

Respect, Protection, and Fulfillment of Human Rights of Persons in Need of International Protection in the Republic of Serbia

Annual Report for 2024



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Author:

Nikola Kovačević, Anđela Šemić

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List of Abbreviations

AC	Asylum Center
CAT	United Nations Committee against Torture
CoI	Country of Origin Information report
CSOs	Civil Society Organizations
CPVHT	Center for the Protection of Victims of Human Trafficking
DAFI	Albert Einstein German Academic Refugee Initiative
ECtHR	European Court of Human Rights
EUAA	European Union Agency for Asylum
HRC	United Nations Human Rights Committee
IDEAS	Center for Research and Social Development IDEAS
IOM	International Organization for Migration
SCRM	Serbian Commissariat for Refugees and Migration
MoI	Ministry of Interior
NES	National Employment Service
NGO	Non-Governmental Organization
Registration Certificate	Certificate of a foreign national's expressed intention to lodge an asylum application in the Republic of Serbia
Serbia	Republic of Serbia
RHIF	Republic Health Insurance Fund
RTC	Reception/Transit Center
BPD	Border Police Directorate
UNHCR	United Nations High Commissioner for Refugees
Decree on Integration	Decree on the Inclusion of Refugees in Social, Cultural, and Economic Life
Constitutional Court	Constitutional Court of the Republic of Serbia
CPC	Criminal Procedure Code
Asylum Act	Law on Asylum and Temporary Protection
Foreigners Act	Law on Foreigners
Foreigners Employment Act	Law on the Employment of Foreigners
LGAP	Law on General Administrative Procedure
LAD	Law on Administrative Disputes
UN	United Nations

Author's Introductory Note

The Center for Research and Social Development IDEAS¹, as a partner of the Office of the United Nations High Commissioner for Refugees in Serbia², through its Asylum and Migration Programme, provides free legal aid to refugees and asylum seekers in the Republic of Serbia.³ These activities were carried out within the framework of the project "Enhancing the Protection and Access to Rights of Asylum Seekers and Refugees in Serbia." The support provided by IDEAS encompasses all segments of the asylum system and includes provision of legal information, individual legal counseling, and direct legal representation before the competent authorities of the Republic of Serbia, primarily in asylum proceedings. However, legal assistance also includes legal representation in other administrative-legal procedures regulated by the Law on Asylum and Temporary Protection,⁴ the Law on Foreigners,⁵ and related bylaws. Thus, during 2024, the IDEAS legal team provided free legal aid to foreign nationals who were refused entry into Serbia or served with a return decision, as well as those who, in accordance with the Asylum Act or the Foreigners Act, were deprived of their liberty in reception centers for foreigners, or who, primarily or after the finalization of their asylum procedure, decided to regulate their legal status in Serbia through a form of temporary residence (most often for humanitarian reasons). Legal support was also provided to individuals who may be in need of international protection and who are in extradition proceedings regulated by the Law on International Legal Assistance in Criminal Matters⁶ and the Criminal

¹ Hereinafter: IDEAS

² Hereinafter: UNHCR

³ Hereinafter: Serbia

⁴ Official Gazette of the Republic of Serbia, No. 24/2018, available at: <https://www.paragraf.rs/propisi/zakon-o-azilu-i-privremenoj-zastiti.html>, hereinafter: Asylum Act

⁵ Official Gazette of the Republic of Serbia, Nos. 24/2018, 31/2019 and 62/2023, available at: https://www.paragraf.rs/propisi/zakon_o_strancima.html, hereinafter: Foreigners Act

⁶ Official Gazette of the Republic of Serbia, No. 20/2009, available at: https://www.paragraf.rs/propisi/zakon_o_medjunarodnoj_pravnoj_pomoci_u_krivicnim_stvari_ma.html.

Procedure Code.⁷ The IDEAS legal team also provided legal assistance to asylum seekers and individuals recognized as having the right to international protection in Serbia before the Serbian Commissariat for Refugees and Migration,⁸ and other authorities where these categories of foreign nationals need to realize their economic and social rights as part of their inclusion and integration into Serbian society. Finally, legal support during 2024 also extended to direct legal representation before the Constitutional Court of the Republic of Serbia,⁹ the European Court of Human Rights (ECtHR), United Nations treaty bodies, and other international human rights protection mechanisms. In addition to legal support, the Asylum and Migration Programme continuously analyzes the legal framework, policies, and practices in the field of asylum and migration, as well as continuously advocating for their improvement.

The report "Respect, Protection and Fulfillment of the Human Rights of Persons in Need of International Protection in the Republic of Serbia" contains an overview and analysis of the legal framework, policies, and practices of the competent authorities and their impact on the enjoyment of human rights of refugees, asylum seekers, and certain vulnerable categories of migrants whose personal circumstances, at least temporarily, prevent their safe return to their country of origin. The report is divided into ten chapters that thematically address the steps that foreign nationals in need of international protection must go through to realize their right to the recognition of international protection within the Serbian asylum system.

The first chapter provides a general overview of the Serbian asylum system, the legal framework, and a general assessment from the perspective of legal representatives regarding the extent to which it can be characterized as effective and fair for people who may be in need of international protection. The second chapter focuses on the right to access the territory, the practice of refusal of entry, and access to the asylum procedure. Chapters three through five analyze the practice and quality of decision-making on asylum applications by the Asylum Office, the Asylum Commission, and the Administrative Court. Chapter six addresses the inclusion of asylum seekers and the integration of persons granted asylum in Serbia. Chapters seven through 9 cover the reception conditions in Asylum and Reception Centers as well as the situation and reception of vulnerable groups and persons under temporary protection. The final chapter presents recommendations for improving the Serbian asylum system.

⁷ Official Gazette of the Republic of Serbia, Nos. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021 - Decision of the Constitutional Court and 62/2021 - Decision of the Constitutional Court), available at:

https://www.paragraf.rs/propisi/zakonik_o_kvivicnom_postupku.html

⁸ Hereinafter: SCRM

⁹ Hereinafter: Constitutional Court.

The general conclusion is that almost 16 years after the establishment of the Serbian asylum system, it remains ineffective and inefficient. This assessment, despite the fact that certain progress has been made in various aspects, equally applies to all segments of the system – from access to the territory and the asylum procedure to the integration of persons recognized the right to asylum. In fact, in numerous areas, the only thing that can be stated is regression or a lack of progress. In some other areas, there were periods when progress was evident, but it has either slowed down or even started to reverse. Certain improvements have been made due to imperative decisions of domestic and international human rights protection bodies such as the ECtHR or United Nations (UN) treaty bodies. Of course, a whole series of positive practices and decisions were recorded in 2024. Unfortunately, such practices and decisions are more the result of the quality work of individuals from the competent state authorities, international organizations, and the non-governmental sector, rather than a characteristic of a system that remains unpredictable, inconsistent, and inefficient. This is also evidenced by the reports of non-governmental organizations, international human rights protection bodies, and the European Commission, which in the last 15 years contain findings, recommendations, and proposals for the improvement of the legal framework, policies, and practices.

The authors would like to take this opportunity to thank all the competent authorities with whom they cooperated during 2024 and who provided a whole range of data for the purposes of this Report, including statistical data and copies of decisions made in asylum procedures.

01 Overview of the Legal Framework Governing the Asylum System in the Republic of Serbia

1.1. International Legal Framework

Serbia is a State Party to almost all relevant universal and regional international treaties, including: the 1951 Convention relating to the Status of Refugees,¹⁰ and the 1967 Protocol¹¹ thereto, the European Convention for the Protection of Human Rights and Fundamental Freedoms,¹² the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,¹³ the International Covenant on Civil and Political Rights,¹⁴ the International Covenant on Economic, Social and Cultural Rights,¹⁵ the Convention on the Rights of the Child,¹⁶ the Council of Europe Convention on Preventing and Combating Violence against

¹⁰ 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>.

¹¹ 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>.

¹² 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: European Convention.

¹³ 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.

¹⁴ UNGA, 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.

¹⁵ UNGA, 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.

¹⁶ UNGA, 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.

Women and Domestic Violence,¹⁷ the Council of Europe Convention on Action against Trafficking in Human Beings,¹⁸ the Convention on the Elimination of All Forms of Discrimination against Women,¹⁹ the Convention on the Rights of Persons with Disabilities,²⁰ the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment,²¹ and many others.

Consequently, the national legal framework enables individuals who may be in need of international protection to submit individual complaints to various bodies of the United Nations and the Council of Europe. Furthermore, these bodies can monitor the legal framework and practice in the field of asylum and migration through periodic reports, inquiry procedures, and apply other mechanisms.

It is important to note that in September 2023, Serbia ratified the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights,²² while it has not yet ratified the Optional Protocol to the Convention on the Rights of the Child.²³ The ratification of the Optional Protocol to the ICESCR enables all persons within the territory of Serbia or under its effective control to submit individual complaints.

1.2. Constitutional and Legal Framework

Regarding the constitutional and legal framework, it is important to emphasize that Article 16 of the Constitution of the Republic of Serbia²⁴ stipulates that generally accepted rules of international law and ratified international treaties are an integral part of the domestic legal system and are directly applied by the competent authorities. Article 18 of the Constitution further provides that human and minority rights guaranteed by generally accepted rules of international law, ratified international treaties, and laws are guaranteed and, as such, directly applicable. Paragraph 3 of the same article states that the provisions on human

¹⁷ CoE, 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>.

¹⁸ CoE, Convention on Action Against Trafficking in Human Beings, 16 May 2005, CETS 197, available at: <https://bit.ly/2IRT9ZV>.

¹⁹ 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>.

²⁰ UNGA, Convention on the Rights of Persons with Disabilities, A/RES/61/106, available at: <https://bit.ly/3wVbbNZ>.

²¹ CoE, 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>.

²² 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.

²³ 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>.

²⁴ Official Gazette of the Republic of Serbia, Nos. 98/2006 and 115/2021, available at: https://www.paragraf.rs/propisi/ustav_republike_srbije.html.

and minority rights shall be interpreted in favor of promoting the values of a democratic society, in accordance with applicable international human and minority rights standards, as well as the practice of international institutions that supervise their implementation.

The interpretation of these constitutional provisions leads to the conclusion that all ratified universal and regional international treaties, as well as the practice of the ECtHR, UN treaty bodies, and other relevant international human rights protection bodies, are legally binding on the authorities that constitute the asylum and migration system.

It is also important to note that the Constitutional Court of Serbia has the right to receive individual complaints – constitutional appeals – and to decide on violations of human rights guaranteed by both the Constitution and the aforementioned international instruments.²⁵ Accordingly, the Constitutional Court has the right to consider constitutional appeals from refugees, asylum seekers, and migrants. The right to asylum is explicitly guaranteed by Article 57 of the Constitution, which stipulates that:

A foreign national who has a well-founded fear of persecution based on their race, sex, language, religion, national origin or membership in a particular group, or due to their political opinions, has the right to asylum in the Republic of Serbia.

Another relevant provision of the Constitution that recognizes persecution within the meaning of Article 1 of the Convention relating to the Status of Refugees, but also provides broader protection against expulsion than Article 33 thereof, is Article 39, paragraph 3 of the Constitution:

A foreign national may be expelled only on the basis of a decision of a competent authority, in a procedure prescribed by law and if the right to appeal is ensured, and only to a place where they do not face persecution on grounds of their race, sex, religion, national origin, citizenship, membership in a particular social group, political opinion, or where they do not face a serious violation of rights guaranteed by this Constitution.

Constitutional appeals submitted by refugees and asylum seekers to the Constitutional Court have also been considered from the perspective of Article 25 of the Constitution, which prohibits torture and inhuman or degrading treatment or punishment, and which can be interpreted in accordance with the practice of the ECtHR and Article 3 of the European Convention, which also

²⁵ Law on the Constitutional Court, Official Gazette of the Republic of Serbia, Nos. 109/2007, 99/2011, 18/2013, 103/2015 and 40/2015, available at: <http://bit.ly/2NH0tVm>, Articles 82–92.

encompasses the principle of *non-refoulement*. Articles 27 to 29 of the Constitution reflect the content of Article 5 of the European Convention, including Article 5(1)(f) relating to the detention of foreign nationals. Article 36, paragraph 2 of the Constitution reflects Article 13 of the European Convention, which is often considered in conjunction with the principle of *non-refoulement*, as well as other relevant rights. Article 4 of Protocol No. 4 to the European Convention was examined by the Constitutional Court within the framework of Article 39, paragraph 3 of the Constitution.²⁶ Article 26 prohibits slavery and other contemporary forms of slavery, such as forced labor. Finally, the Constitution also contains provisions relating to economic and social rights that can be linked to the inclusion and integration of asylum seekers and refugees: the prohibition of discrimination (Article 21), the right to work (Article 60), the right to health care (Article 68), the right to social protection (Article 69), the right to education (Article 71), and other rights.

1.3. Legislative Framework

The asylum procedure in Serbia is regulated by the Law on Asylum and Temporary Protection (Asylum Act), which has been in force since 2018. In addition to this law, the Law on Foreigners (Foreigners Act), the Law on General Administrative Procedure,²⁷ and the Law on Administrative Disputes²⁸ are also relevant. The Law on General Administrative Procedure acts as *lex generalis* in relation to the Asylum Act and the Law on Administrative Disputes. The Law on Migration Management²⁹ is also significant, regulating certain aspects of the stay and integration of refugees and asylum seekers, alongside the Decree on the Inclusion of Refugees in Social, Cultural, and Economic Life.³⁰

Several bylaws further regulate internal rules in reception centers, social,³¹ and health³² issues concerning refugees and asylum seekers, the right to work, and

²⁶ Constitutional Court, Decision No. UŽ 1823/17, of 29 December 2020, available at: <http://bit.ly/3fk0aPD>.

²⁷ *Official Gazette of the Republic of Serbia*, Nos. 18/2018 and 95/2018, available at: <https://www.paragraf.rs/propisi/zakon-o-opstem-upravnom-postupku.html>.

²⁸ *Official Gazette of the Republic of Serbia*, No. 111/2009, available at: https://www.paragraf.rs/propisi/zakon_o-upravnim-sporovima.html.

²⁹ *Official Gazette of the Republic of Serbia*, No. 107/2012, available at: <https://www.paragraf.rs/propisi/zakon-o-upravljanju-migracijama.html>.

³⁰ *Official Gazette of the Republic of Serbia*, Nos. 101/2016 and 56/2018, hereinafter: Decree on Integration.

³¹ Rulebook on Social Assistance for Persons Seeking or Granted Asylum, Official Gazette of the Republic of Serbia, No. 12/2020, available at: <https://bit.ly/3LFNp0O>.

³² Rulebook on Health Examinations of Asylum Seekers upon Admission to an Asylum Center or Other Accommodation Facility for Asylum Seekers, Official Gazette of the Republic of Serbia, No. 57/2018, available at: <https://bit.ly/3LG93IS>.

other aspects related to the inclusion and integration of asylum seekers and refugees.³³

Furthermore, the Asylum Act contains chapters on the fundamental principles of refugee protection, chapters relating to the rights and obligations of asylum seekers, persons granted asylum, as well as persons granted temporary protection.

³³ See also Decree on the Criteria for Determining Priorities for Accommodation of Persons Granted Asylum or Subsidiary Protection and the Conditions for Using Housing Space for Temporary Accommodation, Official Gazette of the Republic of Serbia, No. 56/2018, available at: <https://bit.ly/3oSVo0Y>.

02 The Right to Access Territory and the Asylum Procedure

The right to access territory and the asylum procedure constitutes a *conditio sine qua non* for individuals claiming to be in need of international protection. It ensures that they are given the opportunity to have their asylum applications examined and that a decision on granting protection is made on the basis of established subjective and objective facts and circumstances. For this reason, it is the obligation of all competent authorities, and primarily those who come into initial contact with foreign nationals arriving in Serbia, to enable all foreign nationals to be registered and to lodge an asylum application.³⁴

For a foreign national to lodge an asylum application, they must have access to the territory or, at least to be under the effective control of the competent authorities of Serbia, which, in the context of people on the move, would be police officers of the Border Police Directorate.³⁵ In other words, in accordance with Article 35 of the Asylum Act, foreign nationals must be given the opportunity to be registered, i.e., to be issued a confirmation of their expressed intention to apply for asylum in Serbia.³⁶

In this chapter, the authors examine formal and informal practices which, in 2024, prevented or risked preventing foreign nationals the possibility of remaining on the territory of Serbia, or at least under the effective control of border authorities before whom they attempted to express their intention to apply for asylum.

