible for asylum-seeking children, but only for those children who are granted asylum, which will potentially be changed with new amendments to the Asylum Act.<sup>1028</sup> These amendments were expected in 2024, but the political situation in Serbia implied several elections and resignation of the Government in February 2025. According to the author of this report, is unreasonable to expect that in 2025 the changes will come into force.

Asylum seekers have the right to free primary and secondary education regardless of their age.<sup>1029</sup>

The right to education in Serbia is regulated by a number of legal instruments, primarily the Act on the Basis of the Education System,<sup>1030</sup> with relevant issues also regulated by the Primary School Act,<sup>1031</sup> the Secondary School Act<sup>1032</sup> and the High Education Act.<sup>1033</sup> These laws also govern the education of foreign nationals and stateless persons and the recognition of foreign school certificates and diplomas.

As already outlined, asylum seekers are not entitled to receive pre-elementary school education.<sup>1034</sup> Also, the Integration Decree does not foresee any kind of support to asylum-seeking children in their preparation for enrolling in elementary school. These children are mainly supported by CSOs and international organisations, but it is also important to note that CRM also provides its assistance, even though they are not legally obliged. Still, several cases from IDEAS practice have shown that it is possible to enrol children in pre-elementary (kindergarten) institutions.

The application process for kindergartens takes place through the electronic portal eUprava (eVrtić). Electronic submission of requests is done by filling out an electronic form on the Portal, where it is not necessary to attach documents that should have been submitted earlier, given that they are obtained *ex officio*. This request can only be submitted by a parent who is a citizen of Serbia, which means that this service is not available to asylum seekers and refugees.

The financial aspect further complicates access to preschool education for the children of asylum seekers, because they are not able to receive subsidies that are available to citizens of Serbia and foreigners with permanent residence.<sup>1035</sup> Subsidies for children's stay in kindergartens significantly reduce costs for parents, but the criteria for receiving them are set so that asylum seekers cannot meet them.

In order for a family to be entitled to a subsidy for a private kindergarten, it is necessary for the parent to have Serbian citizenship or permanent residence in Serbia, to be registered in the territory of the municipality where the child is enrolled in the kindergarten, and it was not previously possible for the child to be enrolled in the state kindergarten due to insufficient capacity.<sup>1036</sup> It is precisely these conditions that

<sup>1028</sup> Article 27 of the draft Amendments to the Asylum Act, available at: <https://bit.ly/3yepU9U>.

<sup>1029</sup> Article 55(1) Asylum Act.

<sup>1030</sup> Act on the Basis of the Education System of the Republic of Serbia, Official Gazette of the Republic of Serbia, no. 72/2009 and 52/2011.

<sup>1031</sup> Primary School Act of the Republic of Serbia, Official Gazette of the Republic of Serbia, no. 50/92, 53/93, 67/93, 48/94, 66/94 – Constitutional Court decision, 22/2002, 62/2009 – other law, 101/2005 – other law and 72/2009 – other law.

<sup>1032</sup> Secondary School Act of the Republic of Serbia, Official Gazette of the Republic of Serbia, no. 50/92, 53/93, 67/93, 48/94, 24/96, 23/2002, 25/2002 – cor. 62/2003 – other law, 64/2003 – corr. of other law, 101/2005 – other law, 72/2009 – other law and 55/2013 – other law.

<sup>1033</sup> High Education Act of the Republic of Serbia, Official Gazette of the Republic of Serbia, no. 76/2005, 100/2007 – authentic interpretation, 97/2008 and 44/2010, 93/2012 and 89/2013.

<sup>1034</sup> Article 48 Asylum Act.

<sup>1035</sup> Decision on the Right to Compensation for Children's stay in a Preschool Institution whose Founder is Another Legal or Natural person in the Territory of the city of Belgrade, *Official Gazette of the City of Belgrade*, no. 41/2023, available at: [http://demo.paragraf.rs/demo/combined/Old/t/t2023\\_07/BG\\_041\\_2023\\_004.html](http://demo.paragraf.rs/demo/combined/Old/t/t2023_07/BG_041_2023_004.html).

<sup>1036</sup> *Ibid.*

exclude asylum seekers, making it significantly difficult or completely impossible for them to access kindergartens. The way subsidies are paid additionally points to institutional support for domestic families, while asylum seekers do not have access to these benefits at all.

This situation leaves many families of asylum seekers and refugees in a vicious circle - without a kindergarten, parents cannot work or get an education, and without a job they cannot afford a kindergarten, which makes their integration and economic independence difficult.

The Act on the Basis of the Education System foresees that foreign nationals and stateless persons shall enrol in primary and secondary schools and exercise the right to education under the same conditions and in the same manner as Serbian nationals. Schools are obliged to organise language, preparatory and additional classes for foreign pupils, including stateless persons and refugees, who do not speak the language used in the schools or are in need of specific instructions in order to continue their education.<sup>1037</sup> Access to education for children shall be secured immediately and, at the latest, within three months from the date of their asylum application.<sup>1038</sup>

With joint efforts from the Ministry of Education, Science and Technological Development, Save the Children, UNICEF, CRM and other international and non-governmental organisations, all asylum-seeking children were provided with the opportunity to be included in mainstream education in the academic year 2017/2018 in line with the regulations governing mandatory attendance of primary schools for all children irrespective of their status or the status of their parents.

A major practical challenge proved to be regular school attendance by underage asylum seekers. Namely, the language barrier and limited number of interpreters for the languages spoken among the refugees resulted in a lack of interest among the children to attend lessons they do not understand. An additional challenge is the lack of interest of many parents in educational activities, as they are certain their stay in Serbia is only temporary. This trend continued during 2022. According to CRM, only 10 asylum seeking children were introduced in the Serbian educational system.<sup>1039</sup> Still, this number probably reflects those children accommodated in ACs, and especially Krnjača camp, but other asylum-seeking children staying in private accommodations have enrolled in schools in the municipalities where they live. In 2023, only 14 asylum seeking children in AC Krnjača were official enrolled into elementary schools, while no UASC was enrolled into school in RC Šid.

It is also important to note that there are no specifically designed programs for the preparation facilitated by the State, but that in AC Krnjača, Save the Children was facilitating preparation for those few children who are willing to attend elementary and secondary schools in 2023. Those asylum seekers who are eligible for the university education can be supported by the UNHCR through the DAFI scholarship. Currently, 6 refugees are enrolled into this program, out of which 2 have the status of an asylum seekers.<sup>1040</sup>

In 2021, with the help of the UNHCR office in Serbia, the ENRIC/NARIC Center of the Qualification Agency of the Republic of Serbia joined the Council of Europe project of the European Qualification Passport for Refugees.<sup>1041</sup> In 2022, several diplomas were recognized by the ENRIC/NARIC centre for one asylum seekers from Burundi represented by IDEAS. In 2023 4 asylum seekers had their diplomas recognized, and it is reasonable to assume that this number is higher due to the fact that APC and BCHR are providing this type of support as well.

Primary and secondary education is available to all the children residing in **Krnjača**. UASC accommodated in **Šid** do not attend school due to their short-term stay. The conclusion that can be drawn

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<sup>1037</sup> Article 100 Law on the Basis of the Education System of the Republic of Serbia.

<sup>1038</sup> Article 55(2) Asylum Act.

<sup>1039</sup> CRM, Response to the request for the information of public importance np. 019-27/2-2023, 9 March 2023.

<sup>1040</sup> See more at: UNHCR Serbia, *Oснаživanje izbeglica kroz visoko obrazovanje - UNHCR Serbia*, YouTube, 31 January 2024, available at: <https://bit.ly/3UAtICB>.

<sup>1041</sup> More on the European Qualification Passport see on the following link: <https://bit.ly/3wy8gOC>.

is that the majority of children do not attend schools regularly, due to problems in communication, but also frequent absence from asylum centres and eventual decision to leave Serbia.

There are no limitations in accessing the Serbian education system, and apart from language barrier and lack of institutional support in preparation for enrolment, there have not been any major problems reported. The lack of state support is for now covered by CSOs, UNHCR and Save the Children.

## D. Health care

### Indicators: Health Care

1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation? ☒ Yes ☐ No
2. Do asylum seekers have adequate access to health care in practice? ☐ Yes ☒ Limited ☐ No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice? ☐ Yes ☐ Limited ☒ No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care? n/a

The Asylum Act foresees that asylum seekers shall have an equal right to health care in relation to Serbian citizens, in accordance with the regulations governing health care for foreign nationals.<sup>1042</sup> In exercising the right to health care, adequate health care shall be provided as a priority to severely ill asylum seekers, applicants who have been victims of torture, rape or other serious forms of psychological, physical or sexual violence, or applicants with mental disorders.<sup>1043</sup>

Upon their arrival to the reception facility, asylum seekers are obliged to undergo a mandatory medical examination which is conducted in line with the Rulebook on medical examinations of asylum seekers on admission in asylum centres or other facilities designated for accommodation of asylum seekers. The Rulebook on medical examinations envisages that examinations shall be conducted by medical doctors at the healthcare services within ACs and RCs,<sup>1044</sup> and in practice, where certain service cannot be provided asylum seekers are transported to the outside medical facilities, usually with the assistance of the CRM and DRC. The examination includes anamnesis (infectious and non-infectious diseases, inoculation status), a general check-up and other diagnostic examinations.<sup>1045</sup>

Asylum seekers originating from countries with or other diseases that may pose a threat to public health shall be placed in quarantine or under medical supervision up to the period of maximum incubation for the suspected disease.<sup>1046</sup>

In practice, asylum seekers and persons granted asylum have relatively unimpeded access to the national healthcare system in an equal manner to Serbian nationals, including for primary and secondary care, but also referrals to specialist examinations. The costs of healthcare for asylum seekers and persons granted asylum are always covered by the Ministry of Health which also receives financial support from EU.<sup>1047</sup> It remains unclear if all the services are solely covered by the EU, especially because there were instances in which medical treatments which were expensive were not covered during the gaps in funding.<sup>1048</sup> This was in particularly worrying for the HIV patients and other people with rare diseases which require more expensive and continuous therapy.<sup>1049</sup>

<sup>1042</sup> Article 54 Asylum Act.

<sup>1043</sup> Article 54(3) Asylum Act.

<sup>1044</sup> Article 2 Rulebook on medical examinations.

<sup>1045</sup> Article 3 Rulebook on medical examinations.

<sup>1046</sup> Article 4 Rulebook on medical examinations.

<sup>1047</sup> The Government of the Republic Serbia, Press Statement, *EU to help Serbia prevent illegal migration*, 7 October 2022, available at: <https://bit.ly/41w4qli>.

<sup>1048</sup> Practice-informed observation by IDEAS, 2022-2023.

<sup>1049</sup> Ibid.

However, the Health Care Act (HCA),<sup>1050</sup> as well as the Health Insurance Act (HIA),<sup>1051</sup> are not harmonized with the Asylum Act. Particularly, the right to healthcare although prescribed to every person, is provided on the basis of the health insurance.<sup>1052</sup>

Thus, and in cases in which asylum seekers were not able to obtain more expensive medical assistance, they must be included in the health insurance system which must be paid. The HIA envisages possibility of asylum seekers, qualified as foreigners, to pay healthcare insurance by themselves, and in that way secure adequate therapy.<sup>1053</sup>

In reality, not all staff of the Republic Fund of Health Insurance is familiar with this legal possibility and thus, a different approach exists within different organizational units of this institution. Besides, inclusion in the health insurance system requires a monthly contribution from its beneficiaries. That amount in 2024 was 4,134.73 dinars (around 37 Euros).<sup>1054</sup> This is an obstacle, since asylum seekers are not able to work in the first 6 months, and they do not receive financial support. Thus, for the inclusion in the health insurance system, they have to rely only on the financial help of international organisations or CSOs who so far have been able to cover the cost due to a low number of asylum seekers in general, and even lower number of persons who require more expensive therapy. This represents a problem especially for people who suffer from chronic diseases and need of constant or expensive therapy.<sup>1055</sup>

However, it is important to reiterate that the vast majority of persons accommodated in Asylum or Reception Centres do not enjoy the status of asylum seeker (they did not lodge asylum application) and are thus not entitled to health care, as envisaged in Article 54 of the Asylum Act. However, all persons issued with registration certificates are in practice treated as asylum seekers and are allowed to receive primary medical treatment. Still, even those people who lodged asylum applications can have difficulties in accessing health care services by themselves, especially if they live on the private address, because they are not issued with healthcare cards, nor are they introduced into healthcare records in local medical centres. The health care centres which cover the area where AC Krnjača is located are more familiar with the notion of asylum seekers as beneficiaries of health care. On the other hand, most of other health care centres are not familiar with this and asylum seekers often require to be escorted by lawyer or cultural mediator. There are no indications that this practice will change.

The problems from 2022 were resolved in the same way as in 2023, and all asylum seekers who were seriously ill (e.g., HIV patients) were assisted by IDEAS' legal team in order to access health care insurance, in cooperation with the Republic fund for Health Insurance, and with financial support from UNHCR. In 2023, 6 asylum seekers were enjoying mandatory health care insurance for therapies for AIDS. In 2024, three more asylum seekers accessed mandatory health care insurance.<sup>1056</sup>

With regards to mental healthcare problems, in 2018, PIN and WHO developed the *Guidance for protection and improvement of the mental health of refugees, asylum seekers and migrants in Serbia*,<sup>1057</sup> which was adopted by the Ministry of Health and the Commissariat for Refugees and Migration. This Guidance provides that mental health protection services should be delivered on four levels – initial screening, prevention activities, psychological interventions, and psychiatric care. It is recommended that these services be available throughout the public healthcare system, while civil society organisations would fill in the gaps in line with identified needs.<sup>1058</sup> Still, and in practice, psychological support is provided

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<sup>1050</sup> Official Gazette no. 25/19.

