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Addendum to the Report submitted by the UN Secretary General on the Implementation of the UN GA Resolution on Violence against Women Migrant Workers (A/RES/72/149)

International and regional framework

In line with the taken international obligations and special UN procedures, the Republic of Serbia has a continuous cooperation with the UN contracting bodies.

The Republic of Serbia is a party of 8 key international agreement in the field of human rights protection: Convention on the Elimination of All Forms of Discrimination against Women; Convention against Torture; The International Covenant on Economic, Social and Cultural Rights; International Convention on the Protection of All Persons from Enforced Disappearances; Convention on the Rights of Persons with Disabilities; The Convention on the Rights of the Child; The International Covenant on Civil and Political Rights; International Convention on the Elimination of All Forms of Racial Discrimination. We undergone the third UPR cycle in January 2018. Our country received 190 recommendations in total from 74 UN Member States, of which it accepted 175 including 36 which refer to women, anti-discrimination against women and gender equality.

Also, Serbia has a successful cooperation with relevant bodies of the Council of Europe and the Organisation for Security and Cooperation in Europe (OSCE). We ratified the Council of Europe Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment as well as the Lanzarote and Istanbul Convention. In 2018, the Republic of Serbia submitted its first report on the implementation of the Istanbul Convention, and the GREVIO Expert Group stayed in Serbia in its evaluation visit from 25 February to 1 March 2019.

In the previous period there were considerations for the proposed ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. As its implementation would create huge financial obligations for the country, it was estimated that it was not possible to confirm it. The Republic of Serbia signed the Decent Work Country Programme for Serbia 2013-2017 with the International Labour Organisation. The Convention of the International Labour Organisation number 189 was not identified as a priority.

Legislative framework and mechanisms

Law on Refugees, Law on Migration Management; Law on Asylum and Temporary Protection and the Law on Foreigners make a corpus of legal regulations governing the status and protection of migrants.

Commissariat for Refugees and Migrations (CRM) keeps data bases on refugees and internally displaced persons as well as records on asylum seekers/migrants who stay in permanent and



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reception centres for asylum. All the bases are updated on daily basis. The records held by the CRM contain personal data (name, surname, sex, date of birth), and the socio-economic position of the persons (except from asylum seekers/migrant). From the socio-economic status we can single out the social status, work status, incomes, health status, etc. Based on the data on the work status and the income, marital status, position in the family, we can particularly single out women who belong to this vulnerable category.

In the past six years the CRM has been creating the *Migration Profile of the Republic of Serbia* which serves as a means for monitoring the migration flows and trends in the country and based on it we establish and develop mechanism for collecting data on migration. It is updated every year and unifies the data on all the categories of migrants in the country classified in line with the Regulation 862/2007 of the European Parliament and Council of Europe on the Statistics on Migration and International Protection of 11 July 2007. It also serves as a means to monitor the migration flows and trends in the country. It provides the data on work immigration (foreigners registered on the basis of work, employment of foreigners and work permits), and on the employment of Serbian citizens and sending the employed Serbian citizens to work abroad. The data are classified by sex, citizenship and other categories.

The Asylum Office was established on 14 January 2015 within the Border Police Administration and performs first-instance asylum proceeding. *The Asylum Committee*, as an independent body, decides in the second-instance and is consisted of the Chair and eight members appointed by the Government every four years. Based on the Committee's decision an asylum seeker may file a complaint with the Constitutional Court and launch an administrative proceeding. In Serbia there are 143 municipalities having adopted local action plans (LAP) which represent a good mechanism for migration management, in line with specific needs of migrant population in each local community.

Based on the Government's decision the *Centre for Protection of Victims of Human Trafficking* was established in April 2012. As a social protection institution, the centre performs activities such as assessment of the situation, needs, power and risks of human trafficking victims, identification and ensuring adequate support and assistance to human trafficking victims aimed at recovery and reintegration. The centre coordinates the activities of providing social protection services to victims of human trafficking, cooperate with the centres for social work, institutions for accommodation of beneficiaries, Ministry of Interior, public prosecutor's offices, courts and other bodies, with the aim to ensure the best interest and security of victims of human trafficking, and an important task of the Centre is also a coordination and organisation of voluntary return of the victim to the country of origin. In 2018, the *police teams to combat the human trafficking phenomenon* were established. Starting of 3 February 2019, *Reception centre for the victims of human trafficking* intended for women and girls aged 16+ has been operational. They are provided with the accommodation, 24-hour surveillance and a high level of safety. The work of the established information services and protection of witnesses in all higher public prosecutor's offices has been improved.