³⁴ In the sense of Articles 35 and 36 of the Asylum Act.

³⁵ Hereinafter: BPD

³⁶ Hereinafter: registration certificate

2.1. The Right to Access Territory in the Context of Border Control

The right of individuals who may be in need of international protection to access territory is a precondition for accessing the asylum procedure. The issue of access to territory has become one of the most important in the previous decade. This is particularly true given the numerous practices in many states that have taken on a systemic character, involving refugees and migrants being turned away at borders outside legally established procedures. These practices often occur collectively and, in many cases, violently, without consideration of individual circumstances.³⁷

For this reason, this topic is of particular importance for Serbia, precisely due to the fact that for more than a decade, reports and testimonies have emerged indicating that the Serbian border police resort to practices colloquially known as pushbacks,³⁸ which, at their core, represent a cluster of human rights violations that go beyond the breach of the prohibition of collective expulsion guaranteed by Article 4 of Protocol No. 4 to the European Convention.

The data obtained by IDEAS will be presented in parallel with other official data obtained primarily from the Ministry of Interior,³⁹ which relate to formal ways of refusing entry, i.e., the forced removal of foreign nationals to their countries of origin or third countries. However, the main focus will be on the practice that is referred to in the official data of the Border Police Directorate as "preventing illegal crossings," as well as the practice of issuing, serving, and enforcing forced returns based on decisions on refusal of entry, in accordance with Article 15 of the Foreigners Act.

2.1.1. Preventing "Illegal Border Crossings"

In response to IDEAS' request for access to information of public importance, the Ministry of Interior-Border Police Directorate noted that during 2024, a total of 14,080 foreign nationals were prevented from "illegally crossing the border," the largest number from the direction of North Macedonia (10,487) and Bulgaria (3,437).⁴⁰

³⁷ The term "pushback" is most often used to describe this practice.

³⁸ ECRE, AIDA Country Report: Serbia, Chapter B1, available at: https://asylumineurope.org/wp-content/uploads/2024/08/AIDA-SR_2023-Update.pdf, hereinafter: AIDA Serbia 2023.

³⁹ Hereinafter: Mol.

⁴⁰ Mol-Border Police Directorate, Responses to the Request for Access to Information of Public Importance, No. 07-34/24, 30 August 2024 and No. 07-2/25, 11 February 2025 (delivered on 21 February 2025), hereinafter: Mol-IPI 2024.

What is important to note is the fact that the concept of preventing illegal border crossings does not exist in the legal framework of Serbia that regulates the actions of Border Police Directorate officers at the border itself, whether it concerns official border crossings or actions on the so-called "green border." In other words, neither the Foreigners Act nor the Law on Border Control⁴¹ recognize "preventing illegal crossings"⁴² as an official action taken in an administrative-legal sense in accordance with a legally established procedure that results in an enforceable decision that should produce a legal consequence in the form of someone being prevented from irregularly accessing the territory of Serbia. The aforementioned term in the Law on Border Control is used more as a description of the duty, i.e., the goal of the border police's actions, which is achieved through the application of a whole range of police powers applied in a legally prescribed manner. For example, preventing irregular border crossings can be carried out through a shortened readmission procedure preceded by deprivation of liberty in the Reception Center for Foreigners and the issuance of a return decision.⁴³ Another way to prevent irregular crossings is the aforementioned decision on refusal of entry.

However, in the practice of the Border Police Directorate, i.e., regional border police centers and border police stations, the impression is that this term from the Law on Border Control has taken on the characteristic of an authority whose application is measured through statistical data shared with the public,⁴⁴ in official reports of the Ministry of Interior,⁴⁵ with the European Commission,⁴⁶ as well as with civil society organizations (CSOs),⁴⁷ and the Ombudsman.⁴⁸ However, this data is kept separate from data relating to refusal of entry, which is carried out through the adoption of a decision on refusal of entry in accordance with Article

⁴¹ Official Gazette of the Republic of Serbia, No. 24/2018, available at: <https://www.paragraf.rs/propisi/zakon-o-granicnoj-kontroli.html>.

⁴² For example, Article 2 of the Law on Border Control mentions the term "prevention of irregular migration" in the sense of the purpose of the Law itself, while Article 3 of the same Law states that the prevention of illegal crossing is part of the "set of powers, actions, and measures" that constitute an integral part of border surveillance.

⁴³ Article 77 of the Foreigners Act.

⁴⁴ YouTube, Vučić: We are taking important measures for the safety of our citizens, 15 December 2022, available at: <http://bit.ly/3l6xtwi>.

⁴⁵ See, for example, MoI, Report on the Implementation of the Strategy for Countering Irregular Migration for the Period 2018-2020, June 2021, available at: <https://bit.ly/3Dtss4r>, p. 10.

⁴⁶ European Commission, Serbia: Progress Report, SWD(2022) 338, 12 October 2022, available at: <https://bit.ly/3LedaYB>, p. 61.

⁴⁷ MoI-IPI 2024.

⁴⁸ Ombudsman, Serbia: National Report on the Human Rights Situation of Migrants at Borders, ENNHRI, July 2021, available at: <https://ennhri.org/wp-content/uploads/2021/07/Serbian-National-Report-3.pdf>, p. 21.

15 of the Foreigners Act and accompanying Rulebook,⁴⁹ and also through the application of the Law on General Administrative Procedure,⁵⁰ as *lex generalis*.

If we delve deeper into what the prevention of irregular crossings represents in practice, several questions arise that are significant for the realization of the right to access territory as a prerequisite for accessing the procedure for obtaining international protection. First of all, the authors of this report do not exclude situations in which, during border control, refugees or migrants, when attempting to irregularly enter Serbia (most often from the direction of North Macedonia and Bulgaria), notice members of the border police monitoring the border in the distance and decide to turn back. Consequently, it is not excluded that the aforementioned data provided to IDEAS also contains data on those people whom the Serbian border police, most likely using modern technology, managed to spot and count and include in the result of "prevented illegal border crossings" without establishing effective control over them.

However, numerous reports from non-governmental organizations,⁵¹ the direct experience of the IDEAS legal team,⁵² findings of reputable international human rights protection bodies, as well as findings of domestic bodies such as the Ombudsman,⁵³ and the Constitutional Court of the Republic of Serbia,⁵⁴ in combination with statements from political and other officials,⁵⁵ undoubtedly confirm that a significant number of foreign nationals whose "illegal entry was prevented" came into direct contact with police officers who established *de facto* control over their ability to physically move in space. From the moment effective control⁵⁶ is established over a group of foreign nationals found in irregular border

⁴⁹ Rulebook on the Appearance of the Form on Refusal of Entry into the Republic of Serbia, on the Appearance of the Form on Approval of Entry into the Republic of Serbia and the Manner of Entering Data on Refusal of Entry into a Foreign National's Travel Document, Official Gazette of the Republic of Serbia, No. 50/2018.

⁵⁰ Official Gazette of the Republic of Serbia, Nos. 18/2016, 95/2018 - authentic interpretation and 2/2023 - Decision of the Constitutional Court, available at:

<https://www.paragraf.rs/propisi/zakon-o-opstem-upravnom-postupku.html>.

⁵¹ For example, the Border Violence Monitoring Network publishes testimonies of foreign nationals who claimed to have been informally forcibly removed from Serbia to North Macedonia and Bulgaria on its website, available at: <https://borderviolence.eu/testimonies/>.

⁵² Individual cases will be described below.

⁵³ Ombudsman, Serbia: National Report on the Human Rights Situation of Migrants at Borders, ENNHRI, July 2021, available at: <https://ennhri.org/wp-content/uploads/2021/07/Serbian-National-Report-3.pdf>, p. 21.

⁵⁴ Constitutional Court, Decision No. UŽ 1823/2017, 29 December 2020, available at: <https://www.asylumlawdatabase.eu/en/content/serbia-constitutional-court-decision-expulsions-bulgaria>.

⁵⁵ Danas, Vučić: There are currently 3,977 migrants in Serbia, we prevented more than 38,000 illegal crossings last year, 17 June 2021, available at: <https://bit.ly/3koFNV0> and Mol, Report on the Implementation of the Strategy for Countering Irregular Migration for the Period 2018-2020, available at: <https://bit.ly/3Dtss4r>, p. 10.

⁵⁶ UN Human Rights Committee (HRC), General comment no. 31 [80], The nature of the general legal obligation imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13, 26 May 2004, available at: <https://www.refworld.org/legal/general/hrc/2004/en/52451>, para. 10.

crossing, regardless of whether such control was established on the territory of a neighboring country, in the intermediary space (the so-called no man's land), or on the territory of Serbia itself in the immediate vicinity of the border, their obligation to respect, protect, and ensure the realization of the human rights of foreign nationals is activated. At that moment, "preventing illegal border crossings" cannot be carried out outside legally established procedures.

2.1.2. Allegations and Reports of Informal and Forced Expulsions from Serbia to Neighboring Countries

Unfortunately, and as has been the case in previous years, the practice of collective expulsion of refugees and migrants who (most often) attempt to access the territory of Serbia from North Macedonia and Bulgaria has continued. Although the number of organizations reporting on such practices significantly decreased during 2024,⁵⁷ and consequently there are fewer reports citing testimonies and descriptions of questionable practices, several events indicate that harmful patterns of behavior by the Serbian border police persisted in 2024:

- > In January 2024, according to the Border Violence Monitoring Network (BVMN),⁵⁸ a group of Moroccan nationals were informally and collectively expelled to Bulgaria with the use of physical abuse (hitting, punching, kicking, pushing, property destruction, and pepper spray);⁵⁹
- > On February 16, 2024, the IDEAS legal team made direct contact with two men from Syria who had irregularly entered from North Macedonia and who, after several hours, arrived in the immediate vicinity of Preševo. After establishing contact with the IDEAS legal team, including via video call, two plainclothes police officers and two uniformed police officers appeared, apprehended them, and expelled them (under threat of force and the use of service dogs) back to North Macedonia in a police van. The expulsion occurred near Miratovačko polje and the Macedonian village of Lojane, and the entire case was documented "live" through GPS locations and photographs⁶⁰;
- > On February 22, 2024, a group of naked refugees and migrants were filmed by travelers walking along the highway towards the Tabanovce Reception Center in North Macedonia. According to their testimonies, as well as the statements of foreign nationals who subsequently managed to re-enter Serbia, the Serbian police apprehended dozens of Syrian and Iraqi nationals. One group was taken to a police facility near the border with North

⁵⁷ For previous reports from various organizations, see more in Chapter B1 of the AIDA Serbia 2023 report.

⁵⁸ Hereinafter: BVMN.

⁵⁹ BVMN, They were beating us severely, as if they were beating animals, available at: <https://bit.ly/3zmNpBt>.

⁶⁰ Data on the mentioned case, including testimony, GPS locations, and other evidence, are in the internal archives of IDEAS.

Macedonia, where they were allegedly abused: kicking, slapping, punching, blows with Kalashnikov rifle butts, and so on. Another group of apprehended foreign nationals, who were practically detained immediately after crossing the border, were abused in a similar manner, with the addition that they were ordered to take off their clothes and shoes and return to North Macedonia in their underwear only;⁶¹

- > In May 2024, BVMN reported that another group of Moroccans were returned to Bulgaria with the use of physical abuse⁶²;
- > In September 2024, BVMN reported that a group of 31 Afghan nationals were apprehended immediately after crossing the state border from Bulgaria, that they were all loaded into a police van and told they would be taken to a "camp." However, they were expelled back to Bulgaria⁶³;
- > In October 2024, a young man from Afghanistan recounted his testimony to BVMN that he had been violently expelled to North Macedonia⁶⁴;
- > During an official hearing within the asylum procedure, Syrian national X. and a client of IDEAS stated that he had been expelled from Serbia to Bulgaria on several occasions, after which he was detained by the competent immigration authorities in detention centers where conditions were poor.⁶⁵

It is important to note that the number of allegations of informal and often violent expulsions from Serbia to, primarily, North Macedonia and Bulgaria, was far greater in previous years, i.e., there were more sources in which these allegations were regularly published. However, it is equally important to note that a significant number of non-governmental organizations that previously published reports on this topic no longer have a continuous presence on the ground.⁶⁶ Finally, the decrease in the number of testimonies can also be linked to a significant drop in the number of observed arrivals of people on the move, which is primarily a consequence of the tightening of border policies in countries such as Bulgaria and Greece.⁶⁷

⁶¹ Guardian, Videos show migrants stripped of clothing in freezing temperatures at Serbian border, 22 February 2024, available at: <https://bit.ly/3XIsPFG>.

⁶² 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/>.

⁶³ BVMN, Shot at, beaten with 'wooden tools', fingers bent backwards, available at: <https://borderviolence.eu/testimonies/september-25-2024-pirot-serbia/>.

⁶⁴ BVMN, People shouldn't behave like this with us. Treat us like humans, available at: <https://borderviolence.eu/testimonies/october-14-2024-presevo-serbia/>.

⁶⁵ Minutes of the oral hearing, No. 26-3434/24 of 25 February 2025.

⁶⁶ For previous reports from various organizations, see more in Chapter B1 of the AIDA Serbia 2023 report.

⁶⁷ See more in AIDA Country Report: Greece-2023 Update, available at: <https://asylumineurope.org/wp-content/uploads/2024/06/AIDA-GR-2023-Update.pdf>, Chapter B.1., AIDA Country Report: Bulgaria-2023 Update available at: <https://ecre.org/aida-country-report-on-bulgaria-2023-update/>, Chapter B1.

UNHCR Data on Allegations of Informal Expulsions to North Macedonia for the Period 2019-2024⁶⁸

Month	2019	2020	2021	2022	2023	2024
January	78	74	0	4	23	Not available
February	87	150	31	8	33	Not available
March	96	112	2	6	3	Not available
April	35	9	7	85	Not available	Not available
May	49	9	22	20	Not available	Not available
June	19	88	5	6	Not available	Not available
July	59	10	21	2	Not available	Not available
August	28	154	46	301	Not available	Not available
September	159	142	14	6	Not available	Not available
October	67	159	57	0	Not available	Not available
November	90	30	0	103	Not available	Not available
December	6	40	5	35	Not available	Not available
Total	773	977	210	576	Not available	Not available

Nevertheless, the cases listed above undoubtedly confirm that the practice of informal and forced expulsion of refugees and migrants to neighboring countries remains widespread. This assertion is supported by the fact that the patterns of behavior of the Serbian border police observed, for example, in the report of the Ombudsman,⁶⁹ or in the decision of the Constitutional Court,⁷⁰ are still present in publicly available testimonies. Furthermore, such practices were also confirmed in the findings of the United Nations Human Rights Committee (HRC) in May 2024,⁷¹ which is only the latest in a series of credible reports from international governmental and non-governmental bodies and UN agencies that have for years reported on the crisis of the rule of law and the respect, protection, and realization of the human rights of refugees and migrants at the borders of Serbia.⁷² In other

⁶⁸ The aforementioned data is available on the UNHCR data portal, accessible at: <https://bit.ly/3rYbS9O>.

⁶⁹ Ombudsman, *Serbia: National Report on the Human Rights Situation of Migrants at Borders*, ENNHRI, July 2021, available at: <https://ennhri.org/wp-content/uploads/2021/07/Serbian-National-Report-3.pdf>, p. 21.

⁷⁰ Constitutional Court, Decision No. UŽ 1823/2017, 29 December 2020, available at: <https://www.asylumlawdatabase.eu/en/content/serbia-constitutional-court-decision-expulsions-bulgaria>.

⁷¹ 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.

