

Country sheet – Serbia

General information

Since the 1960s, Serbia has been primarily the country of emigration: like hundreds of thousands citizens of ex-Yugoslavia, Serbians migrated to the countries of Western Europe, as temporary or "guest" workers (*gastarbeiter*).

During the conflicts following the break-down of Yugoslavia, there were both many people who sought safety in Serbia and many Serbians who left to go to the countries of Western Europe. The term "refugee" (*izbeglica*) is now used to refer to people, most often of Serbian ethnicity, who fled Bosnia and Croatia and sought refuge in Serbia. It is estimated that there are around 86 000 Bosnian and Croatian refugees, as well as approximately 225 000 internally-displaced persons¹ who fled the armed conflicts in Kosovo (1999), living in Serbia, many of whom still live in so called *collective centres* they were accommodated in when they first arrived, and face obstacles in their integration with the rest of the society. They remain most the visible and represented group of "migrants" in Serbia.

Serbia is a good example of a country, which has been turned into a "buffer" zone of the Fortress Europe, through the externalisation of the EU migration policy onto Serbia. While Serbia has been a country of transit for migrants from Asia and Africa, the number of non-ex-Yugoslav migrants stuck in Serbia has been increasing in the recent years, due to the pressures from the EU for Serbia to harmonise its policies with the EU migration policies. Since the 1st of March 2012, Serbia is officially a candidate to join the EU². The negotiations should start, at the latest, in January 2014.

Legislation

In order to achieve the liberalisation of the visa regime³ and eventually become an EU candidate state, Serbia had to harmonise its legislation with the EU standards. It passed the Law on

¹ According to the report of the Internal Displacement Monitoring Centre : *Global overview 2012 : People internally displaced by conflict and violence – Serbia*
<http://www.refworld.org/country,IDMC,,SRB,,517fb0549,0.html>

² http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/128445.pdf

³ While Yugoslavians did not require a visa to travel to the EU, since the break-down of Yugoslavia, Serbians were required to have a visa to travel to the EU – this measure was intended to temper the flow of migration from

Asylum⁴, as well as the Law on Foreigners⁵ in 2008. The Law on Foreigners regulates the entry, movement and residence of foreigners and largely harmonises it with the legislation of EU countries. Serbia has also taken steps to harmonise its border control legislation with the EU standards through the adoption of the Law on State Border Protection⁶ in 2008.⁷

Besides these laws, Serbia has adopted strategies such as the Migration Management Strategy⁸ in July 2009 and two related strategies: Strategy for the Reintegration of Returnees following the Readmission Agreement⁹ in February 2009 and Strategy to Fight Illegal Migration in the 2009-2014 period¹⁰ in March 2009. In November 2012, the Law on Migration Management¹¹ was adopted. According to this law, the Commissariat for Refugees becomes the Commissariat for Refugees and Migrations, and takes the role of an agency for migrations (external migrations as well as internal) where all services and information concerning refugees, IDP's, returned people, and migrants are available. This law reinforces the Migration Management Strategy.

Asylum seekers in Serbia

Serbia developed its independent asylum system as a condition for the liberalisation of the visa regime and as a condition of becoming an EU candidate. As the Socialist Republic of Yugoslavia (SFRY) ratified the United Nations 1951 Convention Relating to the Status of Refugees on 29th of September 1959, and the 1967 Additional Protocol on 11th of October 1967 and as the Republic

Serbia. This significantly hindered the travel of Serbian citizens and it was estimated that around 70% of Serbians did not have a passport before the liberalisation of visas (source: <http://news.bbc.co.uk/2/hi/europe/8387938.stm>). It was not until November 2009 that the visa regime was liberalised and Serbians were again able to travel to the EU without a visa, just with their passport.

⁴ Zakon o Azilu (Službeni glasnik RS, br. 109/2007), available in Serbian at http://www.paragraf.rs/propisi/zakon_o_azilu.html and in English here <http://www.unhcr.org/refworld/docid/47b46e2f9.html>

⁵ Zakon o strancima (Službeni glasnik RS, br. 97/2008), available in Serbian at http://www.paragraf.rs/propisi/zakon_o_strancima.html and in English at <http://www.unhcr.org/refworld/country,,NATLEGBOD,,SRB,,4b5d715a2,0.html>

⁶ Zakon o zaštiti državne granice (Službeni glasnik RS, br. 97/2008), available in Serbian at http://www.paragraf.rs/propisi/zakon_o_zastiti_drzavne_granice.html and in English at <http://www.unhcr.org/refworld/country,,NATLEGBOD,,SRB,,4b5d92582,0.html>

⁷ There are also two proposals for a two new migration-related laws worth mentioning. The proposal for the Law on Managing Migration (available in Serbia here: www.parlament.gov.rs/upload/archive/files/lat/pdf/predlozi_zakona/3118-12Lat.pdf) and the Law on Employment for Foreigners (available in Serbian here: www.parlament.gov.rs/upload/archive/files/lat/pdf/predlozi_zakona/4857-11%20lat.zip).