<sup>1051</sup> Official Gazette no. 107/25, 109/05 – correction, 57/11, 110/12 – Constitutional Court Decision, 119/12, 99/14, 123/14, and 126/14 – Constitutional Court Decision.

<sup>1052</sup> Ibid. 3

<sup>1053</sup> Article 17, HIA.

<sup>1054</sup> The current amount of fee for the introduction in the mandatory health care insurance can be found on the following link: <https://bit.ly/3WDt0A3>.

<sup>1055</sup> As outlined, that was the case with several asylum seekers suffering from AIDS.

<sup>1056</sup> Information obtained from UNHCR office in Serbia and practice informed observation by IDEAS.

<sup>1057</sup> Svetozarević, S., Vukčević, Marković, M., Pejušković, B., & Simonović, P. (2019), *Guidance for protection and improvement of mental health of refugees, asylum seekers and migrants in republic of Serbia*, available at: <https://bit.ly/3r7wBEZ>.

<sup>1058</sup> Ibid.

by CSOs, such as PIN and IAN. Their psychosocial workers regularly visit asylum centres, as well RC in Šid. Psychosocial support is also provided by the IOM. Special assistance to SGBV survivors is provided by DRC, while ATINA supports survivors of trafficking in human beings, and in coordination with local social welfare centres.

In line with Article 17 of the Asylum Act, asylum seekers who fall under vulnerable categories are entitled to special reception guarantees, which also implies health care needs should be properly addressed. In general, it is possible to access gender-sensitive health care opportunities, meaning that female doctors provide health care services to female asylum seekers. There were no reports which indicate that pregnant women, children or other vulnerable asylum seekers were deprived of specific health care services.

However, it is important to note that there is no systematically designed vulnerability assessment for vulnerable foreign nationals when they arrive to reception facilities, and thus, it is impossible to determine to which extent vulnerable categories are identified and referred to support networks of state institutions and CSOs. Usually, identification of vulnerable refugees and asylum seekers is conducted in relation to those individuals who are willing to apply for asylum, while those who stay for shorter periods of time in the country go undetected.

## E. Special reception needs for vulnerable groups

### Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?

☐ Yes

☒ No

Due attention shall be given to applicants' sex and age, status as a person requiring special procedural and/or reception guarantees, as well as family unity, upon placement in a reception facility.<sup>1059</sup>

The Asylum Act defines the specific guarantees that should be granted during the asylum procedure and in relation to reception conditions of asylum seekers with specific needs, including children, persons lacking or having limited legal capacity, children separated from their parents or guardians, persons with disabilities, the elderly, pregnant women, single parents with underage children and persons who had been subjected to torture, rape or other forms of grave psychological, physical or sexual violence.<sup>1060</sup> However, these provisions are only applicable to asylum seekers,<sup>1061</sup> and not to all foreign nationals who arrive to reception facilities and whose number, according to the CRM, has reached 19,603 in 2024. Thus, the national legal framework clearly neglects the responsibility of the State to conduct different forms of vulnerability assessment and in line with the indicators which are relevant for survivors of trafficking in human beings, torture survivors, elderly and other above-outlined categories.

On the other hand and in practice, none of the 219 asylum seekers from 2024 underwent any kind of vulnerability assessment nor were reception conditions adapted to their special needs.<sup>1062</sup> Even though the representatives of the CRM would claim that every person has an individual vulnerability assessment form, none of IDEAS' vulnerable clients have gone through such assessment, nor the conditions in which seriously vulnerable applicants are being held respond to their special needs.

In 2024, vulnerable foreign nationals were placed in AC Krnjača: LGBTQI+, SGBV survivors, single women, families with small children and people with healthcare and psychosocial needs. However,

<sup>1059</sup> Article 50 (3) Asylum Act.

<sup>1060</sup> Article 17 Asylum Act.

<sup>1061</sup> Who have to lodge asylum applications in line with Article 36 of the Asylum Act, after which they become entitled to rights of asylum seekers enshrined in Article 48.

<sup>1062</sup> See more in IDEAS, *Assessing the reception conditions of LGBTQI+ asylum seekers and refugees in Serbia: Identifying challenges and proposing recommendations and Recognition and Reception: Advancing Support* Source: MOLEVSA response on the request for the information of public importance no. 003611250, 8 January 2025 (received on 16 January 2025).



throughout 2024, this facility also hosted dozens of single men from different countries who were mixed with the vulnerable population. This meant that LGBTQI+ foreign nationals were placed together with other single males or families with anti-LGBTQI+ attitude, that women, including those who survived SGBV, would share facilities with single males, including showers and toilets. Also, AC Krnjača has been in dilapidated state for some time now, meaning that many of the showers and toilets were broken, leading to even more people using the same facilities. Thus, AC Krnjača does host the most vulnerable persons, but on the other hand, they are also kept in dilapidated conditions.

There is no vulnerability screening of newly arrived foreign nationals in the asylum or reception centres. The vulnerabilities are usually determined in the most obvious cases or when CSOs working in reception facilities flag certain cases to the authorities. Thus, there are no questionnaires nor other instruments which are designed and used for the purpose of vulnerability assessment.

Additionally, most vulnerabilities are determined in relation to those persons who are willing to apply for asylum and who undergo detailed interviews with their legal representatives and are then referred to different support services. Thus, unless persons are identified in a situation of immediately identifiable vulnerability (e.g. survivors of trafficking in human beings who escaped the traffickers or who were in clear situation of distress), most of the vulnerable people on the move will not be detected as such by CRM employees. Asylum seekers who, due to their vulnerability, are not transferred to a hospital or the safe house for survivors of trafficking in human beings or SGVB, have then only the option to remain in reception facilities in accommodation identical to accommodation provided to non-vulnerable residents.

This means, for example, that LGBTQI+ people in AC Krnjača and in other facilities are accommodated together with homophobic residents who often resort to verbal abuse and sometimes even physical; survivors of SGBV, including rape victims, are accommodated with men in barracks; or seriously injured people are accommodated in barracks which are not designed for their special needs. This practice is an additional reason why vulnerable people also decide to abscond from the asylum procedure and leave Serbia.

The Asylum Act envisages that material conditions of reception of UASC are provided in asylum centres or other facilities designated for the accommodation of asylum seekers until the final decision on the asylum application is taken.<sup>1063</sup> In 2020 and 2021, AC **Sjenica** and AC **Bogovada** were designated for UASC, and from 2022, RC Šid. Since most unaccompanied minors reaching Serbia are not willing to apply for asylum, nor they are registered in line with the Article 35 of the Asylum Act, they are all accommodated in RC Šid since 2022 and there is no assessment of their special needs. In 2024, RC Principovci hosted UASC, but no detailed assessment has been performed.

On the other hand, the few children who are willing to apply for asylum are usually placed in one of the social welfare institutions, such as Institute for Education of Children and Youth in Belgrade and the Institute for Education of Youth in Niš, and the Children Home 'Jovan Jovanović Zmaj' at the Institute for Protection of Infants, Children and Youth in Belgrade, while specialised foster care is also an option.<sup>1064</sup> Since the end of 2015, UASC have been accommodated in institutions in **Belgrade** and **Niš**. These facilities are also used to accommodate minors who are Serbian nationals— primarily underage offenders and are therefore neither specifically-tailored to the needs of foreign nationals, nor particularly suitable for their housing. Regardless, UASC in these facilities are kept separated from other groups, and overall reception conditions are considerably better than those in asylum centres, although a chronic lack of interpreters for various languages spoken by children continues to present a considerable challenge to ensuring their proper development and integration. However, all the children placed in Belgrade social institutions regularly attend school and most of them speak Serbian.

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<sup>1063</sup> Article 53 Asylum Act.

<sup>1064</sup> Practice-informed observation by IDEAS, 2022-2023.

## F. Information for asylum seekers and access to reception centres

### 1. Provision of information on reception

Asylum seekers have the right to be informed about their rights and obligations relating to material reception conditions, at the latest within 15 days from the date of submission of their asylum application,<sup>1065</sup> as well as about NGOs providing free legal aid<sup>1066</sup> (See the section on [Information for Asylum Seekers](#)).

The House Rules of Asylum and Reception centres are translated in languages asylum seekers understand. The camp managers in Asylum Centres hold information sessions with every person who arrives in the camp, while the House Rules are clearly displayed on the bulletin board in English, Farsi and Arabic. In all operational reception facilities officers of UNHCR and IOM are providing additional information on rights and responsibilities, while CSOs who are providing legal aid conduct individual and group legal counselling and orientation.

### 2. Access to reception centres by third parties

#### Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?  
☒ Yes      ☐ With limitations      ☐ No

The CRM has jurisdiction over access to reception facilities. In spite of the fact that these are open centres and that asylum seekers are not deprived of their liberty, third parties wishing to visit the centres are required to request admission from the Commissariat at least 1 day<sup>1</sup> beforehand by e-mail as well as submit scans of their identity documents. There have not been reported problems on access to reception facilities by third parties.

UNHCR has unrestricted access to all reception facilities in Serbia, including both asylum centres and provisional reception centres. National authorities are obliged to cooperate with UNHCR in line with its mandate.<sup>1067</sup> Furthermore, persons seeking asylum have the right to contact UNHCR during all phases of the asylum procedure.<sup>1068</sup>

## G. Differential treatment of specific nationalities in reception

There have been no reports of differential treatment in terms of reception based on asylum seekers' nationality, except in the case of Ukrainian refugees who are granted special reception conditions in AC **Vranje**, which was refurbished solely for the purpose of their accommodation. Even though such response should be praised, it obviously testifies to an unequal treatment of non-European persons in need of international protection (see [Annex on Temporary Protection](#)).

<sup>1065</sup> Article 56(2) Asylum Act.

<sup>1066</sup> Article 56(3) and (4) Asylum Act.

<sup>1067</sup> Article 5 Asylum Act.

<sup>1068</sup> Article 12 Asylum Act.

## Detention of Asylum Seekers

### A. General

#### Indicators: General Information on Detention

1. Total number of asylum seekers detained in 2024:	8
2. Number of asylum seekers in detention at the end of 2024:	0
3. Number of foreign nationals detained in 2024	427
4. Number of detention centres:	3
5. Total capacity of detention centres:	310 <sup>1069</sup>

The possibility of placing asylum seekers in detention in Serbia is prescribed by the Asylum Act.<sup>1070</sup> Detention of asylum seekers represents the form of administrative detention which can also be imposed by the Mol-Border Police Department (BPD) and in relation to foreign nationals who were qualified as irregular migrants, but who can often be in need of international protection (they do not wish to apply for asylum in Serbia).<sup>1071</sup> Since Serbia has not been the destination country for most of its refugee population, it is a common practice that, for instance, Afghans or Syrians, who do not wish to apply for asylum, are detained as irregular migrants and for the purpose of their forcible removal to Bulgaria.

On the other hand, asylum seekers are rarely detained, and their detention is frequently short, unless the case has a strong political component and is qualified as a national security case.<sup>1072</sup> For that reason, the practice of the Asylum Office, as detaining authority, can be described as positive in the vast majority of cases, and in general, Serbia does not have a problem of detention of asylum seekers. In 2021, the Asylum Office did not resort to such measure, while in 2022 only 5 asylum seekers were detained and they were from Syria (3), Iran and Kyrgyzstan. In 2023, only 1 Afghan national was detained, while one Turkish national was detained by the Mol-BPD, even though he should have been detained by the Asylum Office and in line with the Asylum Act, as he had lodged a subsequent asylum application.<sup>1073</sup> In 2024, a total of 8 asylum seekers were detained, namely people from Afghanistan (3), Russian Federation (3) Syria (2), and Sweden (1).

Asylum seekers are detained in Detention Centre for Foreigners in **Padinska Skela (DC Padinska Skela) a municipality in Belgrade**. In addition, in 2021, a new centre was opened in **Dimitrovgrad (DC Dimitrovgrad)**, at the green border with **Bulgaria**, and it became fully operational in 2022. In 2022, another detention centre in Plandište (**DC Plandište**), was opened and is located close to the border with Romania.

The total capacities of DC **Padinska Skela** is 110 places,<sup>1074</sup> whereas the capacities of DC **Plandište** and DC **Dimitrovgrad** are of 100 places each.<sup>1075</sup> Thus, overall detention capacity is of 310 beds.<sup>1076</sup>

To reiterate instances in which asylum seekers are detained are extremely rare, and this attitude of the Serbian asylum authorities should be praised. However, the question that remains open, and which has not been addressed sufficiently by the bodies which have regular access to immigration detention (such as the Ombudsman and NPM) is to which extent are foreign nationals detained under the Foreigners Act

<sup>1069</sup> Response on the request for the information of public importance no. 07-34/24 received on 15 April 2024.

<sup>1070</sup> Article 77 Asylum Act.

<sup>1071</sup> Article 87 Foreigners Act.

<sup>1072</sup> Examples will be described in the following parts of this Chapter.

<sup>1073</sup> Administration for Foreigners, Decision No. 26-13/22, 14 July 2022.

<sup>1074</sup> It was expanded after the reconstruction which was finalised in 2022.

<sup>1075</sup> See more in, Mol, *Izveštaj o sprovođenju Strategije suprotstavljanja iregularnim migracijama za period 2018-2020. godina*, available at: <https://bit.ly/4dzBxKX>, 14.