⁷² 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; CAT, *Concluding*

words, from 2012 until the closing date of this report, the most reputable human rights protection bodies have continuously highlighted this problem.⁷³

Through a cumulative analysis of the allegations and documented cases from 2024, together with the allegations, reports, and documented cases from previous years,⁷⁴ the pattern of behavior of the Serbian border police towards refugees and migrants can be broken down into a whole series of different forms of human rights violations. In other words, foreign nationals who claimed to have been informally and violently expelled to North Macedonia and Bulgaria suffered some or all of the types of violations listed below:⁷⁵

- > They were arbitrarily and most often briefly deprived of their liberty (for a maximum of several hours), outside any legally established procedure, without being served a decision in a language they understand and without the possibility of challenging their detention before a judicial body, and (in the majority of cases) without the very act being recorded in the official detention records of the Ministry of Interior;
- > They were denied the right to access legal representation, the right to inform a person of their choice about their detention, and the right to a medical examination, as well as the right to be informed in a language they understand about their rights (including the right to seek asylum), obligations, and applicable procedures;
- > They were not identified;
- > They were not registered in accordance with Asylum Act or the Foreigners Act;
- > They were not subjected to a medical examination to determine whether they were in need of any form of medical assistance;
- > A vulnerability assessment was not carried out in relation to various criteria relevant to the category of people on the move, which may include: unaccompanied and/or separated children, survivors of gender-based violence, victims of torture and other forms of abuse, victims of human

observations on the second periodic report of Serbia, 3 June 2015, CAT/C/SRB/CO/2*, para. 15, available at: <https://bit.ly/3uj15La>; 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; UNHCR, *Serbia as country of asylum*, August 2012, available at: <https://bit.ly/2SevoT>, para 13; CAT, *Concluding observations on the third periodic report of Serbia*, 20 December 2021, CAT/C/SRB/CO/3, available at: <https://bit.ly/3vdOs4r>, para. 33.

⁷³ Ibid.

⁷⁴ See also the compilation of reports by BVMN, Klikaktiv, and the Asylum Protection Center, summarized in AIDA Country Report: Serbia - Update 2022, available at: https://asylumineurope.org/wp-content/uploads/2023/05/AIDA-SR_2022update.pdf, Chapter B-1 and AIDA Country Report: Serbia - Update 2023, available at: https://asylumineurope.org/wp-content/uploads/2024/08/AIDA-SR_2023-Update.pdf, Chapter B-1.

⁷⁵ The listed points were compiled in accordance with the analysis of all the aforementioned sources covering the period from 2012 to the closing date of this Report.

trafficking, LGBTQI+ persons as individuals who are particularly vulnerable in the migration context, and so on;

- > They were expelled outside legally established procedures without being served an individual expulsion decision in a procedure in which, with the assistance of an interpreter and a legal representative, they could actively participate and challenge their return, and against which they could lodge a legal remedy that would have an automatic suspensive effect;
- > They were expelled without examining the risk of *refoulement* or *chain refoulement* in a third country or country of origin. In some situations, abuse allegedly materialized because foreign nationals were reportedly deprived of their liberty by the authorities of neighboring countries and detained in inhumane and degrading conditions in detention centers (for example, in Bulgaria);⁷⁶
- > If they were in a group, they were expelled without considering the individual situation of each member of the group, which makes the expulsion collective and therefore prohibited, and they were unable to lodge an effective and efficient legal remedy against such practice;
- > The very expulsion they were subjected to, i.e., the act of coercion itself, involved treatment that can at least be characterized as inhuman and degrading, but in more flagrant situations, also as torture, which may include: psychological violence in the form of shouting, insults, threats, and swearing; degrading treatment that involves removing shoes and clothing, forcing them to lie down or sit on the floor; physical violence, which includes punching, slapping, kicking, hitting with rubber batons, non-standard objects, firearms, spraying with pepper spray or tear gas, releasing service dogs, and so on. All the aforementioned actions also violate the absolute prohibition of ill-treatment in its substantive sense;
- > All the previously mentioned actions constitute violations of various human rights, such as the inviolability of physical or mental integrity, as well as the right to liberty and security of person, and by their nature, they represent breaches of official duty rules, as well as acts that are incriminated by the Criminal Code of Serbia,⁷⁷ and as such, must be investigated and punished

⁷⁶ For example, survivors of sexual and gender-based violence Z.F., who was in the group of 17 refugees from Afghanistan for whom the Constitutional Court of Serbia established were collectively expelled to Bulgaria, was detained in the Busmantsi Immigration Detention Center, for which the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) established that the conditions were not in accordance with Article 3 of the European Convention, CPT, *Report to the Bulgarian Government on the visit to Bulgaria carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 17 December 2018*, CPT/Inf (2019) 24, available at: <https://rm.coe.int/1680966286>, p. 4.

⁷⁷ *Official Gazette of the Republic of Serbia*, Nos. 85/2005, 88/2005 - corr., 107/2005 - corr., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016, 35/2019 and 94/2024. Some of the criminal offenses include abuse and torture (Article 137), negligent work in service (Article 361), and similar.

through an effective and efficient procedure. The absence of such a procedure creates an atmosphere of impunity and also constitutes a violation of the rights of people on the move to access justice and obtain fair satisfaction, thereby calling into question the procedural aspect of the prohibition of ill-treatment.

Therefore, it can be stated with certainty that the illegal practices of the Serbian border authorities are still significantly present and that they represent evidence that the crisis of the rule of law at the borders of European countries is a reality in Serbia as well. What is essential to emphasize is the fact that, according to the knowledge of the authors of this report, no competent authority in Serbia has established material, disciplinary, or criminal legal responsibility of the Border Police Directorate officers regarding hundreds of allegations of forced and informal, group and arbitrary returns of foreign nationals to North Macedonia or Bulgaria.⁷⁸ The aforementioned procedure was not even initiated in the case of the police officers of the Gradina Police Station, for whom the Constitutional Court established that they had collectively and in an inhuman and degrading manner expelled a group of 17 Afghan refugees to Bulgaria.⁷⁹

⁷⁸ For example, N1, *The army and police are still silent about migrants left in the forest*, 19 December 2016, available at: <https://n1info.rs/vesti/a215625-vojska-i-policija-zasad-cute-o-migrantima-ostavljenim-u-sumi/>.

⁷⁹ This information was also presented by the public prosecutor of the Higher Public Prosecutor's Office in Pirot at an event organized by Group 484... I need to remember when and where.

Data on "Prevented Illegal Entries" for the Period 2016-2024

Year	Number of irregular crossings prevented
2016	(at least) 18,000 ⁸⁰
2017	(at least) 21,000 ⁸¹
2018	(at least) 23,000 ⁸²
2019	20,221 ⁸³
2020	38,226 ⁸⁴
2021	14,806
2022	45,965 (until December 15th 2022. from North Macedonia)
2023	37,403
2024	14,080 ⁸⁵
Total	(at least) 232,701

⁸⁰ Danas, 'Migrants unhappy with conditions of life', 27 December 2016, available in Serbian at: <http://bit.ly/2koDcN7>.

⁸¹ Alo, Without the army and police - Vulin: Now there would be 20,000 migrants in Serbia, imagine that!, 22 July 2017, available at: <http://bit.ly/2DGDgRx>.

⁸² Ministry of Defense, Cessation of Engagement of Joint Forces of the Serbian Army and the Ministry of Interior, 2 April 2018, available at: <https://bit.ly/2EolHol>.

⁸³ BETA, Ministry of Interior: Daily, the illegal entry of 20 to 50 illegal migrants is prevented, 26 November 2019, available at: <http://bit.ly/2TdLuYL>.

⁸⁴ Danas, Vučić: Currently 3,977 migrants in Serbia, last year we prevented more than 38,000 illegal crossings, 17 June 2021, available at: <https://bit.ly/3koFNVO> and Ministry of Interior, Report on the Implementation of the Strategy for Countering Irregular Migration for the Period 2018-2020, available at: <https://bit.ly/3Dtss4r>, 10.

⁸⁵ Ministry of Interior-Border Police Directorate, Responses to the Request for Access to Information of Public Importance, No. 07-34/24, 30 August 2024 and No. 07-2/25, 11 February 2025 (delivered on 21 February 2025), hereinafter: Ministry of Interior-IPI 2024.

Data on "Prevented Illegal Entries" for the Period January 1, 2024 - December 31, 2024⁸⁶

Regional border center	Number of prevented „illegal entries“
North Macedonia	10,487
Bulgaria	3,437
Hungary	8
Bosnia and Herzegovina	58
Croatia	45
„Nikola Tesla“ Airport Belgrade	89
Romania	28
Montenegro	20
„Morava“ Airport Kraljevo	6
„Konstantin Veliki“ Airport Niš	1
Total	14,179

2.2. Practice of Issuing and Enforcing Refusal of Entry Decisions

2.2.1. Legal Framework Governing Refusal of Entry

In addition to the informal patterns of behavior of the Serbian border police that deny refugees and migrants the right to access territory and the asylum procedure in Serbia, it is important to briefly address the practice related to the institution of the refusal of entry decision. Namely, the possibility of refusing entry through a formally adopted decision was introduced in October 2018 with the entry into force of the new Foreigners Act. Article 15 of the aforementioned law provides for a whole series of grounds on which police officers of the Border Police Directorate can refuse a foreign national entry into Serbia, and thus prevent their access to the territory.

However, what is contentious from the perspective of the application of this institution, and with regard to individuals who may be in need of international protection, is the manner in which it is legally regulated, as well as the practice

⁸⁶ Ministry of Interior-Border Police Directorate, Responses to the Request for Access to Information of Public Importance, No. 07-34/24, 30 August 2024 and No. 07-2/25, 11 February 2025 (delivered on 21 February 2025), hereinafter: Ministry of Interior-IPI 2024.

applied at Serbian border crossings, and especially at the border crossing under the jurisdiction of the Belgrade Border Police Station⁸⁷ at Nikola Tesla Airport.

Namely, Article 15, paragraph 2 of the Foreigners Act stipulates that a foreign national who, in the assessment of the acting Border Police Directorate officer, does not meet the conditions for entry into Serbia, may be served with a refusal of entry decision on a prescribed form regulated by the Rulebook on the Appearance of the Form on Refusal of Entry into the Republic of Serbia, on the Appearance of the Form on Approval of Entry into the Republic of Serbia and the Manner of Entering Data on Refusal of Entry into a Foreign National's Travel Document.⁸⁸

According to the aforementioned Rulebook, foreign nationals are served with a bilingual decision, i.e., a decision drawn up in Serbian and English. In addition to the grounds for refusal of entry and personal data, as well as data on the foreign national's arrival, the decision also contains information on the legal remedy, i.e., the possibility of lodging an appeal that does not have an automatic suspensive effect. Furthermore, the appeal must be written and lodged at the border crossing itself with the payment of a fee of 12,470 dinars.

Therefore, the very way in which this institution is legally regulated carries with it a whole series of risks for individuals who may be in need of international protection, and especially for those individuals who arrive at the border directly from their country of origin, as is the case with arrivals at airports. First of all, the bilingual form does not guarantee that the foreign national will understand the content and reasons for the decision. Furthermore, an appeal against the decision does not have an automatic suspensive effect, raising the question of how a foreign national could receive the decision of the second instance in their country of origin or a third country to which they have been returned. Finally, the question arises as to how foreign nationals who do not have financial means, or who do not have 12,470 dinars in cash with them at the border crossing itself, can lodge an appeal, and it is even more difficult to imagine a scenario in which foreign nationals can lodge such an appeal, with the payment of a fee, from the country to which they were forcibly returned based on the decision.

It should also be noted that it is possible for a foreign national to be granted entry despite not meeting the conditions, if humanitarian reasons, the interest of the Republic of Serbia, or international obligations of the Republic of Serbia so require.⁸⁹ This provision, if interpreted through the prism of the risks that persons in need of international protection might experience in their countries of origin or third countries, with a cumulative interpretation of the Foreigners Act through the

⁸⁷ Hereinafter: Belgrade Border Police.

⁸⁸ *Official Gazette of the Republic of Serbia*, No. 50/2018. Hereinafter: Rulebook on Refusal of Entry.

⁸⁹ Article 15, paragraph 3 of the Foreigners Act.

prism of Article 83, which guarantees the principle of the prohibition of expulsion, can represent a guarantee against the violation of the principle of *non-refoulement*.

2.2.2. Refusal of Entry and the Principle of Non-Refoulements

In addition to the legal framework which in itself does not provide sufficient guarantees against *refoulement*, practice has shown that individuals who may be in need of international protection face additional difficulties in accessing the territory after it has been assessed that they do not meet the conditions for entry into Serbia. Namely, every check of the fulfillment of the conditions for entry into Serbia requires a certain amount of time, even if it is only the time needed to automatically print, fill out, and serve the decision form to the foreign national (which is most often the case in practice). During this time, as well as for the subsequent period required for the foreign national to be forcibly returned to the country from which they came (by boarding a plane), deprivation of liberty occurs, according to all relevant criteria of the right to liberty and security of person, which are clearly defined by the legally binding practice of the ECtHR.⁹⁰

In other words, foreign nationals against whom refusal of entry is being considered or who are waiting to be forcibly removed based on a decision are deprived of their liberty and are automatically entitled to the guarantees arising from the right to liberty and security of person guaranteed by Article 27 of the Constitution, as well as Articles 5 ECHR and Article 9 of the International Covenant on Civil and Political Rights.

The fact that someone is deprived of their liberty, and in order to avoid that deprivation being characterized as arbitrary, implies the existence of a decision made in a legally established procedure, by a legally established body, and based on legally founded reasons.⁹¹ The same law must also regulate the duration of the deprivation of liberty, the grounds for extending or revoking the deprivation of liberty, the possibility of challenging the deprivation of liberty before a judicial body, and the right of the person deprived of liberty to be informed, in a language they understand, about their rights, obligations, and applicable procedures.⁹²

Like every person deprived of liberty, and in the sense of respecting guarantees against ill-treatment (which also include guarantees against *refoulement*), persons deprived of liberty in the context of border control and refusal of entry

⁹⁰ 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/3JBOHdu>, para. 138.

⁹¹ See more in CoE, *Guide on Article 5 of the European Convention - Right to Liberty and Security*, Updated on August 2024, available at: https://ks.echr.coe.int/documents/d/echr-ks/guide_art_5_eng.

⁹² Ibid.

must also be afforded the right to legal representation, the right to inform a person of their choice about their situation, and the right to a medical examination.⁹³ If any of the guarantees listed here are lacking, the deprivation of liberty of foreign nationals who have been refused entry is considered arbitrary.

The Foreigners Act of the Republic of Serbia does not recognize the possibility of depriving foreign nationals of their liberty who are in the process of forced return based on a refusal of entry decision. Consequently, foreign nationals who have been refused entry and who cannot be returned immediately remain deprived of their liberty at border crossings until the return is carried out. The authors of this report received calls on 11 occasions during 2024 to provide legal assistance to foreign nationals who were undoubtedly in need of international protection, or who claimed to be so. These were individuals who had been refused entry by the Belgrade Border Police and who were arbitrarily deprived of their liberty in the airport transit zone for periods ranging from several hours to several days.

2.3.3. Practice of the Serbian Border Police at Airports in Serbia in 2024

The practice of the Belgrade Border Police has been under scrutiny by civil society organizations and international human rights protection bodies since November 2011, when the ECtHR for the first time issued an interim measure ordering the Government of the Republic of Serbia to refrain from refusing entry to a political dissident from Iran, Mr. P.⁹⁴ In other words, the mentioned case for the first time exposed the practice of dealing with refugees and migrants in the transit zone of Nikola Tesla Airport, which was based on automatic refusal of entry and arbitrary detention of foreign nationals in the premises of the transit zone until a place became available on a return flight of the airline with which the foreign national arrived in Serbia, to a third country or country of origin.

From the case of Mr. P. until the closing date of this report, the ECtHR has adopted an interim measure on at least seven more occasions at the request of the authors of this report to prevent the Belgrade Border Police from forcibly returning refugees, either to their country of origin where they would face persecution or serious injustice, or to a third country from where they could be expelled further to their country of origin, or where they would be denied other rights, which would again lead to a violation of the principle of *non-refoulement* (for example, return

⁹³ CPT, *Police custody, Extract from the 2nd General Report of the CPT*, published in 1992, CPT/Inf(92)3-part1, available at: <https://rm.coe.int/16806cea2f>, para. 36.