⁸ Available in Serbian at www.srbija.gov.rs/extfile/sr/114287/strategija_upravljanje_migracijama0128_lat.zip

⁹ Available in Serbian at www.srbija.gov.rs/extfile/sr/103644/strategija_readmisija0060_lat.zip

¹⁰ Available in Serbian at www.srbija.gov.rs/extfile/sr/107127/strategija_protiv_ilegalnih_migracija0077_lat.zip

¹¹ "Official Gazette of RS", No. 107/12

of Serbia is the successor of all the international obligations of SFRY, it is also the signatory of the UN Refugees Convention and Protocol. However, before Serbia developed its asylum legislation in 2008 and started its independent asylum system, it was the UNHCR who was responsible for making decisions about asylum. The Law on Asylum came into effect on the 1st of April 2008.

The number of undocumented migrants who find themselves unable to leave Serbia has been increasing, due to the reinforced Schengen border controls with Hungary and Croatia. Serbia is not their country of destination, but some of them ask asylum in Serbia, often in order to have, at least a temporarily right to shelter, food and health-care. The numbers of asylum seekers have been growing: in 2008, 77 people were registered as expressing the intention to seek asylum, in 2009, this number rose to 275, in 2010 to 522 and in 2011 to 3132¹², and in 2012 to 2723¹³

There are two reception centres for asylum seekers: one in Banja Koviljača, close to the border with Bosnia, and the other in Bogovađa, in central Serbia, about 70km from Belgrade. Due to overcrowdedness, for most of the winter 2011-2012 the two centres were unable to accommodate all asylum seekers. Besides, since the summer of 2012, the center in Bogovađa has stopped running over its official capacity of 150, which meant that the surplus of asylum seekers, which was before accommodated in storage rooms and other non-sleeping spaces, found themselves sleeping outside of the center, without being provided tents, blankets, basic sanitation and adequate nutrition.¹⁴ The situation continues into the winter, causing a humanitarian emergency outside of the center of Bogovađa – but while the Serbian Commissariat for Refugees¹⁵ has been announcing the plans to open the third reception centre for months¹⁶, this has not happened yet. The latest serious attempt to a reception center in Mladenovac (a municipality located 50km in the south of Beograd), was met with racist anti-migrant mobilisations that lasted for days¹⁷.

Fearing that the events of the winter of 2011-2012 could happen again, the authorities and the Serbian Red-Cross signed a 6-month rental contract for a property in Vračević, a village located 15km from Bogovađa. There, 80-85 people could be hosted. In February 2013, some inhabitants

¹² Source: www.grupa484.org.rs/CHALLENGES%20OF%20FORCED%20MIGRATION%20IN%20SERBIA.pdf

¹³ Asylum in Serbia, Belgrade Centre for Human Rights, Report January-June 2013
http://azil.rs/doc/Report_eng_final_final.pdf

¹⁴ See Regional Minority Centre's press-release, available in Serbian (<http://www.minoritycentre.org/sh/node/2340>) and English (<http://www.minoritycentre.org/actuals/worrying-situation-outside-centre-asylum-seekers-bogova%C4%91>)

¹⁵ <http://www.kirs.gov.rs/articles/index.php?lang=ENG>

¹⁶ <http://www.politika.rs/rubrike/Drustvo/Azilanti-nisu-kriminalci-da-bi-bili-zatvoreni.lt.html>

¹⁷ See the section about the Civil Society Response, and especially articles <http://www.blic.rs/Vesti/Beograd/325025/Protest-u-Mladenovcu-protiv-moguceg-dolaska-azilanata> (in Serbian), <http://exilesengrece.over-blog.com/article-serbie-opposition-a-un-troisieme-centre-d-accueil-pour-les-demandeurs-d-asile-107211724.html> (in French).

of the Vračević locality protested against the presence of migrants, denouncing the terrible living conditions in those houses, playing on common fears (for the health and security of their kids, e.g.). The same month, the property was stoned¹⁸. The temporary center closed on the 1st of July. Most of the migrants who were staying there were transported to one of the two asylum seeker centres.