<sup>1076</sup> Response on the request for the information of public importance no. 07-34/24 received on 15 April 2024.

allowed access to the asylum procedure and in general enjoy their rights as persons deprived of their liberty, which are fundamental safeguards against ill-treatment, including *refoulement*.<sup>1077</sup>

It is important to note that the immigration detention of individuals declared as irregular foreigners is based on the existence of an expulsion order, issued in line with Article 74 (2) of the Foreigners Act. The expulsion order is issued by immigration police officers from various police departments in Serbia and who are not trained to assess the risks of *refoulement* within the meaning of Article 83 of the Foreigners Act. Thus, decisions on expulsion are issued without the assessment of the objective and individual circumstances of a foreigners and the assessment of expected treatment in third countries or countries of origin. This practice is contentious considering that more than 71% of all detainees in 2023 were nationals of Afghanistan and Syria and, therefore, have *prima facie* claim, while almost 80% can also be considered to be in need of international protection since detainees originated from Palestine, Somalia, Türkiye, Iraq, etc.<sup>1078</sup>

Not a single foreigner detained was issued with the registration certificate in 2021. In 2022, only 4 persons were issued a registration certificate at DC **Padinska Skela**, while no foreigners who might be in need of international protection (e.g., from Syria or Afghanistan) were registered as asylum seekers at DC **Plandište** and DC **Dimitrovgrad**. In 2023, 1 foreign national was registered in immigration detention in line with the Article 35 of the Asylum Act. In 2024, a total of 2 foreign nationals were registered in DC Padinska Skela.

In 2018, the Mol stopped providing statistical data on the number of detainees qualified as irregular migrants,<sup>1079</sup> but provided the author with the requested data for the purpose of the 2022 Update of this report. This positive practice continued in 2023 and 2024, and this Report contains comprehensive statistical data for all three detention centres.

And finally, when it comes to the placement of foreign national in immigration detention, 3 reports on the visits to all three facilities published by the NPM in 2023 shed more light on immigration detention practice in Serbia. Namely, in all three reports, the NPM noticed the practice in which immigration detention was ordered on the grounds of facilitation of forcible removal, but in reality, in many of such cases, forcible removal was impossible to execute. For that reason, NPM clearly outlined that immigration detention should not be used in relation to those individuals who are marked as 'unacceptable security risk' and who are suspected of having committed criminal offence or misdemeanour.<sup>1080</sup> Detention under these premises was assessed by the NPM as unlawful and arbitrary.<sup>1081</sup>

Persons who are likely to be in need of international protection can be detained on various other grounds. These include being convicted for irregular entry or stay in Serbia without having invoked the benefits of Article 8 of the Asylum Act or being held in the airport transit zone in a completely arbitrary manner (see [Access to the Territory](#)).

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<sup>1077</sup> CPT has outlined that detained irregular migrants should, from the very outset of their deprivation of liberty, enjoy three basic rights, in the same way as other categories of detained persons. These rights are: (1) to have access to a lawyer, (2) to have access to a medical doctor, and (3) to be able to inform a relative or third party of one's choice about the detention measure. The right of access to a lawyer should include the right to talk with a lawyer in private, as well as to have access to legal advice for issues related to residence, detention and deportation. This implies that when irregular migrants are not in a position to appoint and pay for a lawyer themselves, they should benefit from access to legal aid. See, CPT, *Immigration detention*, March 2017, CPT/Inf(2017)3, available at: <https://bit.ly/3Li4Xzd>, 2.

<sup>1078</sup> Response on the request for the information of public importance no. 07-34/24 received on 15 April 2024.

<sup>1079</sup> However, in its reports, the Ombudsman determined that at least 13 foreigners were forcibly removed to third countries or countries of origin in 2020. The Mol forcibly removed citizens of Türkiye (1), China (1), Afghanistan (1) and Croatia (1) to their countries of origin, and 1 Pakistani to Romania,<sup>3</sup> Iranians and 1 Iraqi to Bulgaria.

<sup>1080</sup> NPM, *Извештај о посети Прихватилишту за странце у Падинској Скели*, no. 22900, 12 September 2023, available at: <https://bit.ly/3K0Etnr>, 12.; *Извештај о посети Прихватилишту за странце у Планишту*, no. 370, 9 January 2024, available at: <https://bit.ly/3wCECu2>, 13; *Извештај о посети Прихватилишту за странце у Димитровграду*, no. 7681, 31 March 2023, available at: <https://bit.ly/4bJCgIR>, 12-13.

<sup>1081</sup> Ibid.

## B. Legal framework of detention

### 1. Grounds for detention

#### Indicators: Grounds for Detention

1. In practice, are most asylum seekers detained
  - ❖ on the territory: ☒ Yes ☐ No
  - ❖ at the border: ☐ Yes ☒ No
2. Are asylum seekers detained during a regular procedure in practice?  
☐ Frequently ☒ Rarely ☐ Never
3. Are asylum seekers detained during a Dublin procedure in practice? Not applicable

#### 1.1 Detention of asylum seekers

An asylum seeker can be detained by a decision of the Asylum Office, when it is necessary to:<sup>1082</sup>

- ❖ Establish their identity or nationality;
- ❖ Establish material facts and circumstances relevant to their asylum application, which cannot be established without the restriction of movement, particularly if there is a risk of absconding;<sup>1083</sup>
- ❖ Ensure their presence in the course of the asylum procedure, if there are reasonable grounds to believe that their asylum application was submitted with a view to avoiding deportation;
- ❖ Ensure the protection of security of the Republic of Serbia and public order in accordance with the law;
- ❖ Decide, in the course of the procedure, whether they have a right to enter the territory of the Republic of Serbia.

Asylum seekers can be also detained in case of non-compliance with the obligations envisaged in Article 58 of the Asylum Act which are related to the respect of the House Rules in Asylum and Reception Centres and inadequate cooperation with the Asylum Office during the asylum procedure.<sup>1084</sup>

In practice, the Asylum Office rarely orders the detention of asylum seekers. No detention order was issued in 2021 on those grounds, but there were four detention decisions in 2022 plus another one which was related to the subsequent asylum application of a Turkish national who was detained as irregular migrant by the Mol and not Asylum Office. The two cases are similar because they were both subjected to extradition proceedings to their countries of origin, they applied for asylum but did not receive appropriate legal assistance from their representative, they were assessed as national security threats by BIA and their forcible removal are being examined by the CAT, which also issued interim measures. The case of Mr. E.P., Turkish national has to be considered as a case of arbitrary detention since he was not detained under the Asylum Act, but under the Foreigners Act even though his subsequent asylum application was pending.<sup>1085</sup> Another similar case of immigration detention of asylum seekers was recorded in 2024, when a Turkish national who was in extradition procedure was also detained on the national security grounds.<sup>1086</sup>

<sup>1082</sup> Article 77(1) Asylum Act.

<sup>1083</sup> Article 77(3) prescribes that the risk of absconding shall be assessed on the basis of all the facts, evidence, and circumstances in a specific case, particularly taking into account all the applicant's previous arbitrary attempts of leaving the Republic of Serbia, his or her failures to consent to identity checks or identity establishment procedures, or concealing information or providing false information about his or her identity and/or nationality.

<sup>1084</sup> Article 58(1)(3) and (7) Asylum Act.

<sup>1085</sup> Administration for Foreigners, Decision No. 26-13/22, 14 July 2022.

<sup>1086</sup> Asylum Office, Minutes of the asylum interview No. 26-854/24, 18 October 2024.

## Case of immigration detention of E.P.

E.P. is a Turkish political dissident accused of being a member of a terrorist organization in Türkiye, who was facing extradition to his country of origin for almost two years. He was detained in DC **Padinska Skela** for the maximum period of 6 months by the Mol.<sup>1087</sup> Interestingly, he was not detained by the Asylum Office, even though he lodged a subsequent applicant and, thus, has the status of an asylum seekers. Instead, he was detained as irregular migrant and was served with an expulsion order in accordance with Article 74 (2).<sup>1088</sup> The Appellate Court in Belgrade rejected his extradition due to the lack of evidence which was not provided by Turkish authorities.

The contentious element of E.P.'s case was related to the fact that he was detained in DC Padinska Skela even though at that time, his extradition procedure was pending. Also, at that time the CAT issued an interim measure indicating to the Government of Serbia to refrain from sending him back to Türkiye until the end of the procedure before the Committee.<sup>1089</sup> He was deprived of his liberty in June 2021 and was placed in extradition detention which, according to the Law on Mutual Legal Assistance in Criminal Matters (LMLAC),<sup>1090</sup> cannot last longer than 1 year. Since the maximum length of his detention expired in June 2022, he was supposed to be released and placed under a measure alternative to extradition detention. The Higher Court of Belgrade therefore adopted a measure imposing a specific place of residence on the territory of Belgrade, which is a measure limiting the right to freedom of movement but does not constitute a deprivation of liberty according to the law, but is a typical example of limitation of freedom of movement. Nevertheless, he was placed in DC **Padinska Skela**, which, according to the subjective and objective criteria established by the ECtHR,<sup>1091</sup> amounts to a measure of deprivation of liberty. Moreover, only the Mol – Department for Foreigners or Asylum Office - can detain foreign nationals in DC Padinska Skela and under the provisions of either the Foreigner Act or the Asylum Act. In other words, neither LMLAC nor the Criminal Procedure Code,<sup>1092</sup> as *lex generalis*, provide for the possibility for a foreign national to be detained in immigration detention facilities. Accordingly, E.P. was detained arbitrarily, which was subsequently confirmed by the Appellate Court of Belgrade, which quashed the decision.<sup>1093</sup>

Instead of releasing E.P., as a person whose legal status is being decided by the judicial extradition authorities, the Mol issued an expulsion order under the provisions of the Foreigners Act, without conducting any kind of assessment of the risks of *refoulement* in line with the Article 83 of the Foreigners Act, and arguing that E.P. represented a threat to national security and that he should be removed instantly. This decision created the grounds for immigration detention in DC Padinska Skela, and on the same day, the decision on detention was delivered.

What was also worrying was the fact that the decision on immigration detention was rendered on the basis of the negative security assessment of BIA. Thus, the Mol just highlighted that Mr. E.P. represents the threat to national security, but failed to outline any relevant fact related to the assessment conducted which could allow his legal representatives to dispute such assessment and thus, dispute legality and legitimacy of his detention. The Administrative Court rejected a complaint against E.P.'s immigration detention, also simply relying on the BIA security assessment.<sup>1094</sup> He was released after 6 months.

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<sup>1087</sup> Mol, Decision on immigration detention no. 26-13/22, 14 July 2022, extended on 14 October 2022.

<sup>1088</sup> Mol, Expulsion Decision no. 26-1712/22, 14 July 2022.

<sup>1089</sup> CAT, *Piroglu v. Serbia*, Communication No. 1130/2022, 2 June 2022.

<sup>1090</sup> Official Gazette, no. 20/2009, available in Serbian at: <https://bit.ly/325Z8kN>, Article 22.

<sup>1091</sup> ECtHR, *Guzzardi v. Italy*, Application No 7367/76, Judgment of 6 November 1980, available at: <https://bit.ly/3tS73Al>, para. 95; *Z.A. and Others v. Russia*, Application Nos. 61411/15, 61420/15, 61427/15 and 3028/16, Judgment of 21 November 2019 [GC], EDAL, available at: <https://bit.ly/3JB0Hdu>, para. 138, but see also, CPT, *Report to the Croatian Government on the visit to Croatia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 14 August 2020*, CPT/Inf (2021) 29, 3 December 2021, available at: <https://bit.ly/3978tyQ>, para. 10.

<sup>1092</sup> Official Gazette, no. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021 – decision of the CC and 62/2021 – decision of the CC.

<sup>1093</sup> Appellate Court in Belgrade, Decision No. Kre. 8/22, 5 October 2022.

<sup>1094</sup> Administrative Court, Judgment no. U 44363/22, 2 December 2022.



## Case of immigration detention of A.S.

The case of Mr. A.S. is almost identical to the case of E.P. He has also been in the extradition procedure and his extradition detention expired, after which he was detained in DC Padinska Skela. As E.P., he also lodged a subsequent asylum application, and his placement in DC Padinska Skela was also based on the security assessment of BIA. The only difference is that he was detained on the basis of the decision delivered by the Asylum Office<sup>1095</sup> Without any reasoning, the Asylum Office simply invoked the negative BIA security assessment.

A.S.'s legal representatives seized the Higher Court of Belgrade of an appeal against the decision on detention and the extension of the detention, invoking the jurisprudence of the ECtHR in the case of *Muhammad and Muhammad v. Romania*,<sup>1096</sup> in which the Court outlined that hiding all of the relevant facts are related to a security assessment denies the applicant of the possibility to challenge the it.

A.S. was released after the maximum period of 6 months and was transferred to AC **Obrenovac**. The Higher Court of Belgrade never decided on his appeal.

Both cases embody the most flagrant form of arbitrary administrative detention, which is unlawfully used for the purpose of extradition procedures and where the applicants are detained under the national security grounds, but without being informed of the reasoning behind the decision, which would allow them to dispute both their detention and expulsion order.

The practice of arbitrary detention at the airport has already been described in [Access to the Territory](#). However, the Asylum Act introduced a [Border Procedure](#). Thus, the applicant could be detained under these circumstances if adequate accommodation and subsistence can be provided.<sup>1097</sup> However, since there are no adequate facilities located in border areas or in the transit zones, the border procedure has not yet been applied.

### 1.2 Other grounds for the detention of foreign nationals who may be in need of protection

Individuals in need of international protection may be at risk of detention in a number of situations, despite the fact that the Asylum Office rarely resorts to such practices.