⁹⁴ *P. v. Serbia*, Application No. 80877/13, interim measure granted on 23 December 2023.

to a third country that cannot be considered safe due to the way it treats refugees and asylum seekers).⁹⁵

Two of the total of eight interim measures were adopted in the reporting period, one month apart and in relation to Turkish nationals who faced obvious political persecution in their country of origin. Both of these cases perfectly illustrate that the practice of dealing with persons in need of international protection arriving at airports in Serbia (and primarily at Nikola Tesla Airport) has not changed and involves the standard steps of the Belgrade Border Police, which represent another cluster of human rights violations of refugees or persons attempting to seek asylum in Serbia during border control. In other words, individuals who are undoubtedly in need of international protection,⁹⁶ as well as individuals who claim to be so by seeking asylum⁹⁷ during passport control and who are refused entry into Serbia at the airport, may experience the following human rights violations in the following manner:⁹⁸

- > Flights from Türkiye, Qatar, the United Arab Emirates, as well as from other, primarily non-European destinations or destinations not within the EU, are subject to a special type of control by the Belgrade Border Police (the so-called first line of protection) because it implies that Belgrade Border Police officers carry out a preliminary passport check and determine the existence of grounds for refusal of entry in relation to nationals of African and Asian countries, as well as Türkiye and other countries. In practice, this means that foreign nationals do not even manage to reach regular passport control, but are immediately separated from the group of passengers upon exiting the aircraft and taken to a part of the airport where they are served with refusal of entry decisions or to a part of the airport where the detention facilities for foreign nationals who have been refused entry are located;
- > Whether it concerns foreign nationals who became the subject of a refusal of entry immediately upon exiting the aircraft, or foreign nationals who were characterized as such at passport control itself (and who are usually asked to

⁹⁵ ECtHR, *Ahmed Ismail (Shiine Culay) v Serbia*, Application No. 53622/14, interim measure granted on 29 July 2014; *H.G.D. v. Serbia*, Application No. 3158/20, interim measure granted on 30 November 2016; *Ozen v. Serbia*, Application No. 45794/21, interim measure granted on 15 September 2021; *Çapan v. Serbia*, Application No. 26005/22, interim measure granted on 30 May 2022; *Moazen and Others v. Serbia*, Application No. 56318/22, interim measure granted on 9 December 2022; *Yuksel v. Serbia*, Application No. 23659/24, interim measure granted on 21 August 2024; and *N.A. and Others v. Serbia*, Application No. 26934/24, interim measure granted on 25 September 2024.

⁹⁶ Which are mostly persons for whom the authors of this report can assert this with certainty due to their knowledge of the individual circumstances of their cases in their countries of origin.

⁹⁷ And who contacted the authors of this report seeking free legal aid.

⁹⁸ The list of violations and contentious forms of treatment by the Belgrade Border Police was formulated based on dozens of testimonies collected by the authors of this Report over the past 12 years, and many of the descriptions containing the listed elements can also be found in the AIDA Serbia 2023 report, pp. 46-49.

"sit aside" until someone comes to talk to them, or are taken to one of the Belgrade Border Police premises), from the moment a Belgrade Border Police officer assesses that they do not meet the conditions for entry, they are served with a bilingual form of the refusal of entry decision and asked to sign it;

- > The decision-making process itself is automatic in nature and does not involve any prior determination of facts relating to the risks of *refoulement* (for example, those specified in Article 15, paragraph 4 of the Foreigners Act or Article 83 of the same law), but only facts relating to the grounds under Article 15 (for example, whether the foreign national has sufficient funds for maintenance, a return ticket, or a hotel reservation), nor is the foreign national allowed to actively participate in a language they understand and present reasons against expulsion;
- > All communication takes place in Serbian or English⁹⁹, i.e., the languages in which the refusal of entry decision is also drawn up. If a foreign national does not speak either of these languages, it is clear that they are unable to fully understand the situation they are in, the content of the decision, or to present arguments against the adoption or execution of the decision, and often they are not even aware of what they are signing;
- > Due to the language barrier, but also legal incompetence (in the case, for example, that the foreign national understood the content of the decision), it is difficult to imagine a scenario in which a foreign national can lodge an appeal. Furthermore, questions also arise as to whether a foreign national, even if they knew how, could draft an appeal (they need at least paper and a pen), pay the fee (if they have money), but also how long it takes for the appeal, if written in the foreign national's language (for example, in Turkish), to be translated and lodged to the second-instance authority whose headquarters are in the Palace of Serbia in Belgrade, at the headquarters of the Police Directorate;
- > An appeal against a refusal of entry decision does not have an automatic suspensive effect, and for it to have such an effect for reasons stipulated in Article 83 of the Foreigners Act, the acting Belgrade Border Police officer needs to establish these circumstances (e.g., the risk of *refoulement*), which was not even attempted in any of the cases IDEAS encountered. Consequently, even if they manage to lodge an appeal, it would only be decided upon after their return to a country where the foreign national faces persecution or the suffering of serious injustice;
- > As in many cases it is not possible for the foreign national to be forcibly boarded onto the flight of the airline with which they arrived in Serbia at that

⁹⁹ Also, there is no data indicating the extent to which Belgrade Border Police officers speak English, so that they could, for example, assess the risks of *refoulement*. It would be better to state here which constitutional and legal rights are violated by not providing translation into the native language

very moment, in practice, foreign nationals who have been refused entry into Serbia are placed in the detention facilities of the transit zone, where they can spend from several hours to several days or even several weeks. Such a situation, and especially in cases of foreign nationals who are in need of international protection, can only be qualified as a deprivation of liberty that is not legally regulated at all, and is therefore arbitrary. In the previous few years, cases have also been recorded in which foreign nationals had their mobile phones confiscated, or their internet connection signal was poor or non-existent, or their phone batteries were depleted. In other words, these circumstances implied *incommunicado* detention;

- > Due to the lack of a legal framework, persons who may be in need of international protection are also denied access to legal aid and the possibility to contact a person of their choice. Individual decisions on the deprivation of liberty, which they could challenge before a judicial body, were not issued;
- > After receiving the refusal of entry decision, and in the manner described above, it is clear that in this case as well, and especially for a foreign national who may be in need of international protection, a decision was served which may have forced removal as its ultimate consequence. It was served and adopted in a procedure in which the foreign national was not allowed to offer arguments against return, where they did not have an interpreter and a legal representative, and where they do not have the possibility of practically lodging an appeal, and even if they did, the appeal does not have an automatic suspensive effect;
- > Foreign nationals who attempt to resist such practices are also denied access to the asylum procedure, i.e., the procedure that in the most effective possible way allows for the examination of the risks they claim they would be exposed to in the event of forced removal.

Refusal of Entry at "Nikola Tesla" Airport Belgrade in the period from January 1, 2024 to December 31, 2024¹⁰⁰

Nationality	Number of Persons
Türkiye	323
Unknown	37
Afghanistan	7
Syria	6
Other nationalities	245
Total	1,757

¹⁰⁰ Ministry of Interior-Border Police Directorate, Responses to the Request for Access to Information of Public Importance, No. 07-34/24, 30 August 2024 and No. 07-2/25, 11 February 2025 (delivered on 21 February 2025), hereinafter: Ministry of Interior-IJZ 2024.

Refusal of Entry at "Konstantin Veliki" Airport Niš in the period from January 1, 2024 to December 31, 2024¹⁰¹

Nationality	Number of Persons
Türkiye	51
Other nationalities	23
Total	74

Refusal of Entry at "Morava" Airport Kraljevo in the period from January 1, 2024 to December 31, 2024¹⁰²

Nationality	Number of Persons
Türkiye	15
Total	15

Due to all of the above, and especially due to the fact that IDEAS intervened in at least 10 cases during 2024 to prevent automatic refusal of entry, it is clear that oversight of the actions of the Belgrade Border Police is crucial and that effective access to the transit zone for qualified legal professionals is one way to strengthen procedural guarantees against *refoulement*.

During 2024, the Belgrade Border Police refused entry to 1,757 foreign nationals, including citizens of Syria, as well as citizens of Afghanistan and Türkiye. In fact, Turkish citizens are the most numerous populations, and it is precisely in relation to them that the ECtHR granted requests for interim.^{103,104}

Furthermore, the legal framework itself must be changed to recognize the status of a person deprived of liberty for a foreign national in the transit zone who has been refused entry and who cannot return to a third country or country of origin.¹⁰⁵ In this way, a whole series of guarantees related to the right to liberty and security of person would be activated, including the right of the foreign

¹⁰¹ Ministry of Interior-Border Police Directorate, Responses to the Request for Access to Information of Public Importance, No. 07-34/24, 30 August 2024 and No. 07-2/25, 11 February 2025 (delivered on 21 February 2025), hereinafter: Ministry of Interior-IJZ 2024.

¹⁰² Ministry of Interior-Border Police Directorate, Responses to the Request for Access to Information of Public Importance, No. 07-34/24, 30 August 2024 and No. 07-2/25, 11 February 2025 (delivered on 21 February 2025), hereinafter: Ministry of Interior-IJZ 2024.

¹⁰⁴ Ministry of Interior-Border Police Directorate, Responses to the Request for Access to Information of Public Importance, No. 07-34/24, 30 August 2024 and No. 07-2/25, 11 February 2025 (delivered on 21 February 2025), hereinafter: Ministry of Interior-IJZ 2024.

¹⁰⁵ ECtHR, *Amuur v. France*, Application No. 19776/92, Judgment of 25 June 1996, paras. 48 and 49.

national to be informed in a language they understand about their rights, obligations, and applicable procedures.

Finally, Belgrade Border Police officers would need to receive clear instructions or standard operating procedures based on which they would effectively and in a balanced manner prevent irregular migration, but also minimize situations in which foreign nationals who may be in need of international protection would be returned to third countries or countries of origin where they could be exposed to persecution, the suffering of serious injustice, or other forms of human rights violations. In the opinion of the authors of this report, the most practical solution at this time would be for every foreign national who refuses to be returned based on a refusal of entry decision, and who states that they fear inadequate treatment in a third country or country of origin, to be registered in accordance with Article 35 of the Asylum Act.

2.3. Right to Access the Asylum Procedure

The registration of a foreign national's intention to apply for asylum is one of the specific features of the Serbian asylum system, which exists in several other Western Balkan countries (e.g., Montenegro, North Macedonia, and Bosnia and Herzegovina).¹⁰⁶ It materializes through the issuance of a registration certificate, which is a prerequisite for lodging an asylum application. For this reason, this step in the Serbian asylum system deserves special attention, both due to the provisions regulating it and the practice observed during 2024, which may indicate unresolved issues that can be linked to the realization of the right to access the asylum procedure.

During 2024, the Ministry of Interior issued 850 registration certificates to citizens of Syria (325), Afghanistan (86), Türkiye (41), Morocco (38), DR Congo (37), Pakistan (33), the Russian Federation (31), Iraq (31), Iran (29), Palestine (25), Egypt (15), Armenia (14), Cuba (14), 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 one certificate each to citizens of Eritrea, Georgia, Ireland, Jamaica, Djibouti, Kyrgyzstan, Moldova, Mongolia, North Macedonia, Senegal, Slovakia, Tunisia, and Yemen.¹⁰⁷

¹⁰⁶ Article 35 of the Asylum Act.

¹⁰⁷ Monthly reports of the Asylum Office submitted to the UNHCR office in Belgrade and duly forwarded to all interested parties, hereinafter: monthly reports of the Asylum Office.

Total Number of Registration Certificates Issued in the Period from January 1, 2024 to December 31, 2024

Month	Total	Airports	Reception Centers for Foreigners	Police Directorates	Regional Border Police Centers	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
Total	850	27	2	594	227	0

The mentioned number of certificates is practically half the number issued in the previous year, when 1,654 certificates were issued.¹⁰⁸ However, the decrease in the number of issued registration certificates is not necessarily a bad indicator if one takes into account the fact that the number of people who actually lodge an asylum application in Serbia in the past 16 years has averaged 277.¹⁰⁹ In other words, the Serbian asylum system has never attracted a large number of people due to a whole range of factors, and the figures from previous years, which sometimes numbered in the hundreds of thousands (for example, in 2015), never reflected the real situation regarding the number of people who want to stay in Serbia.

Essentially, the issuance of a registration certificate fundamentally allows a foreign national to reside in an asylum center or another facility intended for the accommodation of asylum seekers until the deadline for lodging an asylum application expires. However, no provision of the Asylum Act prescribes either the right to accommodation or other rights of persons who have been issued a registration certificate (for example, the right to health care, which can be and is provided in practice until the moment of lodging the asylum application).

¹⁰⁸ See more in AIDA Serbia 2023, pp. 81-82.

¹⁰⁹ See the table below that shows the ratio of issued registration certificates and lodged asylum applications.

Consequently, persons that have expressed intention to seek asylum do not have a legal status like that of persons who have lodged an asylum application. Accordingly, their stay in centers and access to various forms of material reception conditions (food, medical care, etc.) is a well-established practice that has no basis in the legal framework. For this reason, IDEAS has proposed that this category be recognized, to a limited extent, with a legal status that would explicitly allow them the right to stay in asylum and reception centers, the right to food, footwear, clothing, and other elements that constitute an integral part of material reception conditions.¹¹⁰

During 2024, the largest number of certificates were issued by police directorates (594), followed by regional border police centers (227). The Belgrade Border Police issued 27 certificates, and the Reception Center for Foreigners in Padinska Skela only two. The Asylum Office did not issue any certificates in 2024.

2.3.1 Legal Framework

The Asylum Act stipulates that during border control upon entry into Serbia or within the territory of Serbia, a foreign national may orally or in writing express their intention to apply for asylum to an authorized police officer, and the same is possible in an asylum center or another facility where applicants can be accommodated.¹¹¹

A foreign national who has expressed the intention to apply for asylum is referred to an asylum center or another facility designated for the accommodation of applicants, where they must report within 72 hours from the moment they were issued the registration certificate. An integral part of the registration is photographing and taking biometric data.¹¹² If they fail to do so, the provisions of the Foreigners Act will apply to them.¹¹³

The authorized police officer issues a registration certificate to the foreign national who has expressed the intention to apply for asylum. Therefore, the issuance of a registration certificate is a prerequisite for accessing the asylum procedure, i.e., for lodging an asylum application. Without a registration certificate, it is not possible to initiate the asylum procedure.

In a formal-legal sense, the 72-hour period for which the certificate is valid (until reporting to the appropriate asylum center or reception center) can be described

¹¹⁰ The proposal to explicitly recognize the legal status of registered foreign nationals and thus their access to a certain level of material reception conditions is a proposal that IDEAS submitted as part of the public debate on amendments to the Asylum Act and which, in the latest draft, was included in the Draft Law on Amendments to the Asylum Act, available at: <https://bit.ly/4oB7UPN>

¹¹¹ Article 35 of the Asylum Act.

¹¹² Ibid.

¹¹³ Ibid.

as problematic and risky for several reasons. Namely, the provision stipulates that if a foreign national, after being registered, fails to report to an asylum center or another facility designated for the accommodation of applicants without a justified reason, the provisions of the Foreigners Act will apply to them. In other words, a foreign national, regardless of whether they are in need of international protection or not, may be served with a return decision and may become the subject of a forced removal procedure to a third country or country of origin.¹¹⁴

As already stated, the issuance of a registration certificate is not considered an asylum application, which is often misinterpreted by foreign nationals who do not understand the content of the certificate issued in Serbian and the Cyrillic script. As in the majority of cases there are no interpreters in police stations and border police stations where foreign nationals are registered, and as the extent to which information leaflets available on the Ministry of Interior's website¹¹⁵ are distributed in all police directorates and regional border police centers remains an open question, there is still a high risk that foreign nationals do not understand the content and meaning of the certificate.¹¹⁶ For this reason, it is important to reiterate the significance of introducing the possibility of designing multilingual certificate forms that are simple and short in their content and should not represent a major expense.

On the other hand, it is important to note that the predominant practice during 2024 involved foreign nationals first being accommodated in asylum centers and reception centers, and only after being informed about the possibility of seeking asylum were taken for registration, and there was a flexible approach regarding legal deadlines and the possibility of lodging applications, which is positive. In these cases, it can be stated with certainty that the purpose and effect of issuing the registration certificate were explained to these people, and in that sense, there were no major problems.¹¹⁷

In addition, there is a whole series of ambiguities, both in the legal and practical sense, regarding persons who were primarily registered, i.e., assigned a legal

¹¹⁴ In accordance with Articles 74 to 77 of the Foreigners Act.