Besides the failure to accommodate all asylum seekers, the asylum system in Serbia as a whole has many failures, well described in the Hungarian Helsinki Committee's 2012 report *Serbia as a Safe Third Country: Revisited*¹⁹. Thus, the great majority of those who express intention to seek asylum do not remain in Serbia until the end of the procedure. Thus, in 2010, out of the 522 people who were registered to have the intention to seek asylum, only 215 submitted a formal application, and further only 58 cases resulted in an interview. Out of these, only two claims got a negative response, based on the examination of the merits of their cases – all the rest were rejected, on the basis of the concept of the safe third country.²⁰

The chances of obtaining a positive decision are dismal. Since 2009 and the implementation of the Serbian asylum system, four migrants received refugee status: three in 2012 and one in July 2013²¹. Since 2008, only six people have been granted the status of subsidiary protection²².

Serbia remains inhospitable even for those who have obtained the status of subsidiary protection. Three out of the six people with subsidiary protection have left the territory of Serbia. The lives of those are made additionally difficult due to the fact that there is no public policy of integration. For example, one of the three persons with subsidiary protection who have remained in Serbia is still accommodated in the centre for asylum seekers, in the absence of any alternative housing provision.

¹⁸ Article from the newspaper Blic « The house of Lajkovac for asylum seekers stoned .» [05.02.2013] : <http://www.blic.rs/Vesti/Srbija/366300/Pojedinci-kamenovali-kucu-sa-azilantima-u-Lajkovcu>

¹⁹ <http://helsinki.hu/en/serbia-not-a-safe-country-of-asylum>

²⁰ Given that the person has arrived from Macedonia, or another country Serbia considers a “safe third country”, the Serbian authorities consider Macedonia as responsible for examining the merits of the asylum claim and the person is thus deported back to Macedonia. For details, see pp. 5-8 of the *Serbia as a Safe Third Country: Revisited*, available at <http://helsinki.hu/en/serbia-not-a-safe-country-of-asylum>

²¹ APC-CZA's website, 'Another man from Syria got the refugee status in Serbia' [19.08.2013] : <http://www.apc-cza.org/en/pravna-pomoc-pocetna/365-jos-jedan-sirijac-dobio-azil-u-srbiji.html>

²² Subsidiary protection is defined in the Law on Asylum as “a form of protection the Republic of Serbia grants to an alien who would be subjected, if returned to the country of origin, to torture, inhumane or degrading treatment, or where his/her life, safety or freedom would be threatened by generalized violence caused by external aggression or internal armed conflicts or massive violation of human rights” – the identity card of a person with subsidiary protection is issued for one year, with the possibility of prolongation if the return to the country of origin continues to pose threats to the individual.

Readmission agreements, deportations to Serbia

With the aim to achieve the liberalisation of the visa regime, and further approach entering the EU, Serbia signed the readmission agreements with EU state members, as well as with its neighbouring countries. Readmission agreements are one of the mechanisms of the (externalised) European migration policy, which aim to remove the people in an irregular situation from the territory of the EU and from the “buffer” zone of its neighbouring states. Thus, Serbia has signed the readmission agreement with EU, as well as bilateral readmission agreements with Macedonia, Croatia, Bosnia and Herzegovina, Switzerland, Canada and Norway. The readmission agreement between the EU and Serbia was signed on the 8th of November 2007²³ and it came into force on the 1st of January 2008. It allows for Serbian citizens who do not comply with the entry or residence conditions in an EU member state to be deported back to Serbia. Many of these deportations happen in the form of charter flights, some of which organised by the European agency Frontex²⁴.

The readmission agreement also allows for third country citizens, who do not comply with the entry or residence conditions in an EU country, into which they have entered *directly* from Serbia, to be deported back to Serbia. This applies to the undocumented migrants who are caught crossing the Serbian-Hungarian border or who are caught on Hungarian territory and it has been established that they have entered Hungary through Serbia.

As Serbia also has a readmission agreement with Macedonia, the chain deportations from Hungary to Serbia and from Serbia to Macedonia, are a common occurrence. There is a further danger that this chain of deportations continues further to Greece²⁵, as Macedonia has also signed a readmission agreement with the EU.