Under the Foreigners Act, foreigners who are likely in need of international protection may be detained in the Detention Centre for Foreigners in **Padinska Skela** when they cannot be immediately forcibly expelled, for the purpose of their identification if they do not possess valid travel documents, or 'in other cases prescribed by the law'.<sup>1098</sup> However, this concerns persons who do not express the intention to seek asylum in Serbia, as persons who have done so come under the regime foreseen by the Asylum Act explained above.

Article 87 of the Foreigners Act provides that a foreigner who is in a return procedure can be detained for the purpose of preparing the return or executing the forced removal, based on the decision of the competent authority or border police. The detention is ordered where there is a risk that the foreigner will not be available to the competent authority for the execution of the forcible removal or will attempt to avoid or interfere with the preparations of the return or removal.<sup>1099</sup> This form of detention may be ordered if a foreigner:

- ❖ Does not have documents to establish their identity;
- ❖ Does not cooperate in the return procedure and is interfering with their return;

<sup>1095</sup> Asylum Office, Decision No. 26-2052/21, 16 September 2022, extended on 15 December 2022.

<sup>1096</sup> Application No. 80982/12, Judgment of 15 October 2020, EDAL, available at: <https://bit.ly/3MNcTN5>.

<sup>1097</sup> Article 44(1)(1) Asylum Act.

<sup>1098</sup> Articles 87 and 88 Foreigners Act.

<sup>1099</sup> Article 87(4) Foreigners Act envisages that a foreigner is avoiding or interfering with the preparations for return and forced removal if his identity cannot be established, or if the foreigner does not have a travel document.

- ❖ Has not departed from the Republic of Serbia voluntarily;
- ❖ Has not cooperated in the procedure for establishing their identity or citizenship, or has given false or contradictory information;
- ❖ Is using or has used false or forged documents;
- ❖ Has attempted to enter or has already entered into the Republic of Serbia illegally;
- ❖ Has not fulfilled his obligations derived from the order on mandatory stay in a particular place;
- ❖ Does not have any relatives or social ties in the Republic of Serbia;
- ❖ Does not have any means to provide accommodation or subsistence.

The fact that a person is in need of international protection must not be neglected during the course of a forcible removal procedure. Thus, the individual should have access to procedural safeguards in the context of expulsion,<sup>1100</sup> which is not the case at the moment. The current practice entails the stereotypical issuance of a decision on cancellation of residency,<sup>1101</sup> or an expulsion decision in case a foreigner does not have any legal grounds to reside in Serbia.<sup>1102</sup> In these two procedures, foreigners do not enjoy legal assistance or services of interpretation, neither are they allowed to submit arguments against their expulsion or to effectively enjoy the right to a remedy which has a suspensive effect. Moreover, an appeal against the decision on cancellation of residency,<sup>1103</sup> or the expulsion decision,<sup>1104</sup> does not have a suspensive effect. The appeal against the expulsion decision could have a suspensive effect if there is a risk of *refoulement*.<sup>1105</sup> However, since the guarantees regarding the expulsion are not in place in practice, it remains unclear how will the competent border police authority assess the risk of *refoulement*. The current practice is simply based on the automatic issuance of the expulsion decision in a template where only personal data and the circumstances of the irregular entry are stated, while the reasoning does not contain any assessment on the risk of *refoulement*.

Total number of detainees in DC Padinska Skela from 1 January to 31 December 2024	
Country of Origin	Number of detainees
Afghanistan	43
Türkiye	20
Syria	21
Morocco	7
Others	57
<b>Total</b>	<b>148</b>

Source: Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

In 2024, 149 foreign nationals were detained in DC Padinska Skela. The majority of detainees were from Afghanistan (43) and Syria (21). It is reasonable to assume that some of the remaining detainees are still in detention at the time of writing of this report, while some of them were returned to Bulgaria under the readmission agreement or their country of origin. The Mol did not provide data on the number of foreigners who were forcibly removed to third countries or countries of origin from DC Padinska Skela. for their return.

<sup>1100</sup> Article 1 Protocol 7 ECHR.

<sup>1101</sup> Article 39 Foreigners Act.

<sup>1102</sup> Article 74 Foreigners Act.

<sup>1103</sup> Article 39(7) Foreigners Act.

<sup>1104</sup> Article 80(3) Foreigners Act.

<sup>1105</sup> Articles 80(3) and 83 Foreigners Act.

Total number of detainees in DC Dimitrovgrad from 1 January to 31 December 2024	
Country of Origin	Number of detainees
Syria	74
Afghanistan	68
Morocco	20
India	12
Pakistan	7
Others	20
<b>Total</b>	<b>201</b>

Source: Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

In 2024, 201 persons were detained in DC Dimitrovgrad, most of them originating from Syria (74) and Afghanistan (68). According to the readmission data, a total of 119 foreign nationals were readmitted to Bulgaria, and it is reasonable to assume that most of them were detained in the DC Dimitrovgrad. In 2024, NPM monitored 5 forcible removals of 22 Syrians to Bulgaria, but details of this operation were not published on its website.<sup>1106</sup>

Total number of detainees in DC Plandište from 1 January to 31 December 2024	
Country of Origin	Number of detainees
Afghanistan	24
Türkiye	17
Syria	13
Others	25
<b>Total</b>	<b>79</b>

Source: Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

In 2024, a total of 79 foreign nationals were detained in DC Plandište, out of which Afghans (24) and Syrians (17) were the majority. There is no data on the outcome of such detention, but according to the findings of the Ombudsman, immigration detention in Serbia is frequently applied on persons who are assessed as an 'unacceptable security risk'. NPM notes that such grounds are not envisaged in the Foreigners Act and that immigration detention of those foreigners who are suspected of committing crimes and misdemeanours is unlawful and arbitrary. The Mol did not deliver data on the number of cases in which detainees were released due to inability of forcible removal.

Additionally, another problematic, widespread, practice consists in convicting persons coming from refugee-producing countries for irregular entry or stay, in contravention with the principle of non-penalisation for illegal entry or stay foreseen by Article 31 of the 1951 Refugee Convention. However, although the majority of misdemeanour proceedings end with the person *in casu* paying a fine before being issued an order to leave Serbia within a certain time limit, it is not uncommon for potential refugees to be sentenced to a short-term in prison as a result of their irregular entry or stay. Bearing in mind that access to an interpreter for languages most refugees speak is extremely limited, it is unlikely that these persons are made aware of their rights and understand the proceedings, including the right to seek asylum in Serbia.<sup>1107</sup>

<sup>1106</sup> Available [here](#), [here](#), [here](#), and [here](#).

<sup>1107</sup> See more in AIDA, *Country Report: Serbia – Update on the year 2021, May 2022*, available [here](#), 25.

In general, it appears that relevant State authorities rarely resort to measures of deprivation of liberty of persons that are in need of international protection who enjoy the status of asylum seekers, while on the other hand, persons who are likely in need of international protection but who do not wish to apply for asylum could be subjected to immigration detention.

## 2. Alternatives to detention

### Indicators: Alternatives to Detention

1. Which alternatives to detention have been laid down in the law?
  - ☒ Reporting duties
  - ☒ Surrendering documents
  - ☐ Financial guarantee
  - ☒ Residence restrictions
  - ☐ Other
2. Are alternatives to detention used in practice? ☐ Yes ☒ No

The Asylum Act foresees several alternatives to detention, which will be imposed based on an individual assessment prior to detention. Alternatives to detention are the following:

- ❖ Prohibition on leaving the Asylum Centre, a particular address, or a designated area;<sup>1108</sup>
- ❖ Obligation to report at specified times to the regional police department, or police station, depending on the place of residence;<sup>1109</sup>
- ❖ Temporary seizure of a travel document.<sup>1110</sup>

The above-stated measures can last as long as there are [Grounds for Detention](#) under Article 87 of the Asylum Act and for a period not longer than 3 months, which can exceptionally be extended for an additional 3 months. An asylum seeker who has violated residence or reporting obligations can be detained in the Detention Centre for Foreigners.<sup>1111</sup> The Asylum Office is the authority in charge of ordering alternatives to detention with regard to asylum seekers.

Such measures, however, have never been taken in practice, including in 2024. In general, Serbia can still be considered a country that does not resort to systematic detention of asylum seekers or other foreigners that might be in need of international protection. Still, those detention decisions which were issued in 2024 did not motivate the reasons for which alternatives to detention were not applied.<sup>1112</sup>

Alternatives to detention can also be applied in line with Article 93 of Foreigners Act. This provision enables the MoI to issue a decision imposing mandatory stay in a particular place (mandatory stay) if the foreign national would hinder to the possibilities for competent authority for to execute the forcible removal. It is also provided that such a measure is to be taken in compliance with the principle of proportionality, taking into consideration whether the mandatory stay is the less intrusive measure for the foreign national concerned.

Mandatory stay may be approved for a period of up to one year and may be extended for an additional year, depending on the persistence of the reasons for which the mandatory stay is ordered. A foreign national under a measure of mandatory stay, must remain at a particular address and report to the competent authority in accordance with the schedule stated in the decision on mandatory stay. When there are valid reasons, the competent authority may issue a decision approving that the foreigner temporarily leaves the place of mandatory stay. If a foreign national obstructs his forced removal or does not respect the schedule of reporting, he can be detained in an immigration detention facility. It is possible to challenge this decision before the MoI as the second instance, and before the Administrative Court as

<sup>1108</sup> Article 78(1)(1) Asylum Act.

<sup>1109</sup> Article 78(1)(2) Asylum Act.

<sup>1110</sup> Article 78(1)(5) Asylum Act.

<sup>1111</sup> Article 79 Asylum Act.

<sup>1112</sup> Practiced observed information by IDEAS.

the third instance. A foreigner under the measure of mandatory stay and who has no travel document shall be issued a temporary identity card.

### 3. Detention of vulnerable applicants

#### Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?
 

<input type="checkbox"/> Frequently	<input checked="" type="checkbox"/> Rarely	<input type="checkbox"/> Never
-------------------------------------	--	--------------------------------

  - ❖ If frequently or rarely, are they only detained in border/transit zones?
 

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
------------------------------	--
2. Are asylum seeking children in families detained in practice?
 

<input type="checkbox"/> Frequently	<input checked="" type="checkbox"/> Rarely	<input type="checkbox"/> Never
-------------------------------------	--	--------------------------------

The Asylum Act envisages that a person with specific circumstances and needs, as prescribed in Article 17, can be detained exclusively if it has been established, based on an individual assessment, that such measure is appropriate, taking into account their personal circumstances and needs, and particularly their health condition.<sup>1113</sup> This category includes minors, unaccompanied minors, persons with disabilities, elderly persons, pregnant women, single parents with minor children, victims of trafficking, severely ill persons, persons with mental disorders, and persons who were subjected to torture, rape, or other serious forms of psychological, physical or sexual violence, such as women who were victims of female genital mutilation. So far, families and UASC have never been detained during the course of asylum procedure.

In December 2019, two UASC from **Afghanistan** were detained on security grounds,<sup>1114</sup> but they were not registered as asylum seekers nor were they willing to apply for asylum. In other words, their detention was based on the Foreigners Act. However, it is rare in practice for children and families to be detained in the Detention Centre for Foreigners, regardless of their status – asylum seeker or a person in need of international protection who is not willing to apply for asylum. There were no recorded cases of vulnerable applicants, such as UASC, being detained in 2022, 2023 and 2024.

### 4. Duration of detention

#### Indicators: Duration of Detention

1. What is the maximum detention period set in the law (incl. extensions): 6 months
2. In practice, how long in average are asylum seekers detained? n/a

The Asylum Act foresees that asylum seekers may be detained for up to 3 months. This period may be extended once for another 3-month period by a decision of the Asylum Office<sup>1115</sup> and on the same grounds as prescribed in Article 77 (1) of the Asylum Act. The detention order in line with the Foreigners Act can last for 180 days maximum.<sup>1116</sup>

## C. Detention conditions

### 1. Place of detention

#### Indicators: Place of Detention

1. Does the law allow for asylum seekers to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)?
 

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
---	-----------------------------
2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure?
 

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
---	-----------------------------

<sup>1113</sup> Article 80 Asylum Act.

<sup>1114</sup> Information provided by CSO IDEAS.

<sup>1115</sup> Article 78(2) and (3) Asylum Act.

<sup>1116</sup> Article 88 Foreigners Act.

Persons who seek asylum in Serbia may be detained in the Detention Centre in **Padinska Skela**, Belgrade, which can host up to 110 persons. DC **Plandište** and DC **Dimitrovgrad** can host up to 100 persons.

Foreigners who are sanctioned for the misdemeanour of unlawful border crossing or irregular stay on Serbian territory are detained in 28 different penitentiaries around Serbia. Persons who are detained at **Nikola Tesla Airport** (see [Access to the Territory](#)) are placed at premises located in the transit zone, at the far end of the gate corridor. It is not possible to assess the capacity of these premises, as they have never been designed as detention facilities.

## 2. Conditions in detention facilities

### Indicators: Conditions in Detention Facilities

- |   |   |                             |
|---|---|-----------------------------|
| 1. Do detainees have access to health care in practice? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ If yes, is it limited to emergency health care?       | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

### 2.1 Overall conditions

In 2023, the NPM visited all three immigration detention centres and published comprehensive reports which provide detailed description of admission processes, (lack of) health care and vulnerability screening, living conditions, regime of life, access to rights of persons deprived of their liberty and other aspects of foreign nationals' stay in immigration detention. All information from this Chapter is extracted from these Reports, that provide a comprehensive analysis of the conditions of immigration detention facilities in Serbia.<sup>1117</sup> It is also important to outline that most of the findings are related to foreign nationals detained under the Foreigners Act and for the purpose of forcible removal, but who could be in need of international protection and who might face risks of *refoulement* or *chain-refoulement* in third countries or countries of origin and for whom access to asylum should be safeguarded.