¹¹⁵ Information leaflets are available at: http://www.mup.gov.rs/wps/portal/sr/baner-sadrzaj!/ut/p/z1/fY2xDolwFEV_pYvzA0xsHFIAiU5oAm8hj0q02LyWQonh6-3g7HRykpN7AaEBZFr1kxZtmUz0Fg9dmh2z075MLuVdFkl-IVVR3-Q5rTOoAP8HcUGP04Q5oLK8DJ8FGhd6o1Vn4gvvvp548D-lmR5-ozGqt3PwJKxwntYgmARt2ojAL-XBvbH9Au_NMIE!/.

¹¹⁶ Information about the asylum system in Serbia is also available on the Ministry of Interior's website and should be distributed in all police directorates and regional border police centers, available at: http://www.mup.gov.rs/wps/portal/sr/baner-sadrzaj!/ut/p/z1/fY2xDolwFEV_pYvzA0xsHFIAiU5oAm8hj0q02LyWQonh6-3g7HRykpN7AaEBZFr1kxZtmUz0Fg9dmh2z075MLuVdFkl-IVVR3-Q5rTOoAP8HcUGP04Q5oLK8DJ8FGhd6o1Vn4gvvvp548D-lmR5-ozGqt3PwJKxwntYgmARt2ojAL-XBvbH9Au_NMIE!/.

¹¹⁷ IDEAS is one of the organizations that, as a UNHCR partner, conducts group and individual legal counseling in asylum centers and reception centers.

status in accordance with the Foreigners Act and the Law on Misdemeanors, and who subsequently decided to seek asylum. To reiterate, Serbia is not considered a country of destination in the majority of cases, and due to various circumstances, it is often the case that people only wish to apply for asylum and register after a longer period of stay on the territory of Serbia. However, their immigration history up to that point may involve a whole series of encounters with the competent authorities. According to the interpretation of the authors of this report, the previous immigration history of foreign nationals that arose through the application of the provisions of the Foreigners Act should not be an obstacle for these same foreign nationals to be registered and allowed access to the asylum procedure in accordance with Article 35 of the Asylum Act, which does not mention anywhere the possibility that a foreign national who expresses the intention to apply for asylum can be denied this right.

2.3.2. Problems in Practice

First, it is important to mention that foreign nationals who were prevented from accessing the territory during 2024 were automatically denied the possibility of being registered within the meaning of Article 35 of the Asylum Act. Therefore, foreign nationals who were collectively and informally expelled to North Macedonia and Bulgaria, as well as foreign nationals who were automatically served with refusal of entry decisions, were also denied access to the asylum procedure and the registration of their intention to apply for asylum.

Furthermore, in 2024, dozens of cases were documented in which foreign nationals stably residing in Serbia were prevented from registering. These were mainly foreign nationals who, before deciding to seek asylum, had been served with a return decision, who had been deprived of their liberty in the Reception Center for Foreigners (but were not forcibly removed), or who had been fined for illegal stay or entry into Serbia.¹¹⁸

According to IDEAS' internal data, in the period from July to November 2024, the Sjenica Police Station refused to register more than 20 foreign nationals who were accommodated in the Sjenica Asylum Center.¹¹⁹

At the beginning of January 2024, the Preševo Police Station refused to register a foreign national from Syria, so the same person had to be transferred to Belgrade where they were registered without problems. Several more cases were recorded in the Preševo Police Station in the second half of the year. The same problem was observed with several foreign nationals in the Directorate for Foreigners in Belgrade. A particularly interesting case is a person who was

¹¹⁸ Offenses of illegal stay or entry into the territory of Serbia are provided for in Chapter XIII of the Foreigners Act.

¹¹⁹ Among them were citizens of Afghanistan and Syria, as well as from Pakistan, Eritrea, and other countries.

recorded in the Ministry of Interior's records as an unacceptable security risk within the meaning of Article 9 of the Foreigners Act and who waited for registration for more than five months. Only after IDEAS' intervention before the Asylum Office were this person, as well as many others who resided in the Sjenica Asylum Center, registered and allowed to lodge an asylum application. At the very end of 2024, IDEAS was not informed of problems of this nature.

According to data provided by the Ministry of Interior to IDEAS, return decisions were served on 12,420 individuals, and probably in as many or slightly fewer cases, a request was submitted to initiate misdemeanor proceedings.¹²⁰ According to nationality data, almost half of the foreign nationals were originally from Syria and Afghanistan, while the rest were from countries such as Türkiye, Palestine, and others. In other words, at least 60% of the foreign nationals who were served with a return decision could have been in need of international protection.¹²¹ They entered Serbia from countries such as Bulgaria and North Macedonia, where in theory they can also be expelled based on return decisions that are, in practice, drawn up and served identically to refusal of entry decisions.

Taking into account the explanations given by police officers of the Preševo Police Station, the Sjenica Police Station, and the Directorate for Foreigners in Belgrade to foreign nationals whose registration they refused, it is clear that a large number of people who may be in need of international protection are at risk of being denied access to the asylum procedure due to the fact that return decisions are adopted and served automatically. Also, all the cases from 2024 are cases that were recorded by IDEAS, and the question arises as to what happens to individuals who do not enjoy any support when attempting to register and who may have an unfavorable immigration history.

What is important to note is that obstacles to registration are a problem that has occurred in the past in relation to foreign nationals who were the subject of police action in accordance with the Foreigners Act.¹²² For this reason, it is necessary for the Asylum Office to take a clear stance and send a clear message to all police directorates and regional border police centers that every person, regardless of their immigration history, has the right to express their intention and be registered in accordance with Article 35 of the Asylum Act.

¹²⁰ Ministry of Interior-Border Police Directorate, Responses to the Request for Access to Information of Public Importance, No. 07-34/24, 30 August 2024 and No. 07-2/25, 11 February 2025 (delivered on 21 February 2025), hereinafter: Ministry of Interior-IJZ 2024.

¹²¹ See the Table below.

¹²² See more in AIDA Country Report: Serbia - 2022 Update, available at: https://asylumineurope.org/wp-content/uploads/2023/05/AIDA-SR_2022update.pdf, pp. 73-79.

Return Decisions Issued in the Period from January 1, 2024 to December 31, 2024

Country	Number
Syria	3,991
Afghanistan	1,990
Türkiye	1,423
China	576
India	277
Other nationalities	2,562
Total	12,420

Return Decisions Issued in the Period from January 1, 2024 to December 31, 2024

Year	Number of Registration Certificates	Number 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
Total	658,394	4,435

2.4. Lodging an Asylum Application

As previously stated, the asylum procedure is initiated by lodging an asylum application, and the foreign national then becomes an asylum seeker within the meaning of Article 2, paragraph 1, point 4 of the Asylum Act. At the same moment, the foreign national acquires the rights under Article 48 of the Asylum Act, but also the specific obligations under Article 58 of the Asylum Act. In accordance with Article 2 of the Foreigners Act, the provisions of that law can no longer be applied to them.

2.4.1. Statistical Overview and Legal Framework

In 2024, a total of 219 asylum applications were lodged. Of these, 205 applications were in written form, 11 were lodged to police officers of the Asylum Office, while three applications were lodged subsequently. Applications were lodged by citizens of Syria (35), Türkiye (30), Cuba (27), the Russian Federation (21), Burundi (13), Afghanistan (11), Pakistan (10), Armenia (7), Iran (7), Belarus (7), Egypt (4), Palestine (3), Kyrgyzstan (3), Tunisia (3), Ukraine (2), Kazakhstan (2), Algeria (2), China (2), Uzbekistan (2), and one citizen each from Croatia, Eritrea, Ethiopia, Ireland, Sweden, Gambia, India, Nigeria, Congo, and Germany.

Therefore, it is clear that the number of people who lodge an asylum application does not correspond to the number of registered people. Since the establishment of the asylum system in 2008, 658,394 people have been registered, and only 4,435 of them have lodged an asylum application (0.7%). This in itself shows that Serbia has not managed to develop an asylum system that could provide refugees and asylum seekers with acceptable conditions for stay and integration.

Asylum Applications Lodged by Month for the Period January 1, 2024 - December 31, 2024

Month	Asylum Applications Lodged to the Asylum Office	Written Asylum Applications	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
Total	11	205	3

Article 36 of the Asylum Act stipulates that the asylum procedure is initiated by lodging an asylum application to an authorized officer of the Asylum Office, on a prescribed form, no later than 15 days from the date of registration.¹²³ If an authorized officer of the Asylum Office does not enable a foreign national who has been issued a certificate to lodge an asylum application within 15 days, the applicant may do so by completing the asylum application form within eight days from the expiry of the aforementioned deadline.¹²⁴ The asylum procedure is considered initiated upon delivery of the form to the Asylum Office.¹²⁵

What is contentious in terms of the legal framework is the deadline of 15 plus 8 days, which, if strictly interpreted, can pose a significant risk for many foreign nationals who are in need of international protection and who are registered even though they are not sure whether they want to apply for asylum. From the point of view of the authors of this report, they can be fined for a misdemeanor, but their right to apply for asylum should not cease upon the expiration of the 23-day deadline.

If this provision were interpreted restrictively, it would mean that registered foreign nationals who missed the aforementioned total deadline of 23 days would

¹²³ Article 36, paragraph 1 of the Asylum Act.

¹²⁴ Article 36, paragraph 1 of the Asylum Act.

¹²⁵ Article 36, paragraph 1 of the Asylum Act.

lose the right to seek asylum in Serbia. For this reason, it is necessary to change this provision and delete any deadline, primarily because it is impossible for a person who claims to be at risk of persecution or suffering serious injustice in their country of origin to be returned to the same without examining that claim. The most appropriate procedure for examining the risk of persecution, suffering serious injustice, or the risk of ill-treatment in a third country or country of origin is the one provided for in the Asylum Act. The Asylum Act guarantees the principle of immediacy, i.e., the possibility for the asylum seeker to present all the facts and circumstances to an authorized and competent police officer of the Asylum Office, based on which it will be established whether the foreign national meets the conditions for international protection or not.

Although someone might argue that the existence of the aforementioned facts and circumstances could be examined through the provisions of the Foreigners Act and Article 83 (which guarantees the principle of *non-refoulement*), such an approach would be extremely illogical for the simple reason that establishing the existence of reasons under Article 83 of the Foreigners Act would mean establishing the existence of facts and circumstances due to which the foreign national should be recognized the right to asylum or the right to subsidiary protection. Furthermore, at this moment, there is no example known to the authors of this report in which police officers of the Border Police Directorate have established the risks under Article 83 of the Foreigners Act, either when making a refusal of entry decision or when making a return decision. Both types of decisions adopted in accordance with the Foreigners Act are adopted by the Ministry of Interior by referring to Article 104 of the Law on General Administrative Procedure, which regulates the issue of direct decision-making in administrative proceedings. Direct decision-making within the meaning of Article 104 of the Law on General Administrative Procedure stipulates that a decision (a return decision, for example) is made without conducting any examination procedure, i.e., without taking statements from the persons to whom the decision relates. To put it plainly, a foreign national who is served with a return decision is not heard as is the case in the asylum procedure, nor is he or she thereby enabled to participate in the decision-making process, to comment on it, and to potentially, with the help of an interpreter for a language they understand, offer counter-arguments against the adoption of the decision. Even more simply, the return decision is simply typed on the existing form, printed, and served to the foreign national, and that in the Serbian language.

Therefore, as far as the authors of this report are aware, return decisions are decisions that are made after a direct decision-making procedure, i.e., a decision-making process that is not preceded by an examination procedure and in which statements are not taken from the persons to whom the decision relates, and in accordance with Article 104 of the Law on General Administrative Procedure. Consequently, in an administrative procedure in which there is no examination procedure or equal participation of the party in the decision-making process, it is

difficult to imagine that it is possible to examine the existence of grounds for the application of Article 83 of the Foreigners Act. Due to all of the above, the Asylum Act should not have any deadline for lodging an asylum application, and every person who claims a risk of persecution or suffering serious injustice should have an unimpeded opportunity to lodge an asylum application.

2.4.2. Practice Regarding the Submission of Asylum Applications

Regarding the submission of asylum applications, there were no major obstacles in 2024, and almost all foreign nationals were able to lodge both written asylum applications and asylum applications lodged to an authorized officer of the Asylum Office without hindrance.

Nevertheless, certain practical problems were observed concerning individuals who independently lodge applications on forms available in all asylum centers and reception centers. Namely, those applications that are handwritten often pose certain problems for the police officers of the Asylum Office to be adequately translated. For this reason, IDEAS lawyers began to provide support to all foreign nationals who wish to initiate the asylum procedure. During 2024, IDEAS provided support for 111 foreign nationals out of the total of 219 who lodged asylum applications in 2024.

03 First Instance Asylum Procedure – Practice of the Asylum Office

3.1. Introductory Remarks

The practice of the Asylum Office in 2024 continued to be unpredictable and inconsistent, as was the case in 2023,¹²⁶ and in previous years when the first instance made different decisions in almost identical or similar cases.¹²⁷

The categorization of problems can be broken down into those of an administrative nature, which relate to the lengthy duration of the asylum procedure, the inability of asylum seekers accommodated outside Belgrade to be heard within a relatively short period, and so on.

The second category of problems relates to the very procedure of assessing the credibility of asylum applications and, above all, the part concerning the burden of proof and the standard of proof of someone's claim from the perspective of the *in dubio pro reo* principle (benefit of the doubt), i.e., the principle of "precedence of doubt," which means that in case of doubt as to whether someone meets the conditions for the recognition of refugee status or not, it should be recognized.¹²⁸ We can also classify the quality of the research on the human rights situation in the country of origin and its selective citation in negative decisions into this second category, with the idea of partially using objective circumstances to justify the adoption of a refusal decision, even though there was no basis for it in many procedures.¹²⁹ Instances where a lack of proactive approach by the Asylum Office in conducting certain evidentiary actions or the refusal of the Asylum Office to undertake appropriate evidentiary actions at the proposal of asylum seekers and their legal representatives were also recognized

¹²⁶ See more in AIDA Serbia 2023, pp. 107-118.

¹²⁷ See more in AIDA Serbia 2023, pp. 107-118.

¹²⁸ ECtHR, *R.C. v Sweden*, Application No. 41827/07, Judgment of 9 March 2010, available at: <https://hudoc.echr.coe.int/fre?i=001-97625>, para. 50.

¹²⁹ Which also represents an inadequate application of the Asylum Act in terms of Article 32, paragraph 2, point 2.

as a problem. What was characteristic in 2024 was that almost all decisions assessed by the authors of this report as examples of bad practice contained all or most of the mentioned problems.

Finally, the third category of decisions that, from the perspective of the authors of this report, can be described as problematic, relates to the inadequate application of several concepts that were not common or did not exist in the legal framework before the entry into force of the Asylum Act of 2018. The first problem is the arbitrary application of the concept of "unacceptable security risk," which deprives asylum seekers of any real chance to challenge their "negative security assessment" used as the basis for rejecting their asylum application.¹³⁰ The second group of decisions relates to the concept of the subsequent asylum application,¹³¹ and the fact that since 2018, when it was introduced, not a single such application has been assessed as well-founded, although in many cases it was clear that either new facts had emerged or that facts not presented in the first asylum application were not presented for justified reasons.¹³²

Of course, it is important to note that during 2024, the Asylum Office also made several decisions that represent an example of good practice in assessing the credibility of asylum applications. Thus, during 2024, asylum was recognized in relation to citizens of Syria, survivors of sexual or gender-based violence or human trafficking, or persons who, as members of a particular social group, were subjected to persecution due to their sexual orientation. However, that number of decisions is still extremely low and still cannot change the general assessment of the authors of this report, which is that the asylum procedure before the Asylum Office remains ineffective and inefficient.

Finally, it is also important to mention that a significant number of negative decisions were also made in relation to asylum seekers whose asylum applications were not credible and where it was clear that the reasons for leaving their country of origin were not related to the reasons for which international protection can be recognized. Of course, it is commendable that during 2024, in relation to all people who were registered in accordance with Article 35 of the Asylum Act, there were no obstacles to lodging asylum applications and their consideration by the competent authorities.

¹³⁰ Article 33, paragraph 2 of the Asylum Act and Article 34, paragraph 2 of the Asylum Act.

¹³¹ Article 46 of the Asylum Act.

¹³² Article 46, paragraph 1 of the Asylum Act.

