

What does the new Rulebook on the appearance and content of the travel document form for refugees bring?



On February 1, 2024, the implementation of the Rulebook on the appearance and content of travel documents for refugees began. The Rulebook prescribes in detail the appearance and content of travel documents and solves the problem of the lack of a clear procedure for issuing these documents. Its entry into force can be a significant step in solving the long-standing problem of restricting the freedom of movement of refugees in Serbia, considering that until now they could not exercise their right to travel documents, even though they were guaranteed.

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The right to travel documents is one of the basic rights. It is closely related to freedom of movement, which includes freedom of movement and residence within one's own country, as well as the right to leave one's own country and any country.

One of the main challenges that refugees face after leaving their country of origin is the lack of personal documents, including travel documents. Due to the inability to get in touch with the country of origin or its embassies, these persons inevitably remain without a document valid for travel abroad. Therefore, the responsibility to issue travel documents to refugees rests with the host countries.¹ However, despite their importance for refugees, such documents have not been issued in Serbia since the establishment of the asylum system in 2008.

The right to travel documents of refugees in Serbia

In accordance with international standards, the legislative framework foresees the right of

refugees to travel documents.² However, the lack of necessary by-laws required to regulate the procedure prevented their issuance.

A travel document for refugees is a special travel document, which differs from a passport for citizens of Serbia and is subject to the visa regime for travel to countries to which Serbian citizens can travel without a visa. As stated in the Law on Asylum and Temporary Protection, the Asylum Office is responsible for issuing travel documents to refugees in Serbia. Travel documents should be issued with a validity period of 5 years. In exceptional cases, these documents can be issued to persons who have been granted subsidiary protection, with a validity period of one year.³

The design of the travel document, as well as its content, is determined by the Ministry of the Interior - as the law requires, the Minister should adopt a bylaw within 60 days of its entry into force.⁴ Although the Law entered into force in 2018, the adoption of this by-law was absent. The

¹ United Nations General Assembly, Convention relating to the Status of Refugees, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, available at: <https://www.refworld.org/legal/agreements/unga/1951/en/39821>

² Law on Asylum and Temporary Protection, "Official Gazette of RS", no. 24/2018, available at: <https://shorturl.at/nLRX3>

³ Law on Asylum and Temporary Protection, Art. 91

⁴ Such a provision was foreseen in the previous Law on Asylum from 2008 - even then there was no adoption of a by-law that would regulate the content and appearance of the travel document form.

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legal vacuum limited the freedom of movement of refugees for years and contributed to their dissatisfaction and disillusionment with the asylum system. If they did not have a valid travel document issued by their country of origin, refugees could only leave Serbia irregularly.

The problem of travel documents before the European Court of Human Rights - the case of S.E. against Serbia

After being granted asylum in 2015, S.E. from Syria submitted a request to the Asylum Office for the issuance of a travel document, as his Syrian passport has expired. After submitting the request, S.E. was informed that his travel document could not be issued due to the lack of necessary by-laws that should have been adopted by the Minister of Interior. After receiving a negative answer, S.E., together with his legal representatives, started the procedure that led to the resolution of the problem that refugees in Serbia have been facing for years.

S.E. first filed a constitutional complaint in 2015. After the Constitutional Court rejected the appeal, stating that the subject of the constitutional appeal cannot be an omission in the adoption of a general legal act, but only an individual action or act, S.E. initiated the case before the European Court of Human Rights. In July 2023, the European Court of Human Rights ruled in the case of S.E. against Serbia.⁵

The court concluded that Serbia violated S.E.'s right to effectively leave the country within a period of seven years. The inability to issue him a travel document, due to the lack of by-laws required for the implementation of the existing law, represented a violation of S.E.'s freedom of movement, guaranteed by Article 2 of Protocol

no. 4 of the European Convention on Human Rights.

The Court's ruling indicated that Serbia's failure to implement its own domestic law on issuing travel documents for refugees is a systemic problem. The need for Serbia to undertake comprehensive legislative reforms was emphasized. These reforms, as stated, are necessary to fulfill the obligations of the domestic and international legal framework and ensure the right of refugees to leave the territory where they reside. In addition, the Court called for the establishment of a clear and accessible procedure that allows individuals in similar situations to apply for and obtain the necessary travel documents. This judgment emphasizes the importance of harmonizing national laws with international obligations in the field of human rights in order to protect the fundamental rights of refugees.

New Rulebook - A step forward in guaranteeing freedom of movement for refugees

In accordance with the verdict, the Ministry of Interior adopted the Rulebook on the appearance and content of the travel document form for refugees. The Rulebook, the implementation of which began on February 1, 2024, describes in detail the characteristics of travel documents that should be issued to refugees. It prescribes the size, design, material of these documents, and establishes the validity and administrative details related to the issuance of these documents.

The adoption of the Rulebook can represent a step in solving the long-standing problem of refugees in Serbia. It lays the foundations for the standardization of travel documents for refugees,

⁵ The case of S.E. v. Serbia, Council of Europe: European Court of Human Rights, 11 July 2023, available at: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%22001-225763%22%7D>

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harmonizing them with international and national standards. Such standardization is crucial to ensure that refugees have the necessary documents to exercise their right to freedom of movement.

However, while the introduction of the Rulebook is a positive step, its importance ultimately depends on the efficiency of its implementation. The real indicator of progress will be how these

regulations are implemented in practice and whether they really facilitate the issuance of travel documents to refugees. This highlights the need for continuous effort and commitment of the relevant authorities to fully respect and protect the rights of refugees. Effective implementation will not only solve administrative and legal obstacles, but will also demonstrate Serbia's commitment to its international obligations in the field of human rights.