#### Detention Centre in Padinska Skela

##### *Living conditions and regime of life*

**DC Padinska Skela** is a one-story building which comprises the admission part - where police inspection premises are located - and the accommodation part which is divided into two wings of the building. Both wings have five rooms each and each wing has common area which is considered to be the leisure and dining room, which also has toilets and bathrooms. Also, each wing has a small outdoor area. Due to the ongoing reconstruction, only one wing was operational in 2023, while dormitories in the other wing which is under the reconstruction are used only when the number of detainees increases. The situation remained unchanged in 2024.

All bedrooms are of the same size, and they measure 21 m<sup>2</sup> and they are intended to accommodate of 5 persons. Each person has at least 4,1 m<sup>2</sup> and if we take that into account, official capacities of the DC Padinska Skela should be maximum 55 persons. All rooms have large windows with metal bars, which are wide enough and suitable for natural ventilation. Both natural and artificial lights are satisfactory. Each dormitory has a separate sanitary area, which is around 1.5 m<sup>2</sup> and which is consisted of a stool and a sink. NPM reported poor conditions of sanitary facilities in dormitories and common areas.

Each room has 5 beds, a larger closet with shelves for the storage of personal belongings, groceries, as well as a table with several chairs or benches. The beds are equipped with mattresses and sheets, and which are washed once a week. Still, NPM reported the issue of bed bugs.

<sup>1117</sup> NPM, *Извештај о посети Прихваталишту за странце у Падинској Скели*, no. 22900, 12 September 2023, available at: <https://bit.ly/3K0Etnr>; *Извештај о посети Прихваталишту за странце у Пландишту*, no. 370, 9 January 2024, available at: <https://bit.ly/3wCECu2>; *Извештај о посети Прихваталишту за странце у Димитровграду*, no. 7681, 31 March 2023, available at: <https://bit.ly/4bJCgIR>.



The hygiene of the dormitories and other rooms is maintained daily and the Shelter provides them with the means to this end. Hot water is available all the time, and foreigners who do not have means for maintaining personal hygiene receive them upon verbal request. Smoking is allowed in the outdoor area and in the common area.

The open-door regime exists during most of the day, except between 14:00 - 17:00. During the evening, all detainees are locked in their rooms. The common area has several larger tables and chairs and a television with cable television. The room has several windows, air conditioning and proper artificial lighting.

Small outdoor areas are fenced off and consists of two benches and two fountains. A smaller roof can provide protection from the weather precipitation.

Food is served three times a day. Cooked food is provided, and all three meals are caloric, and are adapted to the religious beliefs. Fresh fruits and vegetables are included in the diet every day, and milk and other dairy products at least 3 times a week. Foreigners are also provided with bottled water. Meals are served in the dining room, except for dinner, which is served in the dormitories. The shelter does not have a canteen in its structure, but there is a possibility to order groceries from police officers and with the money they deposit.

### **Admission, health care, vulnerably screening and grounds for detention**

Upon arrival, all foreign nationals are introduced in the admission record which contains personal data: name, date of birth and citizenship, as well as data related to detention in DC, date and grounds for detention, case file number of the expulsion and detention order and which organizational within the Mol-BDA rendered such decision and transferred the individual to the DC. Every foreigner also has a personal file where the above-outlined decisions are kept.

Immediately after the admission, police officers perform an examination of the foreigner and their personal belongings. The certificate on the personal belongings which are confiscated (mobile phones, money, documents, etc.) is issued to every foreigner. Every newly admitted foreign national is provided with the set of clean sheets. They are then served with the leaflet of rights of persons deprived of their liberty in drafted in line with the Criminal Procedure Code, but not with the leaflet which contains an adequate list of their rights and responsibilities as immigration detainees, as well as the applicable procedures such as expulsion and asylum procedure.

According to the available documentation that NPM has analysed, a significant number of foreign nationals were detained on the grounds of national security reasons and with additional reasoning containing the quote that their stay in Serbia is aimed at 'committing criminal offences'. NPM outlined that this cannot be the grounds for deprivation of liberty, especially because their forcible removal was not realistic. Thus, most of the foreign nationals were arbitrarily deprived of their liberty according to the NPM and the records have shown that most of them have been released after the maximum of 180 days.

Another flagrant example of arbitrary deprivation of liberty was observed by the NPM and related to the detention of a foreign national whose extradition procedure was ongoing and who was imposed with the measure of prohibition of leaving the place of residency, which is a measure related to limitation of the right to freedom of movement, and not limitation of the right to liberty and security. In this way, the person concerned remained in the DC Padinska Skela for more than 8 months.

There is no health care screening nor vulnerability assessment upon admission which has been a long-lasting recommendation of the NPM.

### **Detention Centre in Plandište**

DC Plandište is a metal container one-story building, which consists of a large central corridor that runs along its entire length, with rooms on both sides. Its total capacity is 12 rooms on 1 side and 10 rooms on

the other. Rooms for detained foreign nationals are of the same size and identically equipped - 13 m<sup>2</sup> - two bunk beds which are equipped with mattresses and sheets. Each room has air conditioners, while during the winter period mobile heaters are provided. In addition, there are lockers for personal belongings.

All bedrooms have large windows, which are with the outer sides fenced with metal bars, allowing for sufficient fresh air inflow and natural light. Artificial lighting is also appropriate. Bed linen is changed weekly. Hygiene in the rooms was at a good level and the rooms are cleaned daily.

There are no toilets or bathrooms in the rooms, but there are four shared ones. Sanitary shower units and rooms are in a very bad condition and hygiene is not satisfactory according to the NPM. The glass above the sink was broken. One of the biggest issues reported are taps and showers that are broken so that they can hardly be used. Detained foreign nationals are allowed to use showers every day and according to the NPM reports, hygienic packages are distributed to everyone who does not have means to afford them. Smoking in the dormitories is not allowed.

DC Plandište also has common area which is around 55 m<sup>2</sup> equipped with tables, chairs and air conditioning, TV and sink with a fountain. This room also serves as dining room and is connected through the window with the room from which they are served meals. Multiple windows enable an adequate flow of natural lighting and fresh air. The room has air conditioners and artificial lighting is appropriate.

The outdoor space available is a concrete area of about 65 m<sup>2</sup> and it can be accessed from one room that is not used for the accommodation of foreigners and is fenced off with three sides. This space is accessible to foreigners every day for no less than two hours, but mostly, if the weather conditions allow it, they can stay outside as long as they want during the day. The space is equipped with several benches, there are no props for physical education exercise, nor other facilities, nor canopies for shelter from atmospheric precipitation.

Meals for detainees are provided from a local restaurant that delivers them meals three times per day, and on the basis of a pre-arranged weekly menu. Menus are available only in Serbian language. Bottled water is regularly provided. Fruit and vegetables are part of the diet. Bearing in mind that most of the foreigners who are detained are Muslims, care is taken to ensure that meals are in accordance with religious beliefs.

The detention facility has its own kitchen, which is mainly used for sharing meals, as well as for preparing of hot drinks. Dining is in the living room, with the possibility of exception when it is also allowed in rooms, for example during fasting. There is no canteen in the facility but there is a possibility for foreigners to receive packages with the desired food items.

### **Admission, health care, vulnerably screening and grounds for detention**

A record is kept of all detained foreigners (Foreigner's Book), in which they have their personal data: name, date of birth and citizenship, as well as data related to detention and expulsion. Immediately after admission, police officers perform an examination of the foreigner and his personal belongings which are confiscated and deposited in specially designated storage and foreigners are issued certificates. Afterwards, they are provided with clean bed linen and allocated to one of the dormitories. They are also served with the document setting out their rights and responsibilities in line with the Criminal Procedure Code, and thus are not informed on all the rights and obligations which are related to their immigration status, including the right to apply for asylum. House rules are available on all the relevant languages. They are not employed interpreters.

Most foreigners are detained for the purpose of forcible removal. However, in most of the cases, as noted by the NPM, there was no prospect of removal and thus, their detention was assessed as arbitrary. Since DC Plandište has become operational, not a single foreign national was forcibly removed and what happened in the end is that all of them are released after the expiry of the maximum 180 days. NPM

criticized the fact that immigration detention was used as a measure against those foreign nationals for whom BIA made a negative security assessment.

There is no medical screening nor any other type of vulnerability assessment.

### **Detention Center in Dimitrovgrad**

#### **Living conditions and regime of life**

DC Dimitrovgrad is a container one-story building, which consists of a larger central corridor with rooms from both sides. There are 24 dormitories in total which are of the same size with the surface area of about 15.6 m<sup>2</sup> and with the capacity for 4 people. Each one has two bunk beds and two larger cupboards for storing personal belongings. Beds are equipped with new mattresses and complete bedding, which was clean during the NPM visit. Each dormitory has large windows with the metal bars, and which allows sufficient flow of fresh air and natural light. Artificial lighting is also suitable, and in each dormitory, there is an air conditioner. The dormitories assessed by the NPM were considered to be in good condition. The common area is around 60m<sup>2</sup> also serves as a dining room and due to the open door policy, it is available to all detainees throughout the day. The area is about 60 m<sup>2</sup> and is equipped with tables and chairs, TV and two sinks with water taps. This room also air-condition and has several windows with bars.

The facility also has 4 shared toilets/bathrooms, with a sufficient number of sanitary facilities (a total of 8 shower cabins and toilets and 10 sinks each), which were found to be clean and in good condition. Hot water is available at all times, and personal maintenance is provided. Foreigners also receive hygiene kits for personal hygiene and they are also provided with the powder for manual washing of personal laundry, which can be done in shared toilets. There are no washing machines. Smoking is allowed in the common area.

The outdoor area is made of concrete walls and is fenced off and is around 50 m<sup>2</sup>. The area is completely unequipped.

Meals are distributed from the nearby restaurant three times per day and they are in line with religious needs of detainees and contains also vegetables and fruits. Potable tap water is available, but bottled water is also provided. There is no canteen, but several times per week police officers, with the money deposited to the accounts of detainees purchase from the lists they provide.

#### **Admission, health care, vulnerability screening and grounds for detention**

The admission is facilitated in the same manner as in DC Padinska Skela and DC Plandište, meaning that newly arrived foreigners are introduced in the central register which contains personal data and case files related to their expulsion and detention. After they are searched, their personal belongings such as cell phones, money and other prohibited objects are confiscated after which detainees are issued with a certificate. They are also issued with the document in writing detailing the rights of criminal suspects and in line with the Criminal Procedure Code. Rights and responsibilities, as well as the information which is related to expulsion and detention procedure and other applicable procedures, including the asylum, is not provided, which was criticized by the NPM.

NPM again observed that significant number of detainees is arbitrarily detained, meaning that their forcible removal is not possible, and that the grounds are again based on the security assessment of BIA. This was again qualified as unacceptable practice by the NPM.

There is no health care screening or any kind of vulnerability assessment screening, nor there are interpreters available.

## 2.2 Conditions in penitentiary facilities

Conditions in the penitentiaries where asylum seekers and migrants are detained if convicted in misdemeanour proceedings vary depending on the individual facility. The Serbian system for the implementation of criminal sanctions has suffered from overcrowding for many years, while conditions in certain facilities may amount to inhumane and degrading treatment as a result of poor living conditions, a lack of meaningful activities and the lack of communication with the staff and outside world.

The penitentiaries that are located in the border zones are the ones in which persons likely in need of international protection are usually detained at, such as the County Prison in **Vranje** (Southern border zone) and the Correctional Facility in **Sremska Mitrovica** (Western border area).

## 2.3 Conditions in transit zones

The airport transit premises have a size of 80m<sup>2</sup> and are equipped with 25 sofas and some blankets. There are no adequate conditions for sleeping and the ventilation is unsatisfactory. The foreigners are locked up all day long. The toilet is located within the premises and is in an acceptable condition.

In 2019, the UN Special Rapporteur on Torture described material conditions as inadequate for the purposes of detention. The main shortcomings are described as follows:

‘The material conditions in this room were inadequate for the purposes of detention, the main shortcomings being the absence of beds and heating, deplorable hygienic and sanitary conditions and constant artificial lighting. When tested, the tap water was not running, the premises visibly had not been cleaned for an extended period of time and all seven persons who were held there were obliged to spend the night sitting in armchairs. However, they had all received meals provided by the airport police.’<sup>1118</sup>

The newly established premises at the Nikola Tesla airport are still not considered as suitable for the conduct of the asylum procedure. There are no reports which describe the conditions in the new detention rooms.

## 3. Access to detention facilities

### Indicators: Access to Detention Facilities

#### 1. Is access to detention centres allowed to

- |                   |                              |   |                             |
|-------------------|------------------------------|---|-----------------------------|
| ❖ Lawyers:        | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ NGOs:           | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ UNHCR:          | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ Family members: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Limited | <input type="checkbox"/> No |

UNHCR has unimpeded access to all persons under its mandate, including in detention.<sup>1119</sup> NGOs specialised in asylum and migration issues are also entitled to have access to all persons who enjoy the status of asylum seeker.<sup>1120</sup> Access to asylum seekers detained at the airport could be restricted, when that is necessary to protect national security and ensure public order in the Republic of Serbia.<sup>1121</sup> CSOs in general have the possibility to access the Detention Centre in **Padinska Skela**, but they rarely went in 2022, 2023 or 2024 due to lack of interest of detainees to apply for asylum. Usually, the visits are conducted upon invitation of the management, and when a foreigner expresses their intention to apply for asylum. One may wonder whether more detainees would be willing to apply for asylum if the MoI allowed free visits and therefore unhindered access for lawyers able to provide legal information and counselling.