3.2. Hearing - Legal Framework, Statistical Overview, and Practice

The hearing is an official action in the asylum procedure through which the principle of immediacy guaranteed by Article 18 of the Asylum Act materializes. Article 37 stipulates that the hearing is conducted by an authorized officer of the Asylum Office, who has undergone the necessary training, in the shortest possible time, and with the aim of establishing:

- > The identity of the asylum seeker;
- > The reasons on which the asylum application is based;
- > The movements of the applicant after leaving the country of origin or the country of habitual residence;
- > Whether the applicant has already sought asylum in another country.

The authorized officer of the Asylum Office may hear the applicant several times to establish the facts. The asylum seeker is obliged to fully cooperate with the authorized officer of the Asylum Office during the hearing, to present credible and convincing explanations of the reasons on which their asylum application is based, to lodge all available evidence supporting their application, and to truthfully answer all questions asked.¹³³

The applicant is obliged to personally attend and participate in the hearing, regardless of whether they have a legal representative or an attorney.¹³⁴

Family members of the applicant are heard separately, except when, according to the assessment of the officer conducting the hearing, this is necessary to establish essential facts on which the asylum application is based. In accordance with the principle of confidentiality,¹³⁵ the public is excluded from the hearing.¹³⁶ This does not exclude the possibility of UNHCR presence, which occurred nine times during 2024, i.e., for nine individuals.¹³⁷ Audio or audio-visual recording is also possible if the asylum seeker has been informed about it.¹³⁸

The Asylum Act also provides for the possibility of omitting the hearing in the following cases:

- > If, based on the available evidence, a decision can be made to grant the asylum application and approve refugee status;

¹³³ Article 37, paragraph 3 and Article 32, paragraph 1 of the Asylum Act.

¹³⁴ Article 37, paragraph 4 of the Asylum Act.

¹³⁵ Article 19 of the Asylum Act.

¹³⁶ Article 37, paragraph 7 of the Asylum Act.

¹³⁷ Article 37, paragraph 8 of the Asylum Act.

¹³⁸ Article 37, paragraph 9 of the Asylum Act.

- > If the applicant is unable to give a statement due to permanent circumstances beyond their control;
- > If the admissibility of a subsequent asylum application is being assessed.

This option has never been applied so far, although IDEAS lawyers lodged a request during 2024 for this provision to be applied to a girl from Ukraine who survived gender-based violence and human trafficking and who was therefore psychologically vulnerable. Unfortunately, the hearing was conducted despite the request of the legal representative. However, it is positive that the applicant was later recognized as having the right to asylum. The Asylum Office never explained why a person coming from Ukraine, in relation to whom it was established that she was a victim of human trafficking by the Center for the Protection of Victims of Human Trafficking,¹³⁹ had to be heard. The report of the Center for the Protection of Victims of Human Trafficking, which recognized the applicant as a victim of human trafficking and clearly stated that human trafficking was also an act of persecution, was lodged as evidence with the written asylum application. Medical findings of a psychiatrist, as well as psychosocial reports indicating the risk of re-traumatization, were also lodged. In the opinion of the authors of this report, and based on the examined evidence, findings, and opinions, she met the conditions under Article 37, paragraph 10, points 1 and 2, and could have been recognized as meeting the conditions for refugee status without any hindrance.

Hearings conducted by the Asylum Office in the period from 2019 to 2024

Month	2019	2020	2021	2022	2023	2024
January	16	5	8	6	2	4
February	32	20	7	9	7	11
March	16	9	2	10	14	19
April	26	0	5	14	6	22
May	12	0	15	6	6	8
June	3	3	14	5	2	4
July	9	1	11	8	4	2
August	6	1	0	4	2	2
September	19	8	0	18	15	5
October	17	23	9	1	6	13
November	8	7	1	22	15	6
December	14	7	13	4	9	11
Total	178	84	85	106	88	107

¹³⁹ Hereinafter: CPVHT (Center for the Protection of Victims of Human Trafficking).

During 2024, the Asylum Office interviewed 107 asylum seekers, which is an increase compared to the previous year when 88 individuals were interviewed. However, it is important to note that there are still excessively long waiting times for the official interview to be conducted after lodging an asylum application, which in practice has a strong discouraging effect on asylum seekers and can be treated as one of the reasons for the high number of decisions to suspend the procedure due to leaving the asylum center and Serbia.¹⁴⁰

For example, a Russian family was interviewed on November 17, 2023, and they had lodged their asylum application on March 29, 2023.¹⁴¹ A survivor of sexual and gender-based violence from Burundi lodged an asylum application on April 26, 2023, while the interview was conducted on April 3, 2024, i.e., almost a year later.¹⁴²

Examples in which the interview was held shortly after lodging the asylum application mainly concerned cases in which asylum seekers were rejected as an unacceptable security risk. Thus, a Turkish political activist lodged an asylum application on July 10, 2024, the interview was conducted on July 31, 2024, and the first-instance decision was made on September 16, 2024.¹⁴³

One of the ways this problem could be overcome is through the rationalization of the existing system of referring asylum seekers to asylum centers. Namely, the largest number of asylum seekers, and especially single men, are automatically referred to the Sjenica Asylum Center, which is 260 km away from Belgrade, where the Asylum Office is headquartered. Only at the end of 2024 did the Asylum Office visit the Sjenica Asylum Center on several occasions, and it is clear that asylum seekers from this center have to wait longer for their opportunity to be interviewed. At the same time, both the Krnjača Asylum Center and the Obrenovac Asylum Center, which are located near the Asylum Office headquarters, accommodated only a few dozen people for most of 2024. Therefore, it is difficult to find a legal, practical, and logical justification for not using the capacities of asylum centers in Belgrade to a greater extent, with the aim of overcoming the systemic problem of the excessively long duration of the first-instance asylum procedure.¹⁴⁴

IDEAS lawyers did not notice any serious problems during the official interviews. All acting officers of the Asylum Office acted conscientiously and allowed asylum seekers to present all the facts and circumstances. Legal representatives were also allowed to ask questions freely at the end. No cases were recorded in which a consensus was not reached between the Asylum Office officers, the legal

¹⁴⁰ More on this below.

¹⁴¹ Asylum Office, Decision No. 26-624/23, April 18, 2024.

¹⁴² Asylum Office, Decision No. 26-828/23, July 26, 2024.

¹⁴³ Asylum Office, Decision No. 26-2262/24, September 23, 2024.

¹⁴⁴ See more on the duration of the asylum procedure below.

representatives, and the asylum seekers regarding the content of the minutes, which were duly signed at the end in every IDEAS case.

Finally, what should be improved in the future is the logistical support that Asylum Office officers should have when conducting official interviews. Namely, it is a great challenge for the acting officers to conduct the interview, maintain order, organize interpreters, and enter the content of the interview into the minutes themselves. The general impression of all participants in the interview procedure is that its duration would be significantly shortened if the Asylum Office had the possibility of having the support of a clerk and if the sole focus of the police officer was asking questions to the asylum seeker.

3.3. Overview of the Asylum Office Practice

During 2024, the Asylum Office issued 151 decisions in relation to a total of 200 asylum seekers. Of this number, the largest number of decisions related to suspension – 87 suspension decisions (57.6%) were issued in relation to 113 asylum seekers.¹⁴⁵ This continued the trend from previous years in which the largest number of decisions made by the Asylum Office was precisely the one related to people who had left the asylum procedure and (most likely) Serbia before the first-instance decision was made.

The remaining 64 decisions (42.4%) can be further divided into those decided on the merits (59 in total, i.e., 39.1%) and those by which the subsequent asylum application was rejected (5 decisions in total, i.e., 3.3%).¹⁴⁶ And in fact, these 64

¹⁴⁵ What is important to note is the fact that it was not possible to establish the precise number of decisions suspending the procedure, primarily due to the way the Asylum Office keeps records in its monthly reports, which are duly submitted to the UNHCR office in Serbia and then further distributed to other interested parties. Namely, it is only possible to establish the total number of people covered by the decisions from the monthly reports, but not the exact number of decisions because, although it is not accurate, the Asylum Office states in its reports that the number of decisions made coincides with the number of people – the principle of one decision, one person. This is simply not true because a large number of decisions cover two or more people (for example, during 2024, one decision was made in relation to a family of six from the Russian Federation, which is recorded in official statistics as 6 decisions, which is not accurate because a conclusion on the joinder of proceedings was made in relation to all family members). Therefore, what is certain is that 113 people were covered by the decisions to suspend the procedure. The authors of this report, wishing to present the statistical figures as accurately as possible, opted for a methodology that assumes that the total number of suspension decisions is 70% of the total number of people covered by them. In other words, 70% of 113 is 87. On the other hand, when it comes to decisions made on the merits or on subsequent asylum applications, it was possible to establish the exact ratio of persons and decisions because copies of the decisions duly submitted by the Asylum Office were analyzed in detail.

¹⁴⁶ The subsequent application was rejected in relation to citizens of the Russian Federation, Syria, Algeria, Brazil, and Kazakhstan, of which the subsequent asylum application of the Brazilian citizen was rejected for security reasons.

decisions, which were made in relation to 87 asylum seekers, will be analyzed in this report with more or less detail.

Out of the total of 59 decisions considering the merits of the asylum application, 52 decisions relate to the rejection of the application and were made in relation to 75 asylum seekers. Only 7 decisions were positive, and a decision recognizing their right to asylum was made in relation to 7 asylum seekers. Regarding subsequent asylum applications, the Asylum Office rejected the subsequent asylum application for 5 asylum seekers through 5 decisions. There were no decisions made in the accelerated procedure,¹⁴⁷ or the procedure at the border or in the transit zone.¹⁴⁸ There were also no decisions rejecting an asylum application through the application of the safe third country,¹⁴⁹ or first country of asylum concepts.¹⁵⁰

One of the conclusions that can be drawn at the level of statistical data is that the total number of decisions made in 2024 was higher than in 2023. During 2023, the total number of decisions was 111, while in 2024 this number increased to 151, which is an increase of 35%. In addition, the number of cases resolved on the merits also increased, as only 42 decisions on the merits were made in 2023, while that number in 2024 was 59, an increase of 29%. In other words, in 2024, 59 decisions on the merits were made in relation to 82 asylum seekers coming from Burundi (21), Cuba (19), the Russian Federation (11), Syria (6), Iran (5), Armenia (4), Tunisia (3), Croatia (2), Türkiye (2), Ukraine (2), and 1 each from India, Tunisia, Germany, Sweden, Egypt, Afghanistan, and Congo.

When it comes to decisions on the merits, it can be concluded that the rejection rate of asylum applications in 2024 was 88%, while the recognition rate was 12%. This represents a decrease in the rate of recognition of international protection by an additional 3% compared to 2023.¹⁵¹ In total, international protection was granted through 7 decisions (12%) for 7 individuals. Refugee status, i.e., asylum, was recognized through 4 decisions and in relation to citizens of Congo, Burundi, Iran, and Ukraine, while the remaining 3 decisions related to subsidiary protection, which was recognized for three citizens of Syria.

The majority of decisions on the merits made in 2024 concerned citizens of Burundi – 15 decisions in relation to 21 individuals; and Cuba – 15 decisions in relation to 19 applicants. Only one of these 30 decisions was positive, recognizing the right to asylum for an asylum seeker belonging to the LGBTIQ+ population. All other decisions involved the rejection of asylum applications, including applications from survivors of sexual and gender-based violence or those who

¹⁴⁷ Article 40 of the Asylum Act.

¹⁴⁸ Article 41 of the Asylum Act.

¹⁴⁹ Article 45 of the Asylum Act.

¹⁵⁰ Article 43 of the Asylum Act.

¹⁵¹ See more in AIDA Serbia 2023, p. 108.

fled persecution due to their sexual orientation.¹⁵² Thus, the rate of recognition of international protection for Burundi in 2024 was 7%, while for Cuban citizens it was 0%.

The third largest group of asylum seekers in relation to whom the Asylum Office decided on the merits were citizens of the Russian Federation and Syria. While all 11 citizens of the Russian Federation were rejected on the merits through 6 decisions (0% recognition rate of international protection), the situation was different for Syrian citizens. Namely, 3 Syrian citizens were rejected as an unacceptable security risk, while subsidiary protection was recognized for three Syrian citizens. Thus, the rate of recognition of international protection for Syrians was 50% in 2024.

Regarding other nationalities, the Asylum Office made 2 decisions each rejecting the asylum applications of citizens of Türkiye (2 individuals), Armenia (4 individuals), and Croatia (2 individuals). Two decisions were also made in relation to citizens of Ukraine (2 individuals, one positive in the form of refugee status and 1 negative due to the so-called "unacceptable security risk") and Iran (1 decision recognizing the right to asylum for one person and 1 decision rejecting the asylum application of a family of four).

Another 6 rejection decisions were made in relation to one citizen each from Sweden, Tunisia, Egypt, India, Germany, and Afghanistan, while one decision recognized the right to asylum for a woman from Congo who survived sexual and gender-based violence and human trafficking.

What is important to emphasize is that a total of 9 decisions rejecting asylum applications were based on a negative security assessment, i.e., on the assessment of the Security Intelligence Agency, which declared 3 Syrian citizens, 2 Turkish citizens, and one citizen each from Egypt, Ukraine, the Russian Federation, and Sweden as an "unacceptable security risk."

Hearings conducted by the Asylum Office in the period from 2019 to 2024						
Month	2019	2020	2021	2022	2023	2024
January	16	5	8	6	2	4
February	32	20	7	9	7	11
March	16	9	2	10	14	19
April	26	0	5	14	6	22
May	12	0	15	6	6	8

¹⁵² More details on the aforementioned decisions will be provided below.

June	3	3	14	5	2	4
July	9	1	11	8	4	2
August	6	1	0	4	2	2
September	19	8	0	18	15	5
October	17	23	9	1	6	13
November	8	7	1	22	15	6
December	14	7	13	4	9	11
Total	178	84	85	106	88	107

Overview of Asylum Office Decisions for the Period January 1, 2024 - December 31, 2024

Overview of Asylum Office Decisions for the Period January 1, 2024 - December 31, 2024

No.	Country of Origin	Number of Persons	Outcome	Duration (months)
1.	Cuba	1	Rejection	20
2.	Syria	1	Subsidiary Protection	9
3.	Cuba	1	Rejection	20
4.	Syria	1	Subsequent Rejected Asylum Claim	N/A
5.	Russian Federation	1	Subsequent Rejected Asylum Claim	N/A
6.	Türkiye	1	Rejection	N/A
7.	Syria	1	Rejection	11
8.	Burundi	2	Rejection	18
9.	Algeria	1	Subsequent Rejected Asylum Claim	N/A
10.	Tunisia	3	Rejection	13
11.	Burundi	1	Rejection	15
12.	Burundi	4	Rejection	21
13.	Burundi	1	Rejection	14
14.	Croatia	1	Rejection	9
15.	Ukraine	1	Rejection	19
16.	Germany	1	Rejection	16
17.	Burundi	1	Rejection	16
18.	Russian Federation	1	Rejection	14
19.	Russian Federation	1	Rejection	13
20.	Cuba	1	Rejection	16
21.	Russian Federation	6	Rejection	13
22.	Cuba	1	Rejection	13
23.	Burundi	1	Rejection	17
24.	Burundi	1	Rejection	16

25.	Sweden	1	Rejection			6
26.	Croatia	1	Rejection			12
27.	Syria	1	Rejection			8
28.	Syria	1	Rejection			17
29.	Burundi	1	Rejection			16
30.	Afghanistan	1	Rejection			N/A
31.	Burundi	1	Rejection			16
32.	Cuba	1	Rejection			13
33.	Cuba	3	Rejection			13
34.	Cuba	1	Rejection			14
35.	Burundi	1	Rejection			16
36.	India	1	Rejection			15
37.	Russian Federation	1	Rejection			4
38.	Russian Federation	1	Rejection			15
39.	Burundi	1	Rejection			18
40.	Iran	1	Refugee status			24
41.	Burundi	1	Refugee status			20
42.	Egypt	1	Rejection			12
43.	Armenia	1	Rejection			14
44.	Armenia	3	Rejection			14
45.	Cuba	3	Rejection			15
46.	Cuba	1	Rejection			15
47.	Cuba	1	Rejection			15
48.	Syria	1	Subsidiary Protection			11,5
49.	Brasil	1	Subsequent Asylum	Claim		N/A
			Rejected			
50.	Türkiye	1	Rejection			2,5
51.	Cuba	1	Rejection			16
52.	Kazakhstan	1	Subsequent Asylum	Claim		N/A
			Rejected			
53.	Congo	1	Refugee status			4
54.	Syria	1	Subsidiary Protection			7,5
55.	Burundi	3	Rejection			20
56.	Cuba	1	Rejection			10
57.	Iran	4	Rejection			N/A
58.	Ukraine	1	Refugee status			7,5
59.	Russian Federation	1	Rejection			2
60.	Burundi	1	Rejection			15
61.	Burundi	1	Rejection			12
62.	Cuba	1	Rejection			12
63.	Cuba	1	Rejection			5,5
64.	Cuba	1	Rejection			11

3.4. Duration of the Asylum Procedure

According to the Asylum Act, a decision on an asylum application in the regular procedure is made no later than three months from the date of lodging the asylum application or an admissible subsequent asylum application,¹⁵³ which implies that within the aforementioned three months, the official interview must also be conducted, the decision must be drafted in writing, and finally, served on the asylum seeker.