With the aim to fulfil one of the recommendations from the Second cycle of the Universal Periodical Review Serbian Government established the *Council for Monitoring the Implementation of the Recommendations of the United Nations Mechanism for Human Rights* in



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2014, with the aim to have a more efficient monitoring of the recommendations and improvement of inter-sectoral cooperation for their implementation, as well as strengthening the cooperation with the UN mechanism. The Council created the plan for the implementation of the recommendations of UN mechanisms for human rights, containing the status, objective, deadlines and bodies competent for their implementation. The key principles for the work of the Council are inclusion (engagement of all relevant stakeholders in the work of the Council – representatives of ministries, National Assembly, independent state bodies, civil society organisations, international organisations) and transparency (openness and honesty in the process). The Council is a forum for discussion and provides opportunities for improving the communication and cooperation within the executive power, but also between it and other stakeholders. With the aim to monitor the implementation of the recommendations, in the sectors which have their members in the Council, contact persons and their deputies are appointed, who have undergone relevant trainings. The Council concluded memoranda on cooperation with fourteen CSOs.

Strategic framework

A special emphasis should be placed on the adoption and realisation of the *Strategy for the prevention and protection from discrimination (2013)* and the accompanying Action Plan for the Implementation of the Strategy for the Prevention and Protection from Discrimination for the period 2014-2018. This strategy represents the first state strategic document devoted to the anti-discrimination which comprehensively addresses this issue and contains the activities for a reduction of the general level of discrimination in the society. This document is devoted to the improvement of nine vulnerable social groups which most frequently face discrimination, including refugees, internally displaced persons and other vulnerable migrant groups. Adoption of a new strategic document which will cover the next period is expected.

With the *Strategy for Combating Irregular Migration in the Republic of Serbia from 2018 until 2020*, the issue of irregular migrations is addressed in an organised and coordinated manner with the respect of safety needs and development interests of the Republic of Serbia and its citizens, on the one hand, and the need to respect the universal human rights and freedoms, in the context of migrations, on the other side. Within this approach, *inter alia*, an activity has been recognised to reduce the encouragement of irregular migrations through the fight against exploitations of migrants by preventing and punishing the smugglers and trafficker in human beings through the cooperation with third countries, by intensifying the investigations and improving the legislative framework, and by combating illegal employment of irregular migrants. The new *Law on Employment of Foreigners* foresees a misdemeanour liability of employers who employ foreigners contrary to the provision of the Law, or foreigners who do not have the permit for temporary or permanent residence. The Law on Employment of Foreigners foresees inspection surveillance of the fulfilment of the requirements for employing foreigners performed by the labour inspection. In line with the aforementioned, one of the measures of implementation of the Strategy for combating irregular migrations is ensuring a more efficient inspection surveillance in the field of labour which contributes to the protection of migrants.



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National Strategy for Addressing the Issue of Refugees and Internally Displaced Persons which was reviewed in 2015, and the *local action plans for addressing the issue of refugees, internally displaced persons and returnees under the Readmission Agreement*, adopted in 145 municipalities/towns in Serbia, through the projects of housing solutions and economic empowerment, and through the rulebooks of municipal commissions, place the accent on particularly vulnerable categories (women holders of family households, single-parent families, victims of domestic violence).

Anti-discrimination and cooperation with civil society

In Serbia, all types of discrimination against job seekers and employees (based on their race, colour, sex, gender, gender identity, sexuality, national affiliation, social origin or similar status, birth, religion, political or other beliefs, financial situation, culture, language, age or intellectual sensory or physical disability), including also women migrant workers are prohibited.

Law on Asylum and Temporary Protection, by which Serbia complied its legislation with the EU *acquis*, was adopted on 22 March 2018. This Law defines that in the process of approving asylum in Serbia any discrimination on any grounds shall be prohibited in particular or reasons of race, skin colour, sex, nationality, social background or a similar status, birth, religion, political or any other beliefs, financial status, culture, language, age or intellectual, sensory or physical disability (Article 7). An asylum seeker shall be interviewed by a person of the same sex and shall be given a translator or interpreter of the same sex, unless when it is not possible, or it makes great difficulties for the body carrying out the asylum procedure (Article 14). The specificity of the situation of asylum seekers with special needs shall be taken into account, such as minors, persons who are totally or partially deprived of work capacity, children separated from parents or guardians, persons with disabilities, elderly people, pregnant women, single parents with minor children, and persons who faced torture, rape or other serious forms of psychological, physical or sexual violence (Article 15).

In all *asylum centres and reception-transit centres* there is a separate accommodation for women and men who are single. In these centres, women are provided with the access to gynaecologists in the relevant healthcare centre and the access to international organisation in charge of reproductive health of migrants, by which a constant access to information and services is ensured. The accommodation is done with the respect of the principles of non-discrimination, family union, gender equality and a special care is provided to the asylum seekers with special needs. Also, the Coordination Body for Gender Equality, with the support of the United Nations Population Fund, provides support and coordinates the work for the adoption of Standard Operational Procedures for Prevention and Protection of Refugees and Migrants from gender-based violence.