<sup>1118</sup> Special Rapporteur on Torture, *Visit to Serbia and Kosovo - Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, A/HRC/40/59/Add.1, 25 January 2019, available at: <https://bit.ly/47OzTm7>, para. 48.

<sup>1119</sup> Articles 5(2), 14, 36(5), 41(3) and 56(4) Asylum Act.

<sup>1120</sup> Articles 36(5), 41(2), 56(3) and (4) Asylum Act.

<sup>1121</sup> Article 41(3) Asylum Act.

IDEAS visited DC Padinska Skela 9 times in 2024 and for the purpose of providing legal assistance to Turkish national who was detained on the national security grounds and who also applied for asylum.

According to the NPM,<sup>1122</sup> lawyers and CSOs have unhindered access to immigration detention facilities, a remark that can be corroborated by the author of this Report. Each detention facility has designated area for confidential talk with the possibility for visual monitoring.

NPM noted a positive development in relation to providing access to legal aid for detainees, in particular as detainees are now provided with the list of lawyers drafted by the Bar Chamber. However, unless they applied for asylum (when CSOs can provide free legal aid), foreign nationals have to pay for the services, meaning that those who do not have financial means, are deprived of the possibility to enjoy legal assistance in their expulsion or detention procedure. NPM is of the opinion that Free Legal Aid Act should be amended in that regards.

There is no medical staff in any of the DCs and foreigners who have health care concerns are transported to local clinics. This practice has been criticized by the NPM.

UNHCR and IOM have regular access to detention facilities in line with their mandates.

## D. Procedural safeguards

### 1. Judicial review of the detention order

#### Indicators: Judicial Review of Detention

- |   |                              |  |
|---|------------------------------|--|
| 1. Is there an automatic review of the lawfulness of detention? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 2. If yes, at what interval is the detention order reviewed?    | n/a                          |  |

Applicants can challenge their detention before the competent Higher Court within 8 days from the delivery of the detention decision.<sup>1123</sup> The appeal against the Asylum Office's detention decision does not have suspensive effect.<sup>1124</sup>

Since the decision is drafted in Serbian, and foreigners often do not have legal counsel, there is no real possibility to challenge detention decisions.

In 2022, one applicant from Kyrgyzstan tried to challenge his detention on security grounds before the Higher Court of Belgrade, but the court never decided upon the appeal. It is unclear why the lawmaker has made Higher Courts competent to examine the lawfulness of administrative detention decisions, instead of the Administrative Court.

As for the appeals against immigration detention imposed by the MoI and in relation to foreign nationals detained under the Foreigners Act, the competent body is the Administrative Court. Article 90 provides that a complaint against a decision on immigration detention or extension of immigration detention can be lodged within 8 days of the day of delivery of the decision, but the complaint will not have a suspensive effect. The Administrative Court shall decide on the complaint within 15 days which is not respected in practice, as outlined in the Table below.

<sup>1122</sup> NPM, *Извештај о посети Прихваталишту за странце у Падинској Скели*, no. 22900, 12 September 2023, available at: <https://bit.ly/3K0Etnr>; *Извештај о посети Прихваталишту за странце у Пландишту*, no. 370, 9 January 2024, available at: <https://bit.ly/3wCECu2>; *Извештај о посети Прихваталишту за странце у Димитровграду*, no. 7681, 31 March 2023, available at: <https://bit.ly/4bJCgIR>.

<sup>1123</sup> Article 78(5) Asylum Act.

<sup>1124</sup> Article 78(6) Asylum Act.

The practice of the Administrative Court with regards to the complaints lodged against decisions on immigration detention in the period 1 January 2024– 31 December 2024						
No.	No. of Judgment	Date of complaint	Date of Judgment	Outcome	Nationality	No. of persons
1.	U 15/24	28 December 2023	7 March 2024	Rejected	N/A	1
2.	U 10473/23	23 October 2023	11 March 2024	Rejected	N/A	1
3.	U 1994/24	15 May 2024	22 January 2024	Rejected	N/A	1
4.	U 4146/24	16 May 2024	16 April 2024	Rejected	N/A	1
5.	U 4204/23	3 May 2024	30 May 2024	Rejected	N/A	1
6.	U 5905/24	13 June 2024	19 July 2024	Rejected	N/A	1
7.	U 9224/24	31 October 2024	9 December 2024	Upheld	N/A	1
8.	U 9308/24	1 November 2024	17 December 2024	Rejected	N/A	1
<b>Total</b>						<b>8</b>

Source: Administrative Court, response to the request for the information of public importance no. 4/25 of 23 January 2025.

In 2024, a total of 8 complaints were lodged against decisions on immigration detention or decision on extension of immigration detention. The majority of complains were rejected.

What can also be seen from the above listed practice is that less only 8 foreign nationals<sup>1125</sup> detained under the provisions of the Foreigners Act challenged their detention. This basically means that less than 2% of immigration detainees challenged their detention in 2024.

Since the refugees detained in the transit zone of **Nikola Tesla Airport** are not considered persons deprived of liberty by the border police officials, they do not have the possibility to challenge their situation before the relevant authority. In other words, the placement of foreigners in the transit zone is not accompanied by a lawful decision depriving them of their liberty, specifying the duration of such deprivation of liberty and their rights, such as the right to have access to a lawyer, the right to notify a third person of one's deprivation of liberty and the right to be examined by a doctor (see [refusals of entry](#)).

Foreigners who are sentenced for the misdemeanour of irregular border crossing or stay in Serbia may lodge an appeal against the first-instance decision. However, since the majority of cases are processed in an accelerated manner, where foreigners are deprived of the possibility of challenging the charges against them in a language they understand and with the help of an attorney, appeals in these procedures are quite rare.<sup>1126</sup>

## 2. Legal assistance for review of detention

### Indicators: Legal Assistance for Review of Detention

- Does the law provide for access to free legal assistance for the review of detention?  
☐ Yes ☒ No
- Do asylum seekers have effective access to free legal assistance in practice?  
☐ Yes ☒ No

<sup>1125</sup> In three instances foreign nationals complained twice – once against the decision on detention and the other time against the decision on extension of detention.

<sup>1126</sup> CAT, *Concluding observations on the second periodic report of Serbia*\*\*, 3 June 2015, CAT/C/SRB/CO/2\*, available at: <https://bit.ly/3uj15La>, para 14.



Given that there have not been many decisions placing asylum seekers in detention at the Detention Centre for Foreigners, it is impossible to form a clear picture of the current state of affairs in this field. What can be seen from the Administrative Court case files is that detention has been extended in several cases to the maximum of 6 months, but also that only handful of complaints were lodged in general against immigration detention imposed under the Foreigners Act.

#### **E. Differential treatment of specific nationalities in detention**

There have been no reports of differential treatment in detention on the basis of nationality, such as nationals of certain countries being susceptible to systematic or longer detention than others.

### A. Status and residence

#### 1. Residence permit

##### Indicators: Residence Permit

- |  |         |
|--|---------|
| 1. What is the duration of residence permits granted to beneficiaries of protection? |         |
| ❖ Refugee status   | 5 years |
| ❖ Subsidiary protection  | 1 year  |

Despite their right to permanent residence under the Asylum Act,<sup>1127</sup> recognised refugees are not issued a separate document certifying this right, as they are considered *ipso facto* to be entitled to reside in the country.

The right to reside in the Republic of Serbia shall be approved per a decision on granting refugee status or subsidiary protection and shall be proved by an identity card for persons who have been granted asylum.<sup>1128</sup>

ID cards for persons granted refugee status are valid for a period of five years, while ID cards for persons granted subsidiary protection are valid for a period of one year.

The content of this document is simple and the ID card is a laminated document containing a photo of the person, its surname and first name, gender, date and place of birth, country of origin, address, as well as the document number and date of issue and expiration. The document is filled out by hand by an Asylum Office official and the only proof that the document has been issued by a State administration body is a stamp of the Ministry of Interior.

ID cards that are issued to asylum seekers and persons granted asylum create an entire set of everyday obstacles. The first problem is that this document cannot prove the identity and the legal status of refugees. While ID cards issued to Serbian citizens and foreigners granted temporary or permanent residency contain unique personal number of the citizen (JBMG) or foreigner's registration number (EBS), this document, due to lack of its biometric features does not contain any of these data. Thus, the current ID card for asylum seekers and refugees does not directly contain the EBS, which has to be requested to the Asylum Office. This further causes bureaucratic obstacles for enjoying other rights such as obtaining a work permit, opening bank accounts and other every day needs which can be met only with additional documentation issued by the Asylum Office, such as the confirmation on obtaining international protection in Serbia or EBS confirmation document.

Many institutions and the staff of these institutions are not familiar with ID cards which causes problems in local health care institutions, public notaries, sports facilities, educational institutions, supermarkets, and employers on the labour market. There have been instances in which the police officers were questioning the validity of ID cards during the routine checks.

Accordingly, plastic ID cards are the reason why refugees and asylum seekers face discrimination in almost every step of their struggle with the public or private administrations.

#### 2. Civil registration

Currently, there is no data on civil registration for beneficiaries of international protection in Serbia, except for children who are provided with birth certificate upon birth in Serbia.

<sup>1127</sup> Article 60 Asylum Act.

<sup>1128</sup> Article 90 Asylum Act.

### 3. Long-term residence

The Long-Term Residence Directive is not applicable in Serbia, and the Serbian legal framework does not recognise the institution of long-term residency.

### 4. Naturalisation

#### Indicators: Naturalisation

- |   |                |
|---|----------------|
| 1. What is the waiting period for obtaining citizenship?  | Not applicable |
| 2. Number of citizenship grants to beneficiaries in 2024: | 0              |

Under the new Asylum Act, the Republic of Serbia shall ensure conditions for naturalisation of refugees, commensurate to its capacity.<sup>1129</sup> The conditions, the procedure and other issues relevant to their naturalisation shall be defined by the Government on a proposal by CRM.<sup>1130</sup> Until 2023, the Citizenship Act<sup>1131</sup> and Foreigners Act were not harmonised with the Asylum Act. For that reason, the issue of naturalisation was one the questions put forward by the Committee on Economic, Social and Cultural Rights in 2019.<sup>1132</sup> Thus, none of these two acts recognised foreigners granted asylum as persons who are entitled to acquire Serbian citizenship. The relevant amendments of the Foreigners Act were adopted in 2023 changing the situation.

The amended Foreigners Act introduced the new provision which allows persons granted asylum to apply for permanent residency which is the final step before the possibility for obtaining citizenship. Namely, the Article 68a of the Foreigners Act prescribes that permanent residence will be granted to a foreigner who has resided in Serbia continuously for more than three years on the basis of the approved right to asylum. The conditions for applying for permanent residency are simple and they are basically related to the expiry of the three year period. General requirements from the Article 70 of the Foreigners Act are not imposed on persons granted asylum. First decisions on permanent residency have been granted in the first quarter of 2024.<sup>1133</sup> In the history of Serbian asylum system, not a single person granted asylum has ever obtained citizenship.

### 5. Cessation and review of protection status

#### Indicators: Cessation

- |   |  |
|---|--|
| 1. Is a personal interview of the beneficiary in most cases conducted in practice in the cessation procedure? | N/A  |
| 2. Does the law provide for an appeal against the first instance decision in the cessation procedure?         | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  |
| 3. Do beneficiaries have access to free legal assistance at first instance in practice?                       | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> With difficulty <input type="checkbox"/> No |

Under Article 81 of the Asylum Act, **refugee status** shall cease where the person:

- ❖ Has voluntarily re-availed him or herself of the protection of their country of origin;
- ❖ Having lost their nationality, has re-acquired it;
- ❖ Has acquired a new nationality, and thus enjoys the protection of the country of their new nationality;
- ❖ Has voluntarily re-established him or herself in the country which they left or outside which they remained owing to fear of persecution or harassment;

<sup>1129</sup> Article 71(1) Asylum Act.

<sup>1130</sup> Article 71(2) Asylum Act.

<sup>1131</sup> Official Gazette no. 135/04, 90/7 and 24/18.

<sup>1132</sup> CESCR, *List of Issues in relation to the third periodic report of Serbia\**, 12 November 2019, E/C.12/SRB/Q/3, para. 12.

<sup>1133</sup> Practice-informed observation by IDEAS.

- ❖ Can no longer continue to refuse to avail him or herself of the protection of their country of origin or habitual residence, because the circumstances in connection with which they have been granted protection have ceased to exist;

When considering these criteria, the Asylum Office must assess whether the change of circumstances is of such a significant and non-temporary nature that the fear of persecution can no longer be regarded as well-founded. The Asylum Office is obliged to inform the person about the grounds for cessation and allow them to make a statement regarding the facts relevant for the cessation of protection. The beneficiary is entitled to invoke compelling reasons arising out of previous persecution or harassment for refusing to avail themselves of the protection of the country of origin or the country of former habitual residence.<sup>1134</sup> Even though cessation has never been applied, it is reasonable to assume that refugees who could be subjected to such practice in future would have at their disposal free legal aid from CSOs.

The Asylum Act also provides that the Asylum Office will adopt a decision on cessation of **subsidiary protection** when the circumstances in connection with which it has been granted have ceased to exist or have changed to such a degree that the protection is no longer required, or the person no longer faces a risk of serious harm. The beneficiary is entitled, after being informed by the Asylum Office about the grounds for cessation, to invoke compelling reasons arising out of previous serious harm for refusing to avail themselves of the protection of the country of origin or the country of former residence.<sup>1135</sup>

After it has determined that there are reasons for the cessation of refugee status or subsidiary protection, the Asylum Office shall *ex officio* revoke a decision upholding the asylum application.<sup>1136</sup> None of the CSOs providing free legal aid to asylum seekers have reported such practice in 2024.