The Asylum Act provides that the deadline can be extended for an additional three months if the application contains complex factual or legal issues or if a large number of foreign nationals lodge asylum applications simultaneously.¹⁵⁴ Additionally, the deadline can be extended for another three months if this is necessary for the application to be fully and adequately examined.¹⁵⁵ Finally, if it can be reasonably expected that a decision on the asylum application cannot be made even within 9 months due to a temporary precarious situation in the applicant's country of origin, the authorized officers of the Asylum Office check the situation in the applicant's country of origin every three months and inform the applicant within a reasonable time about the postponement of the decision.¹⁵⁶

Therefore, according to the Asylum Act, the maximum duration of the first-instance asylum procedure, in the aforementioned cases, is 12 months, with the obligation of the Asylum Office to inform the applicant about the extension and the reasons on which it is based.¹⁵⁷ During 2024, based on direct experience in representation in asylum procedures, as well as reviewing all first-instance decisions, it was not established that such notification was sent in any case that lasted longer than 3 months.

In practice, as already stated, the first-instance asylum procedure in Serbia lasts excessively and unreasonably long, and according to the data on the time gap between the lodged asylum application and the conducted interview, it is clear that cases in which the procedure is completed within 3 months are extremely rare. If the decisions made by the Asylum Office regarding asylum seekers whose application was considered for the first time are taken into account, and if data on subsequent asylum applications are excluded, 13 months is the average time period required for the first-instance authority to issue a decision on the merits. As can be seen from the table above, the first-instance decision was made within 3 months in only two cases, while in some procedures, the first-instance asylum procedure lasted 18, 19, 20, or 21 months.

¹⁵³ Article 39, paragraph 1 of the Asylum Act.

¹⁵⁴ Article 39, paragraph 2 of the Asylum Act.

¹⁵⁵ Article 39, paragraph 3 of the Asylum Act.

¹⁵⁶ Article 39, paragraph 5 of the Asylum Act.

¹⁵⁷ Article 39, paragraph 4 of the Asylum Act.

Therefore, the duration of the first-instance asylum procedure can undoubtedly be linked to the capacities of the Asylum Office, but also to the aforementioned policy of referring asylum seekers to the Sjenica Asylum Center, even though the capacities of the asylum centers in Krnjača and Obrenovac were almost empty during 2024. In addition, for certain nationalities, such as Syrian citizens, and in cases where the issue of applying the concept of unacceptable security risk did not arise, it is difficult to find justification for the excessively long duration of the procedure.

3.5. Quality and Fairness of the Credibility Assessment of Asylum Applications

Regarding the quality of the credibility assessment of asylum applications in the first-instance procedure, one of the basic conclusions of the authors of this report is that the threshold of proving the existence of a risk of persecution or suffering serious injustice is set too high by the first-instance authority. The best examples for this claim are the decisions made during 2024 in relation to citizens of Burundi, as well as certain citizens of the Russian Federation. In these cases, proving political persecution or the risk of forced military mobilization has become practically impossible.

The authors do not dispute that the period in which there was a visa-free regime between Serbia and Burundi created circumstances for a significant number of Burundians to travel to Serbia for economic reasons. The same applies to citizens of the Russian Federation. However, this circumstance in no way changes the fact that Burundi is a country that continues to experience various forms of political instability, and that credible reports from various international organizations point to a whole series of systemic patterns of human rights violations against members of the opposition, journalists, workers in the non-governmental sector, members of the Tutsi ethnic minority, and generally persons who do not politically agree with the existing ruling structures.¹⁵⁸ The family members of these individuals also face the same problem.¹⁵⁹ Also, the conflict in Ukraine caused by the aggression of the Russian Federation has created circumstances in which persons may require international protection.

Finally, this year's practice has shown that the level of protection enjoyed by certain categories in the past no longer exists, and that there has been a sharp

¹⁵⁸ See, for example, HRC, Concluding observations on the third periodic report of Burundi, CCPR/C/BDI/CO/3, 29 August 2023, available at: <https://bit.ly/46hLFpC>; CAT, Concluding observations on the third periodic report of Burundi, CAT/C/BDI/CO/3, 11 December 2024, available at: <https://bit.ly/3LwYtPa>; 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>.

¹⁵⁹ Ibid.

turn in the practice of the Asylum Office. This is particularly evident in the decisions of LGBTIQ+ asylum seekers who experienced discrimination in their country of origin and difficulties in accessing therapy for HIV and other related diseases.

The authors reached this conclusion based on a detailed analysis of the entire practice of the first-instance authority, which was primarily based on the analysis of the reasoning that undoubtedly indicates a lack of application of Article 32 of the Asylum Act and Article 141, paragraph 4 of the Law on General Administrative Procedure. The combined application of the aforementioned articles in the practice of the Asylum Office is flawed and indicates that the credibility assessment, legally regulated by the aforementioned provisions, is incomplete and selective. The aforementioned articles obligate the Asylum Office to assess individual and general circumstances in combination,¹⁶⁰ with the aim of establishing the existence of a well-founded and reasonable risk of persecution or suffering serious injustice, with the burden of proof shared with the asylum applicant. Therefore, the goal is to establish the existence of risk, and not to establish beyond any doubt that this risk will actually materialize.

3.5.1. Contradictory Practice of the Asylum Office Regarding Asylum Seekers from Burundi

From 2017 to 2021, refugee status was recognized for a total of 7 Burundian citizens, and subsidiary protection was granted to three, due to persecution that was predominantly political (opposition activities) and ethnic in nature (belonging to the Tutsi minority).¹⁶¹

The first decision of this kind was made in 2017 when the fact that the asylum seeker was from a mixed Tutsi-Hutu marriage was taken as a reason for recognizing refugee status, due to fear of returning to Burundi after the period of political instability in 2015.¹⁶² In that decision, the Asylum Office referred to various credible reports, including the 2016 Concluding Observations of the United Nations Committee against Torture (CAT), which contained data on the impunity of the Imbonerakure paramilitary group that persecutes real or perceived political opponents.¹⁶³

¹⁶⁰ Article 32, paragraph 2, points 1, 2, and 3 of the Asylum Act and Article 141, paragraph 4 of the Law on General Administrative Procedure.

¹⁶¹ See Annex No. 1 to the Report.

¹⁶² Asylum Office, Decision No. 26-2434/16, September 20, 2017

¹⁶³ CAT, Concluding observations of the Committee on the special report of Burundi requested under article 19 (1) in fine of the Convention, September 9, 2016, CAT/C/BDI/CO/2/Add.1, available at: <https://docs.un.org/en/CAT/C/BDI/CO/2/Add.1>, paras. 14 and 15.

A positive decision was also made in 2020, when refugee status was recognized for asylum seekers due to threats and persecution, they experienced because of the political activities of one of their family members. Photographs of injuries and other photographs describing some of the incidents that also constituted persecution were submitted as evidence of persecution. Several relevant reports submitted by the legal representative were also mentioned. What is important to state is that the statements of the asylum seeker in this case were assessed as credible because they described practices of ill-treatment, incommunicado detention, and enforced disappearance, which, in combination with the mentioned reports, were sufficient to recognize refugee status and the existence of a reasonable risk.

A similar decision was made in June 2020¹⁶⁴ when subsidiary protection was granted to Burundian citizens due to persecution they suffered as a result of the actions of their family members. The individual evidence submitted to the Asylum Office included a hearing invitation (so-called convocation) for one of the applicants by the police in Burundi and documentation confirming that their family members enjoyed international protection in various countries around the world. Numerous credible sources, including Human Rights Watch, were also cited in the positive decision.

Perhaps the most progressive decision of the Asylum Office regarding Burundian citizens is a decision from 2021, which recognized subsidiary protection for a Burundian citizen solely due to the fact that his father was a member of the MSD opposition party, that he was killed, i.e., disappeared, and that therefore he also faced the same fate at the hands of the Imbonerakure. Apart from evidence that his father had been forcibly disappeared, the asylum seeker did not prove any other act of persecution he claimed to have survived. However, with a combined assessment of information from then-valid reports that spoke of the phenomenon of persecution of family members of political opponents, the first-instance authority granted the asylum seeker subsidiary protection. This decision is nothing but an exceptional example of the application of the "benefit of the doubt" principle, i.e., the principle that implies that in case of doubt about the credibility of an asylum application, it will be resolved positively.

Finally, the decisions made on the asylum applications of two torture victims¹⁶⁵ are also interesting, as they were recognized as having the right to asylum solely based on the reports of forensic medicine specialists and psychological reports, with a solid review of relevant reports on the situation in the country of origin that corroborate the existence of torture methods applied to them. An exceptional decision was also made regarding a Burundian citizen who survived sexual and

¹⁶⁴ Asylum Office, Decision No. 26-1615/19, June 16, 2020.

¹⁶⁵ Asylum Office, Decisions No. 26-1337/20 of June 29, 2021 and 26-103/30 of June 30, 2021.

gender-based violence and who submitted a whole series of individual evidence, including findings of forensic medicine, gynecology, and psychiatry experts, psychological reports, as well as a report from a gender-based violence expert, along with an MSD membership card. The applicant was recognized as having the right to asylum in June 2022 .

Therefore, the above-mentioned practice can undoubtedly be described as positive and represents an example of an adequate and combined assessment of individual and general circumstances that the Asylum Office is obliged to carry out in accordance with Article 32 of the Asylum Act. However, even during the years when the aforementioned individuals received international protection in Serbia, but especially during 2023,¹⁶⁶ and 2024, asylum seekers with identical asylum applications and identical types of individual evidence were rejected on the merits. The following is an overview of the practice of the Asylum Office from 2024.

Through decision No. 26-3102/22 of February 13, 2024, the asylum application of an asylum seeker who claimed to have suffered political persecution in Burundi due to the political activities of her father, which also consisted of various forms of abuse, was rejected. The consequences of the abuse were also documented through the findings of a forensic medicine expert and a psychological report, as well as a warrant issued for her arrest, which was submitted to the first-instance authority. However, the Asylum Office established several contradictions in her statements during the hearing and the statements she gave during a specialist examination, as well as the fact that in the period after she was abused, she lived "normally" for longer periods in the sense that the attacks did not recur.¹⁶⁷ In addition, it was established that she left Burundi legally with a valid passport, which for the first-instance authority was an indicator that she was not a person of security interest, but the fact that she organized her passport and departure from the country through acquaintances with people from the security services, which many asylum seekers often claim, was ignored. Finally, unlike the numerous decisions described as positive, the citing of credible reports on the situation in the country of origin that support the applicant was completely

¹⁶⁶ For the practice regarding Burundian citizens in 2023, see more in AIDA Serbia 2023, pp. 115-118.

¹⁶⁷ This is not the first case in which the Asylum Office assessed asylum applications as not credible due to inconsistencies in the statements given by asylum seekers during the official interview and during the expert examination for the purpose of preparing specialist reports by psychologists, psychiatrists, or forensic medicine experts. These cases point to several problems, the most important of which relate to the incompetence and irresponsibility of the acting legal representatives, the potentially superficial approach of the engaged experts, and the failure of the Asylum Office to enable the asylum seeker to explain these inconsistencies through the official interview. See more on this problem in AIDA Serbia 2023, pp. 132-136.

omitted,¹⁶⁸ and was reduced to citing reports from UNHCR, the International Organization for Migration (IOM), and other UN agencies that provide statistical data on the number of Burundian citizens who returned to their country of origin in the period from 2017 to 2024.¹⁶⁹ Although the mentioned reports may indicate that the circumstances that led to mass persecution, primarily of the Tutsi ethnic community, no longer exist in Burundi, the very sources cited by the first-instance authority still show that hundreds of thousands of Burundians are still in neighboring countries, and that many returnees have reported harassment. On the other hand, reports that are not statistical in nature, but clearly describe systemic patterns of human rights violations by security services and the *Imbonerakure*, were not mentioned at all.¹⁷⁰ For this reason, with the caveat that the authors of this report were not legal representatives in this procedure, at the very least, both individual and general circumstances were not properly and comprehensively assessed in this case, while specialist reports, if not challenged by other specialists that the Asylum Office could have engaged, cannot fail to leave doubt about the existence of risk and thus the application of the "benefit of the doubt" principle, i.e., the recognition of international protection.

A similar decision was made in case No. 26-2985/23 of April 23, 2024, where the asylum seeker highlighted persecution due to the political activities of her family members who enjoy international protection in European countries and who were willing to testify in the asylum procedure and who also submitted written testimonies. As individual evidence, the asylum seeker also submitted medical documentation from her country of origin and a psychological report, while during the hearing itself it was clear that it was extremely traumatic for the asylum seeker to re-describe the acts of persecution that involved sexual abuse. However, as was the case in all other negative decisions on asylum applications of Burundian citizens, the Asylum Office referred to statistical reports on the repatriation of Burundian refugees, which is essentially not a COI report. Additionally, what is particularly worrying in this decision, and which represents a continuation of the practice from 2023, is that the Asylum Office automatically referred to the already established pattern of citing the formally established

¹⁶⁸ For example, in the positive decisions described above, the Asylum Office referred to the concluding observations of the CAT, reports of the UN General Secretary, and other UN reports specifically written with the aim of describing the human rights situation in Burundi and the problems that country faces in terms of the rule of law, separation of powers, corruption, and political stability.

¹⁶⁹ An example of such a report is UNHCR, Burundi Operational Overview - 31 October 2024, available at: <https://data.unhcr.org/en/documents/details/112410>.

¹⁷⁰ HRC, Concluding observations on the third periodic report of Burundi, CCPR/C/BDI/CO/3, August 29, 2023, available at: <https://bit.ly/46hLFpC>; CAT, Concluding observations on the third periodic report of Burundi, CAT/C/BDI/CO/3, December 11, 2024, available at: <https://bit.ly/3LwYtPa>; 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, August 11, 2023, available at: <https://bit.ly/4d76bv9>.

procedures for the protection of survivors of sexual and gender-based violence, which are described on the *GOV.UK-Guidance Burundi* website,¹⁷¹ and which relates to guidelines set by the UK Foreign Office on the website for its citizens traveling to Burundi for tourism. The mentioned website describes the legal procedure available to victims of rape and other forms of sexual violence to provide them with adequate assistance, preserve evidence, and initiate procedures to determine the responsibility of the perpetrators. However, this is a notification that exists on the UK government website for almost every country in the world, and the notification itself cannot be considered a report on the human rights situation in the country of origin. Furthermore, the mentioned website does not provide any information on the practical application of the mentioned procedure in the sense that it is sufficiently well-established to be considered effective and lasting protection within the meaning of Article 30, paragraphs 2 and 3, and Article 32, paragraph 2, point 5 of the Asylum Act. On the contrary, the impunity for the acts to which the asylum seeker was exposed is described as systemic in the already mentioned and credible reports of the CAT, the HRC, and the Special Rapporteur for Burundi.¹⁷² Besides this, the Asylum Office failed to explain why in this case it did not adopt the same stance as, for example, in decision No. 26-2296/22, in which it recognized refugee status for a Burundian citizen in 2022, when the same notification existed on the UK Government website and when she was not expected to attempt to use the mentioned procedure. It is important to note that the asylum seeker from this case left Serbia and was recognized as a refugee in Belgium, which is also the case with many other asylum seekers from Burundi who were rejected in Serbia.