Civil society organisations and international organisations dealing with the issue of protection of refugees and women have the access to the asylum centres (United Nations High Commissioner for Refugees, UNHCR, UN WOMEN). Also, in the asylum centres all persons are provided with psycho-social assistance, and they also have access to information and organisations which are



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directly involved in the activities to combat violence. In the course of previous two year international and civil society organisations carried out a number of trainings which at certain segments covered the topic of international protection standards in treating women who are victims of domestic violence among the migration population, also, certain CSOs ensured accommodation and psychological assistance to identified potential victims of gender-based violence.

The new *Law on Foreigners*, which implementation started on 3 October 2018, in particular defines the prohibition of forced removal of foreigners to the territory of the country where he/she will be exposed to prosecution due to racial, gender, sexual orientation, and also due to religious or national affiliation, citizenship, membership in a certain social group or political opinion (Article 83, paragraphs 1 and 3 of the Law on Foreigners).

Also, a foreigner must not be forcibly removed to the territory of another country if there is a risk that he/she might be subjected to capital punishment, torture, inhuman or degrading treatment, or to the territory where he/she might face serious violation of the rights guaranteed by the Serbian Constitution.

A special attention is paid to minors – foreigners found in illegal residence on the territory of Serbia, who are in the process of return and for the purpose of preparation for the return or execution of preparatory removal may be accommodated in the Reception centre for foreigners together with their parents, guardians or legal representatives only as the final measure and for the shortest possible period. Minor persons staying in the reception centres for foreigners, depending on the length of their stay, and in line with the age have the access to primary education, and are also provided with the participation in recreational activities (play), adequate for their age.

When providing accommodation for families in a reception centre for foreigners waiting for forceable removal, a separate accommodation is provided to ensure their privacy.

When it comes to unaccompanied minors the law defines that they will be provided with the assistance of services for protection of children and youth (Article 75, paragraph 4), and also they must not be forcibly removed, unless in case when the competent body is convinced that the minor would be returned to a family member, guardian or adequate child care institution (Article 83, paragraph 4).

Article 83 of the Law on Foreigners and Article 16, paragraphs 1 and 2 of the Rulebook on house rules and rules of staying in reception centres for foreigners, define that the surveillance of the procedure of forced removal is performed by the Protector of Citizens in line with the law on the protector of citizens and the Law on the Ratification of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

Article 61 of the Law on Foreigners particularly defines the approval of temporary residence to foreign citizens due to humanitarian reasons, including minors who are abandoned or are victims of organised crime or are left without parental care due to some other reasons.

Also, the temporary residence of foreigners is approved in Serbia once there is an assumption that he/she is a victim of human trafficking in the course of carrying out the procedure of



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identifying the identity by the competent state body for identification and coordination of protection of the victims of human trafficking. In the course of temporary residence, the person shall be provided with the recovery and accommodation, psychological and financial assistance and medical care.

Prevention and protection from human trafficking

According to the data of the Centre for Protection of Victims of Human Trafficking one case was identified in the migrant population in 2017. It was a girl who was identified as a victim of multiple exploitation, forced marriage and servitude. In servitude she was exploited in Afghanistan, her country of origin, when she was 12-15 years old. As an identified victim she had support as well as other victims of human trafficking, and in cooperation with UNHCR she received relocation to a third country and she left Serbia last year.

Also, the Centre for Protection of Victims of Human Trafficking has had 136 reported suspicions for human trafficking among migrants since 2015. Of that number, 35 were women and girls (14 girls and 21 women). The total number of identified victims was 8, of whom 3 girls and 1 woman.

On the basis of work in Serbia there were 8.283 foreign citizens in 2018, of whom the majority were from China (2,234), Russian Federation (711), Turkey (551), Ukraine (545) and Romania (366).

Based on the approval of temporary residence, for the first time due to work in 2017 a residence was approved to 2.701 persons, of whom 20.1% of female population of migrants. In 2018, there were 3.396 approvals for residence for the first time, of whom 16.3% of female migrant population.

Regarding the irregular migrants on the territory of Serbia, in 2017, there were 7.505 irregular migrants registered, of whom 6.195 expressed the intention to apply for asylum and against 1.310 charges were filed for illegal entry. In 2018, there were 19.130 irregular migrants registered, of whom 8.410 expressed the intention to apply for asylum, and against 1.720 charges were filed for illegal entry. It is noteworthy to say that irregular migrants on the territory of our country are mainly in transit.