## 6. Withdrawal of protection status

To the knowledge of CSOs providing legal assistance, withdrawal was not applied in practice in 2024.

### B. Family reunification

#### 1. Criteria and conditions

##### Indicators: Family Reunification

1. Is there a waiting period before a beneficiary can apply for family reunification?  
 ❖ If yes, what is the waiting period?  
☐ Yes ☒ No  
 n/a
2. Does the law set a maximum time limit for submitting a family reunification application?  
 ❖ If yes, what is the time limit?  
☐ Yes ☒ No  
 n/a
3. Does the law set a minimum income requirement?  
☐ Yes ☒ No

A beneficiary of international protection has the right to reunification with their family members.<sup>1137</sup> Family members are the spouse, provided that the marriage was contracted before the arrival to the Republic of Serbia, the common law partner in accordance with the regulations of the Republic of Serbia, their minor children born in legal or in common law marriage, minor adopted children, or minor step-children. Exceptionally, the status of family member may be granted also to other persons, taking into account particularly the fact that they had been supported by the person who has been granted asylum or subsidiary protection, their age and psychological dependence, including health, social, cultural, or other

<sup>1134</sup> Article 81(4), (5) and (6) Asylum Act.

<sup>1135</sup> Article 82 Asylum Act.

<sup>1136</sup> Article 83 Asylum Act.

<sup>1137</sup> Articles 70(1) and 9(2) Asylum Act.

similar circumstances.<sup>1138</sup> A family member for whom there exist grounds to be excluded from asylum shall not have the right to family reunification.<sup>1139</sup>

The family reunification procedure is also regulated by the Foreigners Act. The Foreigners Act explicitly recognises that family members of persons granted asylum have to apply for a visa at the diplomatic-consular representation of the Republic of Serbia in the country of origin or third country. They also have to provide evidence of their family tie with a person granted asylum in Serbia. Those people granted visas to arrive to Serbia will be granted temporary residency for the purpose of family reunification, in line with the Article 55 of Foreigners Act.

The general requirements for the any kind of temporary residency are the following:

- ❖ Valid travel document
- ❖ Evidence of means for subsistence during the planned stay
- ❖ Registered address of residence in the Republic of Serbia
- ❖ Evidence of health insurance during the planned stay (around 300 EUR per year)
- ❖ Proof of payment of the prescribed administrative fee (around 135 EUR)

The Foreigners Act prescribes that the family reunification is related to the so called 'nuclear family' which covers: spouses, civil partners, their minor children born in or out of wedlock, minor adopted children or minor stepchildren, who have not married.

In 2020, a family reunification procedure was carried out for the first time. In July 2020, one of APC's clients from **Afghanistan** was reunited with his wife and 5 children who were transferred from **Afghanistan** to the consulate of Serbia in **New Delhi, India**.<sup>1140</sup> The family reunification procedure lasted 10 months, but this case should be observed as a model to learn from for all future cases. Still, when the family arrived to Serbia they applied for asylum and were granted refugee status. In 2024, a Burundian national granted asylum was reunited with his wife. Apart from that case, there were no other instances of family reunification.

## 2. Status and rights of family members

The right to reside in the Republic of Serbia shall be enjoyed by the family members of a person who has been granted asylum. According to the Foreigners Act, this entails the status based on the temporary residency which also entails the possibility to obtain foreigners ID card.<sup>1141</sup>

## C. Movement and mobility

### 1. Freedom of movement

Refugees have equal rights to free movement as foreigners permanently residing in Serbia.<sup>1142</sup>

### 2. Travel documents

The Asylum Act envisages that the Minister of Interior will adopt a bylaw on the content and design of travel documents for persons granted **refugee status** within 60 days from the date of entry into force of the Act.<sup>1143</sup> However, for more than 15 years this bylaw had not been adopted. Several legal procedures on the domestic level were initiated, including before the Constitutional Court of Serbia.

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<sup>1138</sup> Article 2(2) and (12) Asylum Act.

<sup>1139</sup> Article 70(4) Asylum Act.

<sup>1140</sup> APC, *Prvi slučaj spajanja porodice izbeglice u Srbiji*, 20 July 2020, available at: <http://bit.ly/2YCpEzC>.

<sup>1141</sup> Article 102 Foreigners Act.

<sup>1142</sup> Article 62 Asylum Act.

<sup>1143</sup> Article 101 Asylum Act.

The Constitutional Court dismissed the appeals on 20 June 2016, stating that the subject of a constitutional appeal cannot be a failure to adopt a general legal act, but only the individual act as it is prescribed by Article 170 of the Constitution.<sup>1144</sup>

Due to this legal vacuum, refugees' freedom of movement was limited even though it is guaranteed by the Serbian Constitution and the ECHR. This means that refugees can leave Serbia only illegally unless they possess a valid travel document issued by their country of origin.

After the ECtHR's landmark judgment, the bylaw has been finally adopted, and after the Strasbourg Court has found a violation of the Article 2 of Protocol 2.<sup>1145</sup> On 17 November 2023, the Minister of Interior adopted the Rulebook on the look and content of the travel document for refugees.<sup>1146</sup> In March 2023, the first travel document was issued to the refugee from Kazakhstan.<sup>1147</sup>

The Asylum Act also envisages that, in exceptional cases of humanitarian nature, a travel document may also be issued to persons who have been granted **subsidiary protection** and who do not possess a national travel document, with a validity of maximum one year.<sup>1148</sup> This provision is yet to be applied. An Afghan refugee with subsidiary protection was issued with the travel document in May 2024.<sup>1149</sup>

From the beginning of the application of the new Rulebook until 31 December 2024, a total of 49 travel documents for refugees were issued. Of that number, 39 documents were issued to men, including 6 children, while 10 documents were issued to women, including 3 girls.<sup>1150</sup>

## D. Housing

### Indicators: Housing

- |   |        |
|---|--------|
| 1. For how long are beneficiaries entitled to stay in reception centres?        | 1 year |
| 2. Number of beneficiaries staying in reception centres as of 31 December 2024: | N/A    |

The Commissariat for Refugees and Migration is responsible for ensuring temporary accommodation for persons who have been granted international protection.<sup>1151</sup> The right to temporary accommodation of persons who have been granted asylum is governed by the Decree on Criteria for Temporary Accommodation of Persons Granted Asylum or Subsidiary Protection and Conditions for Use of Temporary Housing.<sup>1152</sup> The Decree defines the manner of granting accommodation to beneficiaries of asylum, including the conditions that need to be met in order to receive accommodation, the priorities to be respected when doing so, as well as the conditions of housing.

There are no longer stay options or other specialised accommodation for vulnerable groups or young people who have recently turned 18.

Accommodation is granted to individual beneficiaries together with their families if they have a final decision granting asylum which is not older than one year at the time of the request and if they do not possess sufficient financial resources to find accommodation on their own. The CRM may provide them with housing for temporary use or financial assistance which is used to cover the costs of temporary accommodation.<sup>1153</sup> If there is sufficient accommodation available, it may also be provided to persons

<sup>1144</sup> Constitutional Court, Decision UŽ 4197/2015, 20 June 2016.

<sup>1145</sup> ECtHR, *S.E. v. Serbia*, Application No. 61365/16, Judgment of 11 July 2023.

<sup>1146</sup> Official Gazette no. 104/2023, available at: <https://bit.ly/4e6rDBI>.

<sup>1147</sup> Government of Serbia, Урочена прва путна исправа за избеглице, 27 March 2024.

<sup>1148</sup> Article 91(3) Asylum Act.

<sup>1149</sup> IDEAS acted as a legal representative.

<sup>1150</sup> Ministry of Interior - Border Police Administration-Department for Readmission, responses to the information of public importance nos. 07-34/24, 30 August 2024 (delivered on 20 September 2024) and 07-2/25, 11 February 2025 (delivered on 21 February 2025).

<sup>1151</sup> Article 23 Asylum Act.

<sup>1152</sup> Official Gazette no. 63/15 and 56/18, hereinafter: Accommodation Decree.

<sup>1153</sup> Article 2 (1) Integration Decree.



who do possess the means to find their own lodgings, taking into consideration their particular circumstances. In practice, due to a lack of adequate housing capacities, the Commissariat usually resorts to financial assistance,<sup>1154</sup> which is around 34,000 dinars (around 285 EUR), which is not sufficient to secure accommodation in Belgrade for instance (see below).

In order to apply for the financial assistance, refugees are obliged to attend Serbian language classes. The Asylum Act provides that if a refugee fails to report to the Commissariat to attend Serbian language classes within 15 days from the final decision granting asylum or if they stop attending Serbian classes without a justified reason, they lose the right to temporary accommodation assistance.<sup>1155</sup>

There are several obstacles in obtaining and enjoying State-funded support in practice. The first one refers to the method of determining the amount of financial assistance. If an individual has no income or if their income does not exceed 20% of the minimum Republic of Serbia wage for the previous month, the value of the financial assistance is equal to the established Serbian minimum wage per employee for the previous month. The Accommodation Decree does not provide for progressive assistance levels which would take in consideration the number of family members.<sup>1156</sup> Another challenge identified in practice concerns the necessity of paying a fee to receive a certificate (the signed statement of the beneficiary validated by the Public Notary) that he or she does not receive any income or only receives occasional income from working, a private enterprise, movable property or real estate or from other sources,<sup>1157</sup> and that they are registered as unemployed with the National Employment Service (NES).

There is no data on how many persons granted asylum were provided with financial assistance from the State in 2021, while in 2022, only 4 persons granted asylum were provided with monthly support. This is because the 14 people who were granted asylum in 2022 were either employed or they enjoyed financial assistance from CSOs or UNHCR. In 2023, only 2 persons granted asylum received this kind of support,<sup>1158</sup> while in 2024 only 3 persons did.<sup>1159</sup>

An additional problem is that more than 200,000 Russian citizens arrived in Serbia after the conflict in Ukraine started, which created a turbulence in the real estate market and a sharp increase in rents. In Belgrade, it is basically impossible to rent an apartment for less than 500 EU (around 57,000 dinars), which basically means that financial support of CRM is insufficient to cover the costs of rent.

## E. Employment and education

### 1. Access to the labour market

The Asylum Act foresees that persons granted asylum in Serbia shall be equal to permanently-residing foreigners with respect to the right to work and rights arising from employment and entrepreneurship.<sup>1160</sup> The Asylum Act guarantees equality in the rights and obligations of persons granted refugee status with those of persons granted subsidiary protection.<sup>1161</sup> The Integration Decree further foresees assistance in accessing the labour market as an integral part of integration.

The assistance is to be provided by the Commissariat for Refugees and Migrations and is to form part of every individual beneficiary of refugee status' integration plan. In 2023, the CRM designed 53 integration plans in relation to the individuals granted asylum in the period 2019-2023.<sup>1162</sup> In 2024, CRM designed 5 integration plans for persons granted asylum in 2024.

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<sup>1154</sup> Article 9 (1) Integration Decree.

<sup>1155</sup> Article 59 (4) Asylum Act.

<sup>1156</sup> Article 10 Integration Decree.

<sup>1157</sup> Ibid.

<sup>1158</sup> CRM Response to the request for the information on public importance no. 019-827/1-2024 of 29 April 2024.

<sup>1159</sup> CRM Response to the request for the information on public importance no. 019-921/1-2025 of 15 March 2025.

<sup>1160</sup> Article 65 Asylum Act.

<sup>1161</sup> Article 59 Asylum Act.

<sup>1162</sup> CRM Response to the request for the information on public importance no. 019-827/1-2024 of 29 April 2024.

A positive legislative development in 2023 was the amendment of the EFA, which simplified access to labour market and abolished the issuance of working permits. The right to work is now guaranteed for every asylum seeker after the expiry of 6 months only with the certificate of asylum request being submitted by the Asylum Office in a simple procedure, alongside EBS number certificate.<sup>1163</sup> The same is valid for people granted asylum who need to obtain EBS number certificate as well as the certificate of being granted asylum. Refugees and asylum seekers do not need to pay for fees anymore.<sup>1164</sup>

In spite of the fact that, under the law, persons granted asylum in Serbia should not face significant challenges in accessing the labour market, finding employment is difficult in practice, especially bearing in mind the language barrier that exists between most of these persons and the local community.

It is important to highlight that the Asylum Act imposes upon beneficiaries an obligation to attend classes in Serbian language and script. If the beneficiary fails to do so without a justified reason 15 days from the date of the effectiveness of the decision granting them the right to asylum or stops attending such courses, they shall lose the right to financial assistance for temporary accommodation, as well as the right to one-time financial assistance provided from the budget of the Republic of Serbia.<sup>1165</sup>

It should also be added that the National Employment Strategy of the Republic of Serbia for 2011-2020 identifies a number of vulnerable groups, the improvement of whose status with regard to the labour market is to be prioritised in the relevant timeframe.<sup>1166</sup> Unfortunately, refugees and asylum seekers are not specifically mentioned as a group whose increased access to employment is a national objective, which is striking bearing in mind the fact that the Strategy covers refugees from other former Yugoslav republics and internally displaced persons. However, a number of identified groups, including persons with disabilities, persons with a low level of education, the young and elderly, women and unemployed, still remain relevant for the current mixed-migration flow through Serbia.