Visa liberalisation and “false” asylum seekers

Following the visa liberalisation agreement between EU and Serbia, which came into effect on the 30th of November 2009, when Serbians were free to travel to the countries of EU without obtaining a visa, the number of Serbian asylum seekers in EU has multiplied – for example, in Sweden, in the first nine months of 2010, the citizens of Serbia submitted a total of 4425 asylum applications, which is ten times more than in the same period of the previous year²⁶. Even though

²³ http://europa.eu/legislation_summaries/enlargement/western_balkans/l14562_en.htm

²⁴ See Migreurop's press-release here: <http://www.migreurop.org/article2082.html> -- and a joint press-release about Frontex deportations here: <http://www.migreurop.org/article2113.html>

²⁵ For more about the human rights violations among migrants in Greece, see the report from Amnesty International <http://www.amnesty.org/en/news-and-updates/report/greece-must-stop-treating-migrants-criminals-2010-07-27>

²⁶ This statistics, and statistics for many other EU countries, are available on pp.70-73.

the majority is Roma, who are systematically marginalised and discriminated against, most of them had their asylum claims rejected and were deported back to Serbia.

Furthermore, these “returned” or deported asylum seekers are often stigmatised upon their return to Serbia. They are seen as “abusing the asylum system” and going to the West for “paid holidays”²⁷, for example spending the winter months somewhere on the warm, receiving food and accommodation while their claim is being processed. Under the pressures by the EU that the visa regime will be reinstated if the number of Serbian asylum seekers in the EU does not decrease, Serbia has taken a variety of measures, prone to human rights violations, to try to decrease the number of people seeking asylum in the EU²⁸. On the 24th of December 2012, the Serbian parliament adopted the modification of the Criminal Code and the introduction of Article 350a²⁹ called “Disabling Abuse to Exercise Rights in Foreign Country”. According to this new article, people who would help (by transporting, hosting, hiding, or organizing a trip) Serbian citizens to leave the country in order to seek asylum in an EU member state can be imprisoned between three months and eight years, depending on the case.

Detention

The biggest number of migrants imprisoned in Serbia is detained in district prisons (*Okružni zatvor*), closest to where they were arrested. When they are accused of illegally entering or staying on the Serbian territory, they are liable to pay a fine. Article 84 of the Law on Foreigners specifies a fine between 10 000 and 50 000 dinars (100-500EUR) for the illegal entry onto the territory and the Article 85 specifies a fine between 6 000 and 30 000 dinars (60-300EUR) for the illegal stay on the territory. In cases where the person cannot, or does not wish to, pay the fine they are liable for a 3-30 days long prison sentence. The district prisons, especially the ones close to the border, like the Subotica prison on the Serbian-Hungarian border, have been overcrowded with migrants for the past two years³⁰, since the number of undocumented migrants, stuck on the Schengen border with Hungary has increased.

There is also an equivalent of a deportation centre – called *Prihvatište za Strance* in Padinska Skela, close to Belgrade – where migrants awaiting deportation are detained. Article 50 of the Law on Foreigners specifies the maximum detention time in the deportation centre to be 90 days.

²⁷ <http://euobserver.com/7/113807>

²⁸ For a comparative survey of the measures which have been taken by countries in the Balkans in reaction to EU pressures over an increase in the number of asylum seekers from these countries, see Chachipe's report *Selective Freedoms: The visa liberalisation and restrictions on the right to travel in the Balkans*, available here: <http://romarights.wordpress.com/2012/07/03/chachipe-roma-pay-the-price-of-visa-liberalisation-ngo-survey-says/>

²⁹ Criminal Code : <http://www.parlament.rs/upload/archive/files/lat/pdf/zakoni/2012/4108-12Lat.pdf>

³⁰ <http://emi-cfd.com/echanges-partenariats/?p=1154>

This can be prolonged, in case the identity of the person has not been ascertained, the person intentionally obstructs deportation or if the person has filed an application for asylum during the deportation procedure, with the aim of avoiding deportation. The total duration of detention should not exceed 180 days.

However, the law allows for the detention of asylum seekers, in exceptional cases. According to the Article 51 of the Law on Asylum, the free movement of asylum seekers can be restricted, if it is necessary for: “(1) establishing identity; (2) ensuring the presence of an alien in the course of the asylum procedure, if there are reasonable grounds to believe that an asylum application was filed with a view to avoiding deportation, or if it is not possible to establish other essential facts on which the asylum application is based without the presence of the alien in question; (3) protecting national security and public order in accordance with the law.” The Article 52 specifies that the maximum detention time for asylum seekers is three months, but that in the latter two cases, this can be prolonged for further 3 month.