It should be also borne in mind that support to access the labour market is solely provided by CSOs. In other words, State institutions still do not provide organised assistance to refugees for inclusion into the labour market, in contravention of the relevant provisions of the Integration Decree.<sup>1167</sup>

## 2. Access to education

The right to education is a constitutional right in Serbia further governed by a number of laws, primarily the Law on Basics of the Education System.<sup>1168</sup> Specific degrees of education are regulated by the Law on Primary Education,<sup>1169</sup> the Law on Secondary Education,<sup>1170</sup> and the Law on Higher Education.<sup>1171</sup>

Under the Law on Basics of the Education System, foreign nationals, stateless persons and persons applying for citizenship shall have a right to education on an equal footing and in the same manner as Serbian nationals.<sup>1172</sup> The Asylum Act also guarantees the right to education of asylum seekers and persons granted asylum.<sup>1173</sup> A person granted asylum is entitled to preschool, primary, secondary and higher education under the same conditions as citizens of Serbia.<sup>1174</sup> It is also important to highlight that primary school is free and mandatory, and that underage asylum seekers are to be ensured access to education immediately, and no later than three months from the date of the asylum application.<sup>1175</sup> Secondary education is also free of charge, but is not mandatory.

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<sup>1163</sup> Article 3 (3) Employment of Foreigners Act.

<sup>1164</sup> See more in AIDA, *Country Report: Serbia – Update on the year 2022*, May 2023, available [here](#), 195-196.

<sup>1165</sup> Article 59 Asylum Act.

<sup>1166</sup> National Employment Strategy of the Republic of Serbia for 2011-2020, Official Gazette no. 37/11.

<sup>1167</sup> Article 7 of the Integration Decree.

<sup>1168</sup> Official Gazette, no. 88/17 and 27/18.

<sup>1169</sup> Official Gazette, no. 55/13, 101/17 and 27/18.

<sup>1170</sup> Official Gazette, no. 55/13, 101/17 and 27/18.

<sup>1171</sup> Official Gazette, no. 88/17, 27/18 – other laws and 73/18.

<sup>1172</sup> Article 3(5) Law on Basics of the Education System.

<sup>1173</sup> Articles 55 and 64 Asylum Act.

<sup>1174</sup> Article 64 Asylum Act.

<sup>1175</sup> Article 55 (2) Asylum Act.

The Integration Decree foresees assistance by the Commissariat for Refugees and Migrations to persons recognised as refugees to enter the educational system.<sup>1176</sup> The Commissariat is to assist recognised refugees who are children and enrolled in pre-school, elementary and high-school education, as well as illiterate adults, who are to be enlisted in adult literacy programmes in cooperation with the Ministry of Education. The assistance provided to children includes provision of textbooks and education material, assistance to have foreign degrees recognised, learning support and financial support to engage in extracurricular activities.<sup>1177</sup> However, the Government's Decision failed to recognise persons seeking or granted asylum as a category entitled to free of charge textbooks.<sup>1178</sup> Thus, the Integration Decree is not harmonised with the Government's Decision governing free of charge textbooks.

The Professional Instruction on the Inclusion of Refugee/Asylum Seeker Students in the Education System of Serbia further regulates access to education for refugee children.<sup>1179</sup> If refugee children have proof of prior education, enrolment is made according to their age and level of education completed.<sup>1180</sup> On the other hand, if they do not have any proof of prior education, enrolment is based on a test which aims to assess their level of knowledge.<sup>1181</sup> For each student, the school is required to develop a Support Plan that should include an adaptation and stress management programme, an intensive Serbian language programme, an individualised teaching activities programme, and an extracurricular activities programme.<sup>1182</sup>

The alignment of rights to higher education represents a novelty because refugees before could access higher education only under the conditions applicable to all other foreign citizens, including regarding school fees. Although the issue of the validation of foreign diplomas potentially concerns all recognised refugees, still their validation is most wanted in the sectors where employment is conditioned by the possession of an adequate license such as medicine or law practice.<sup>1183</sup> However, the problem regarding validation is that refugees must cover the costs of this process themselves. For now, the costs of validation are covered by NGOs.<sup>1184</sup>

The Integration Decree also foresees Serbian language courses and courses of Serbian history, culture and constitutional order for persons recognised as refugees. The persons entitled to Serbian language courses are those who do not attend regular schools in Serbia, those who do, and persons older than 65. Persons not attending regular schools are entitled to 300 school periods of Serbian languages classes during a single school year, while those engaging in businesses requiring university education may be provided with another 100 periods in a school year. Persons attending school have the right to be provided with an additional 140 school periods of Serbian language classes, whereas those above 65 are provided with 200 school periods of the Serbian language adapted to the needs of everyday communications. The courses may be provided at regular or foreign language schools, whereas the adapted Serbian language classes may likewise be provided by enterprises suggesting a suitable programme and capable of employing the required staff.<sup>1185</sup> The classes are to be provided in the area where these persons reside, and if this is not possible, transport costs are to be covered by the Commissariat, which is done in practice.

The Commissariat is to enlist the person in question in a Serbian language course within two months of the decision to grant asylum becoming final. If the person does not attend the courses without good cause, they lose the right to new or additional language classes. In practice, language courses are not always facilitated timely.

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<sup>1176</sup> Article 2(4) Integration Decree.

<sup>1177</sup> Article 6 Integration Decree.

<sup>1178</sup> Decision on Financing Procurement of Textbooks from the Budget of the Republic of Serbia for School Year 2019/2020, No. 451–2660/19, RS Government (Belgrade, 21 March 2019), Official Gazette no. 22/19.

<sup>1179</sup> Ministry of Education, Science and Technological Development Instruction No. 601-00–00042/17–2018 of May 2017.

<sup>1180</sup> Ibid, 1–2.

<sup>1181</sup> Ibid. 2.

<sup>1182</sup> Ibid, 3.

<sup>1183</sup> BCHR, *The Right to Asylum in the Republic of Serbia 2018*, available at: <https://bit.ly/3SUyJ92>, 87–88.

<sup>1184</sup> BCHR, *The Right to Asylum in the Republic of Serbia 2019*, available at: <https://bit.ly/3uxBOwX>, 178.

<sup>1185</sup> Article 4 Integration Decree.

Concerning the study of Serbian culture, history and constitutional order, persons recognised as refugees are provided with lessons that may, in total, last up to 30 hours annually. Again, if the person does not attend the classes, the Commissariat is not obliged to arrange new or additional ones.<sup>1186</sup>

The conclusion that can be made is that access to education is more or less adequately guaranteed in the legal framework, but an entire set of problems still exists in practice. The UN Committee on the Elimination of Racial Discrimination (CERD) urged Serbia to facilitate more effective inclusion of children, including migrants, in primary education.<sup>1187</sup>

All children granted asylum regularly attend elementary or secondary school.

In 2021, with the help of the UNHCR office in Serbia, the ENRIC/NARIC Center of the Qualification Agency of the Republic of Serbia joined the Council of Europe project of the European Qualification Passport for Refugees.<sup>1188</sup> The outcomes of this project are yet to be seen in 2022, but there were at least 4 foreign diplomas recognised in 2022. The practice remained unchanged, but only 1 foreign diploma was recognized in 2023.<sup>1189</sup> In 2024, not a single foreign diploma was recognized according to the UNHCR, CRM and UNHCR partners.

## F. Social welfare

The Asylum Act grants the right to receive welfare benefits to asylum seekers as well as persons who have been granted asylum; persons recognised as refugees and beneficiaries of subsidiary protection are equal in this regard.<sup>1190</sup> The Social Welfare Act (SWA) defines social welfare as an organised social activity in the common interest, which purpose is to provide assistance and strengthen individuals and families for an independent and productive life in society, as well as prevent the causes of, and eliminate, social exclusion.<sup>1191</sup> The Act also defines Serbian citizens as beneficiaries of social welfare, but states that foreigners and stateless persons may also receive social welfare in line with the law and international agreements.<sup>1192</sup> This right is exercised through the provision of social protection services and material support.<sup>1193</sup> The regulations on social welfare for persons seeking asylum or who have been granted asylum are within the jurisdiction of the Ministry of Labour, Employment, Veteran and Social Issues, which has enacted a Rulebook on Social Welfare for Persons Seeking or Granted Asylum (RSW).<sup>1194</sup>

According to the Rulebook, persons seeking or granted asylum may receive monthly financial aid if they are not housed in an asylum centre and if they and their family members do not receive an income or one lower than the threshold required by the Rulebook.<sup>1195</sup> Therefore, this Rulebook only provides social welfare to persons residing in private accommodation, which is counterintuitive, as persons staying in such accommodation usually those less reliant on social welfare in the first place.

The request for social welfare is examined and decided upon by the social welfare centre with jurisdiction over the municipality in which the beneficiary of asylum resides.<sup>1196</sup> Once granted, the conditions for benefitting from social welfare are re-examined by the social welfare centre on an annual basis. The

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<sup>1186</sup> Article 5 Integration Decree.

<sup>1187</sup> CERD, *Concluding Observations on the Combined Second, Third, Fourth and Fifth Periodic Reports of Serbia*, 3 January 2018, CERD/C/Srb/Co/2–5, para. 27 (c), available at: <https://bit.ly/3MXhk7e>.

<sup>1188</sup> More on the European Qualification Passport see on the following link: <https://bit.ly/3wy8gOC>.

<sup>1189</sup> CRM Response to the request for the information on public importance no. 019-827/1-2024 of 29 April 2024.

<sup>1190</sup> Article 52 and 67 Asylum Act.

<sup>1191</sup> Article 2 Social Welfare Act, Official Gazette no. 24/2011.

<sup>1192</sup> Article 6 SWA.

<sup>1193</sup> Article 4 (2) SWA.

<sup>1194</sup> Rulebook on Social Welfare for Persons Seeking or Granted Asylum, Official Gazette no. 44/2008.

<sup>1195</sup> Ibid, Article 3.

<sup>1196</sup> Ibid, Article 8.

second instance body is the Minister responsible for social affairs.<sup>1197</sup> One of the problems identified in practice is the extensive length of the procedure to be granted social welfare.<sup>1198</sup>

The conclusion that can be drawn is that provisions of the Asylum Act and RSW do not recognise the actual needs of both asylum seekers and persons granted asylum as a member of a particularly underprivileged group. The main reason for this claim lies in the fact that asylum seekers and persons granted asylum who are accommodated in Asylum Centres and who do not have sufficient means of livelihood are not eligible for social allowances.

As of March 2022, the highest possible amount of social welfare benefits that may be received on a monthly basis is around 18,000 RSD / €155. The amount is by no means sufficient to enable recipients to live even a modest existence in Serbia, but it is no less than may otherwise be provided to citizens of Serbia. The amount of money which can be received on these grounds remained unchanged in 2023.

Apart from the housing support by the CRM provided to 1 person granted asylum in 2023, there are no records which indicate that refugees or asylum seekers were granted social welfare support.<sup>1199</sup> In 2024, no such cases were reported by the CRM, UNHCR or CSOs.

## G. Health care

The Asylum Act prescribes that the right to healthcare is guaranteed to all persons granted asylum and that all the costs of health care are covered by the State.<sup>1200</sup> Additionally, foreigners' health care is also governed by the Health Care Act (HCA)<sup>1201</sup> and the Health Insurance Act (HIA)<sup>1202</sup> as well as the Rulebook on the Terms and Procedure for Exercising the Right to Compulsory Health Insurance (RHI).<sup>1203</sup> HCA stipulates that refugees and asylum seekers are entitled to health care under equal terms as Serbian nationals.<sup>1204</sup> All persons granted asylum had unhindered access to COVID-19 vaccines and PCR and other forms of testing.

HIA and RHI do not specify further the rights of refugees other than those from former **Yugoslavian** republics. Thus, the HIA does not recognise the refugees and asylum seekers referred to in the Asylum Act as a separate category of beneficiaries for insurance purposes.<sup>1205</sup> The same conclusion can be drawn in relation to the Serbian Health Insurance Fund.<sup>1206</sup> Hence, asylum seekers and persons granted asylum are not entitled to compulsory health insurance and issuance of health insurance cards.<sup>1207</sup> They can obtain them only if they pay 3,607 dinars per month (a bit more than 300 EUR on annual basis). Of course, employed persons granted asylum obtain health care insurance from their employers, but the problem arises mainly for those refugees who are unofficially unemployed, but also asylum seekers who are not allowed to work for the first 9 months after they applied for asylum. In practice, they need to rely on CSOs and UNHCR to access health care facilities.

In general, appropriate enjoyment of the right to health care depends on the assistance of relevant CSOs and International Organisations.<sup>1208</sup>

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<sup>1197</sup> Ibid, Article 9.

<sup>1198</sup> BCHR, Right to Asylum in the Republic of Serbia 2019, pp. 181-182, available at: <https://bit.ly/3uxBOWX>.

<sup>1199</sup> CRM Response to the request for the information on public importance no. 019-827/1-2024 of 29 April 2024. Article 63 Asylum Act.

<sup>1200</sup> Official Gazette no. 25/19.

<sup>1201</sup> Official Gazette no. 107/25, 109/05 – correction, 57/11, 110/12 – Constitutional Court Decision, 119/12, 99/14, 123/14, and 126/14 – Constitutional Court Decision.

<sup>1202</sup> Official Gazette no. 10/10, 18/10 – correction, 46/10, 52/10 – correction, 80/10, 60/11 – Constitutional Court Decision, and 1/13.

<sup>1203</sup> Article 236, para. 1, and Article 239 of the Law on Health Care.

<sup>1204</sup> Article 11 HIA.

<sup>1205</sup> Exercising the Right to Compulsory Health Insurance, Serbian Health Insurance Fund, Belgrade, May 2015, available in Serbian at: <http://bit.ly/33amche>.

<sup>1206</sup> Article 25 HIA; see more in BCHR, Right to Asylum in the Republic of Serbia 2019, available at: <https://bit.ly/3uxBOWX>, 184-185.

<sup>1207</sup> BCHR, Right to Asylum in the Republic of Serbia 2019, available at: <https://bit.ly/3uxBOWX>, 185-187.