Informal camps (“jungles”) in Subotica

The reinforced border with Hungary has as its consequence the creation of informal camps of undocumented migrants around Subotica, a town on the Serbian-Hungarian border. Between 2011 and 2012, an increasing number of undocumented migrants have been living close to the Subotica's junkyard, in make-shift camps or “jungles”³¹, as hidden as possible from the police and the largely hostile local population, trying to cross over to Hungary, and further into the EU. They live in difficult conditions – without running water or proper sanitation, they are sleeping outside, with inadequate shelters, especially in the extremely cold Pannonian winters. Besides, they are targets of police violence, repression, black-mailing for money, and under constant threat of arrest, detention and deportation back to Macedonia³². However, since January 2013, the jungle close to Subotica emptied. Before the end of the year 2012, Hungary considered Serbia as a safe-third country for asylum seekers. This means that based on this argument, migrants entering Hungary through Serbia were deported back to Serbia, where they could have claimed for asylum. Since Serbia isn't considered anymore as a safe-third country by Hungary (end 2012), Hungarian authorities must accept asylum seekers and seriously consider their application. Because they were not systematically reported back, migrants could leave Subotica's jungle.

³¹ The word “jungle” comes from the word “janggal”, which in Farsi means forest. These make-shift dwellings exist in many places, where undocumented migrants are stuck, trying to cross the border: along the northern coast of France, along the Belgian coast, as well as in Greece (Patras...) etc.

³² For the difficult conditions, and police repression, during the winter 2012, see <http://emi-cfd.com/echanges-partenariats12/spip.php?article75>

Civil Society response

The issue of the increasing number of non-ex-Yugoslav migrants stuck in Serbia, while increasingly more present in the media and popular discourse, has received very little adequate support and solidarity from the civil society. The media abounds with the reproduction of the hate discourse towards the migrant population. Even more worrying are the anti-migrant racist mobilisations. Thus, the end of the year 2011, saw anti-migrant mobilisations in Banja Koviljača, where the local population organised a demonstration, a road blockade and a school boycott, demanding the government to relocate the reception centre for asylum seekers into a different town in Serbia³³. In May 2012, similar mobilisations sparked off in Mladenovac, where the local population protested against the planned opening of the third open reception center for asylum seekers in their municipality.³⁴

There are also very few non-governmental organisations working in this area. There is no non-governmental organisation working with undocumented migrants, the focus is on asylum seekers. The three main organisations include:

- APC³⁵ – Asylum protection centre (<http://www.apc-cza.org/>) – has offered free legal advice to asylum seekers since the creation of the Serbian asylum system in 2008. They also to provide programmes of psycho-social assistance to asylum seekers.
- BCHR³⁶ – Belgrade Centre for Human Rights (<http://www.bgcentar.org.rs/> -- see also their website about asylum, including information for asylum seekers in English, French, Russian, Farsi, Pashto and Arabic: <http://azil.rs/>) – has also been offering free legal and psychological help to asylum seekers, since the beginning of 2012.
- Grupa 484 (<http://www.grupa484.org.rs/>) produces research and publications about a variety of issues around migration – especially of interest are their reports on “forced migration”, which includes asylum seekers³⁷.

³³ Unfortunately, most reports about this are very biased and reproduce the hate-discourse towards migrants. See for example http://www.b92.net/info/vesti/index.php?yyyy=2011&mm=12&dd=06&nav_category=12&nav_id=563669 (in Serbian), <http://serbie-droitshumains.blogspot.fr/2011/12/banja-koviljaca-les-habitants-bloquent.html> (in French), <http://www.bbc.co.uk/news/world-europe-15615591> (in English)

³⁴ See for example: <http://www.blic.rs/Vesti/Beograd/325025/Protest-u-Mladenovcu-protiv-moguceg-dolaska-azilanata> (in Serbian), <http://exilesengrece.over-blog.com/article-serbie-opposition-a-un-troisieme-centre-d-accueil-pour-les-demandeurs-d-asile-107211724.html> (in French)

³⁵ In Serbian, they are called CZA – Centar za zaštitu i pomoć tražiocima azila.

³⁶ In Serbia, they are called Beogradski Centar za ljudska prava.

³⁷ See for example: <http://www.grupa484.org.rs/CHALLENGES%20OF%20FORCED%20MIGRATION%20IN%20SERBIA.pdf>