Another example of inconsistency recorded regarding asylum seekers from Burundi is the case of two LGBTQI+ asylum seekers. In decision No. 26-10-24/23 of August 26, 2024, the Asylum Office recognized refugee status for a bisexual man from Burundi due to persecution he suffered from his family. In the reasoning of the decision, in addition to taking into account individual evidence, the first-instance authority provided a detailed analysis of reports on the situation in the country of origin, which indicate the criminalization of LGBTQI+ individuals in Burundi, a social climate that became even more hostile after negative and public statements by the President of Burundi that LGBTQI+ individuals should be stoned, attacks on activists and civil society organizations who were also deprived of their liberty and criminally prosecuted, and so on. On the other hand, only a month before the aforementioned decision, in decision No. 26-41/23 of July 22, 2024, the Asylum Office rejected the asylum application of an asylum seeker who, among other things, claimed to have been arrested for being homosexual. The most striking part of the decision is certainly the section citing

¹⁷¹ UK Foreign Office, Burundi: information for victims of rape and sexual assault, available at: <https://www.gov.uk/government/publications/burundi-information-for-victims-of-rape-and-sexual-assault>.

¹⁷² Ibid.

COI reports. While in the positive decision, the Asylum Office cumulatively cited all relevant sources, including those submitted by legal representatives, in the negative decision, the first-instance authority only stated that there are a large number of non-governmental organizations in Burundi dealing with the rights of LGBTQI+ individuals, but not how they are treated. These decisions are also evidence of uncoordinated actions by the Asylum Office staff themselves. In other words, these two decisions represent an ideal example of the contradiction and unpredictability of first-instance practice. Furthermore, this decision further contributes to the negative practice regarding LGBTQI+ asylum seekers in general, which has been recorded in the previous few years.¹⁷³

Selective citation of parts of country of origin reports and their copying without engaging in individual interpretation was observed in almost all analyzed negative decisions of Burundian citizens, especially in relation to those who claimed to have suffered political persecution as members of opposition parties (and who submitted copies of membership cards as evidence). For example, in decision No. 26-1531/23 of November 18, 2024, the Asylum Office referred only to the introductory parts of a 2021 report presented by UN agencies, which relate to the progress Burundi has made in certain segments related to political stability.¹⁷⁴ Thus, for example, the Asylum Office referred to the introductory parts of the report of the *Commission of Inquiry on Human Rights in Burundi*,¹⁷⁵ which, like every UN document, contains an overview of positive circumstances and progress made in the introductory sections. In fact, the Asylum Office referred to one paragraph in the introductory part (which, with the title and content, has a total of 5 pages) stating a general improvement in the situation and positive promises from the President to make greater efforts to significantly improve the human rights situation. The following 45 pages speak exclusively of negative practices related to the lack of the rule of law, the dependence of the judiciary on the executive branch, cases of executions, ill-treatment, and arbitrary deprivation of liberty, and politically motivated trials against political dissidents. This is also the case with decisions No. 26-266/23 of August 20, 2024, and No. 26-2757/23 of November 8, 2024.

Of course, it is also important to point out that by analyzing other negative decisions made in relation to Burundian citizens, where IDEAS lawyers did not act as legal representatives, it cannot be said with certainty that they were

¹⁷³ For more on the practice of the Asylum Office regarding LGBTQI+ asylum seekers and its gradual degradation, see AIDA Serbia 2023, pp. 103 and 116-117.

¹⁷⁴ All reports of international organizations on the human rights situation in a particular country always contain positive assessments and progress compared to the previous reporting period in a few introductory paragraphs. However, in relation to countries such as Burundi, such introductory sections are a maximum of two pages, while the remaining parts of the report, which measure in dozens of pages, are always negative and describe systemic problems in the realization and protection of human rights.

¹⁷⁵ A/HRC/48/68, September 16, 2021, available at: <https://www.ohchr.org/en/hr-bodies/hrc/co-i-burundi/co-i-burundi>.

unfounded, but in most of them, a pattern of decision-making can be seen that primarily relies on inadequate and selective citation of COI reports, as well as references to sources that undoubtedly could not be considered objective circumstances, but rather operational statistical data.

Finally, on February 2, 2024, the Asylum Office rejected the asylum applications of a mother and daughter through decision No. 26-2028/22. This decision is specific because it essentially does not contain allegations of political persecution, but exclusively allegations of sexual and gender-based violence, more specifically incest, which was proven through a specialist report by a renowned psychologist specializing in this type of sexual abuse, as well as a report by an expert on sexual and gender-based violence and detailed information on the situation in the country of origin submitted by legal representatives. In addition to the already common statistical data on the repatriation of Burundians published by UNHCR and IOM, and the citation of the UK Foreign Office website, the Asylum Office referred to an European Union Agency for Asylum (EUAA) report on the situation of women in Burundi, applying the now established pattern of selective COI citation.¹⁷⁶ Namely, only the part describing the legal framework was cited, while the part of the report that talks about practice was completely omitted, as were the latest reports of the CAT, HRC, and the Special Rapporteur for Burundi, which clearly describe the phenomenon of various forms of domestic violence that go unpunished.

The conclusion that could be drawn is that the practice regarding asylum seekers from Burundi is not fair and reflects a systemic deficiency in the work of the Asylum Office to fully and thoroughly establish the factual situation through a cumulative consideration of individual and general circumstances. One of the impressions that the authors of the Report could not escape when analyzing the aforementioned decisions is the high degree of contradiction with the positive practice from previous years. Such a sharp deviation from established positions, the formulaic citation of sources that are not COI, and the ignoring of current COI sources creates the impression that the tendency of the acting officers of the Asylum Office is to reject asylum applications of citizens of this country at all costs.

3.5.2. Practice of the Asylum Office Regarding Asylum Seekers from Cuba and the Russian Federation

First and foremost, it is important to emphasize that the majority of decisions regarding citizens of Cuba and the Russian Federation in 2024 were rejections based on a lack of credibility. Namely, most asylum seekers from Cuba cited

¹⁷⁶ EUAA, *Situation of women in Burundi*, available at: https://www.ecoi.net/en/file/local/2089804/2023_03_Q6_EUAA_COI_Query_Response_Burundi_situation_of_women.pdf

difficult economic circumstances in their country of origin during the hearing, while some of them also mentioned participation in the July 2021 protests. However, the profile of none of these asylum seekers was assessed by the Asylum Office as inherently indicating a risk of persecution. A similar situation exists with several decisions regarding citizens of the Russian Federation who cited a general disagreement with Vladimir Putin's regime and its military operation in Ukraine as reasons, but without specifying how these circumstances affected them personally or without providing evidence of the consequences they allegedly suffered.¹⁷⁷

However, one case deserves special attention as it relates to draft evasion.¹⁷⁸ In this case, the asylum seeker fled the Russian Federation with his family after receiving a call-up to register at the regional military command, which is the first step towards potential mobilization and deployment for training. The individual evidence submitted was the call-up, while the legal representatives submitted a detailed compilation of reports describing the legal framework during martial law, the penalties for draft evasion, and the unpredictability of recruitment practices, which was primarily based on an EUAA report.¹⁷⁹ Although the asylum seeker was not in the category that is in the primary line for mobilization, the practice in the Russian Federation has undoubtedly shown that individuals who receive a call-up to report to the military command are at serious and real risk of being drafted, as indicated by the relevant reports submitted. Unfortunately, the Asylum Office did not consider these individual and general circumstances sufficient to grant international protection, which once again indicates the high threshold of proof that asylum seekers must reach. Furthermore, the most contentious part of the decision, which indicates a systemic problem in the work of the Country of Origin Information (COI) Department within the Asylum Office, is the fact that there was no analysis of country of origin reports in this decision. Namely, the only external source that the Asylum Office used to support its negative decision was a news article from a Serbian news outlet published in September 2022, which superficially analyzes the practice of mobilization in the Russian Federation.¹⁸⁰ Ignoring for a moment that a domestic media article was used as a source, i.e., evidence of objective circumstances that exclude the risk of persecution or suffering serious injustice, it is simply unbelievable how the Asylum Office did not even briefly refer to the EUAA report, which is directly recognized in the Asylum

¹⁷⁷ Asylum Office, Decisions No. 26-850/23 of October 31, 2024 and 26-10-36/23 of March 22, 2024.

¹⁷⁸ Asylum Office, Decision No. 26-624/23 of April 18, 2024.

¹⁷⁹ EUAA, The Russian Federation - Military service, December 2022, available at: https://euaa.europa.eu/sites/default/files/publications/2022-12/2022_EUAA_COI_Russia_Military_Service.pdf.

¹⁸⁰ BBC Serbian, Ko sve može da bude mobilisan u Srbiji (Who can be mobilized in Serbia), September 22, 2022, https://euaa.europa.eu/sites/default/files/publications/2022-12/2022_EUAA_COI_Russia_Military_Service.pdf.

Act itself.¹⁸¹ Furthermore, the Asylum Office did not refer to the mentioned source within the scope of its obligation under Article 141, paragraph 4 of the Law on General Administrative Procedure, which prescribes the mandatory content of the reasoning, including the obligation to refer to the evidence submitted by the parties in the administrative procedure – which in this case was a COI submission that cites the EUAA report over dozens of pages. In other words, with a combined assessment of objective circumstances, predominantly arising from the EUAA report, and the individual circumstances of the asylum seeker (who was called up to register at the military command), it was not possible to exclude the risk of persecution in the context of mobilization with certainty. The principle of the benefit of the doubt has become an unattainable standard of decision-making for the Asylum Office in this decision as well.

3.5.3. Application of the "Unacceptable Security Risk" Concept

During 2024, the Asylum Office rejected the asylum applications of asylum seekers characterized as an "unacceptable security risk" by the Security Information Agency on 9 occasions, based on Articles 33 and 34 of the Asylum Act.¹⁸² In other words, these individuals were excluded from the possibility of obtaining international protection. Out of the decisions on the merits of the asylum application itself, this number of decisions is exceptionally high (15%) and undoubtedly influenced the rate of recognition of international protection, given that the arbitrary security assessment was applied to citizens of Syria, Ukraine, and political exiles from Türkiye. If we also take into account that one subsequent asylum application for a citizen of Brazil was rejected based on this assessment, and that a decision granting subsidiary protection to one person was annulled,¹⁸³ the total number of first-instance decisions based on an arbitrary security assessment is 11, i.e., 16% (11 out of 65 decisions) of all decisions made by the first-instance authority in 2024.¹⁸⁴

What is common to all 9 decisions is that no single reason why these individuals were characterized as an unacceptable security risk can be seen from them. In other words, none of the mentioned individuals were allowed even partial insight into the reasons that guided the Security Information Agency when it conducted the assessment and which was the key reason for rejecting the asylum application. Consequently, they were denied the opportunity to challenge the mentioned assessment and thus the outcome of the first-instance decision. For this reason, in this part, the authors of the report will briefly refer to the legally

¹⁸¹ Article 32, paragraph 2, point 2 of the Asylum Act.

¹⁸² See more in the Table presenting the practice of the Asylum Office in 2024.

¹⁸³ Asylum Office, Decision No. 26-1947/21 of February 29, 2024.

¹⁸⁴ Not counting decisions suspending the asylum procedure.

binding practice of the ECtHR, which clearly prescribes the extent to which the facts on which the negative security assessment is based.

The ECtHR has emphasized in its practice that states must provide individuals who are the subject of a negative security assessment with an effective and reasonable opportunity to challenge it. A decision based on a security assessment must be fair and allow for both the protection of national security interests and the protection of rights under the European Convention.¹⁸⁵ Without this, labeling anyone as a risk to national security would be nothing but arbitrary action. The judgment of the ECtHR that perhaps most closely reflects the practice in Serbia is the case of *Gaspar v. Russia*.¹⁸⁶ In that case, the Russian Federation was held responsible because the competent authorities did not disclose a single reason on which the negative security assessment of the applicant's complaint was based.¹⁸⁷

Furthermore, it is important to refer to the Law on Classified Information,¹⁸⁸ which in Article 45, paragraph 2 stipulates that classified information obtained from a public authority cannot be provided to another user without the consent of the authority that classified the information. In other words, the Asylum Office must not, based on this provision, state the content of the negative security assessment in the reasoning of the decision and thus make at least some of the data that was the reason for rejecting the asylum application accessible to asylum seekers and their legal representatives. The mentioned law also provides for the possibility of gaining insight into the mentioned data, but only after a request is submitted to the competent body, and then a security assessment of the applicant (which, for example, can be the legal representative) is carried out, and which, depending on the sensitivity of the data, can last from 30 to 90 days.¹⁸⁹ Consequently, even if they manage to access the data that constitutes the basis of the negative security assessment, neither the asylum seeker nor their legal representatives would be able to file an appeal with the Asylum Commission in time to challenge the assessment (the deadline for filing an appeal is 15 days). It follows from the above that it is impossible to challenge a "negative security assessment" in the Serbian asylum system, and it is clear that the legal remedies filed against the rejection decision are theoretical and illusory.

¹⁸⁵ ECtHR, *Muhammad Muhammad v. Romania*, Application No. 80982/12, available at: <https://hudoc.echr.coe.int/fre?i=001-205509>, paras. 203-206.

¹⁸⁶ Application No. 23038/15, judgment of June 12, 2018, available at: <https://hudoc.echr.coe.int/eng?i=001-183543>, paras. 46-50.

¹⁸⁷ Ibid.

¹⁸⁸ *Official Gazette of the Republic of Serbia*, No. 104/2009, available at: https://www.paragraf.rs/propisi/zakon_o_tajnosti_podataka.html.

¹⁸⁹ For more details on the procedure for obtaining access to data classified as confidential, see Chapter V of the Law on Classified Information.

3.5.4. Shift in the Asylum Office Practice Regarding Asylum Seekers Who, Due to Severely Impaired Health, Face the Risk of Inhuman and Degrading Treatment in Their Country of Origin

One category of asylum seekers towards whom the Asylum Office has adopted an exceptionally positive stance through its long-standing practice are cases of individuals whose health condition was severely impaired and for whom there was a risk of not being able to receive adequate treatment in their country of origin. In other words, their return would lead to a severe, rapid, and irreversible deterioration of their health condition,¹⁹⁰ which would further cause intense suffering, significantly shorten their life expectancy, and lead to death occurring in terrible circumstances (which the ECtHR characterizes as inhuman and degrading treatment).¹⁹¹ These very formulations from the judgments of the ECtHR were used in the reasoning of decisions in which subsidiary protection was recognized for a paraplegic from Nigeria,¹⁹² and a quadriplegic from Bangladesh¹⁹³ as the first individuals in whom this standard was established. This practice continued in subsequent years, so subsidiary protection was granted to a boy from Afghanistan,¹⁹⁴ who was in an induced coma, as well as to a paraplegic from Cameroon,¹⁹⁵ and a citizen of Cuba suffering from HIV.¹⁹⁶

The last case of the Cuban citizen is the reference point for the practice in 2024, considering that three identical cases, at least one of which involved a worse clinical picture, were rejected.¹⁹⁷ The question that remains open is why the previously established practice was changed, especially given that none of the three mentioned decisions contain clear reasons for such a shift in reasoning, although this is an obligation arising from Article 141, paragraph 4 of the Law on General Administrative Procedure. Furthermore, the individual circumstances in the aforementioned three cases are supported by far more credible evidence, including expert reports from immunology specialists who clearly confirmed that there is no adequate therapy for HIV in Cuba. In other words, in 2024, the Asylum Office stated that three asylum seekers from Cuba had regular and adequate therapy for HIV, that they were not discriminated against as LGBTQI+ individuals, and that upon return they do not face the risk of suffering serious injustice in terms of the standards established in the above-cited practice of the ECtHR. Such

¹⁹⁰ ECtHR, *Paposhvili v. Belgium*, Application No. 41738/10, judgment of December 13, 2016, available at: <https://hudoc.echr.coe.int/fre?i=001-169662>, para. 183.

¹⁹¹ ECtHR, *D. v. UK*, Application No. 30240/96, judgment of May 2, 1997, available at: <https://hudoc.echr.coe.int/fre?i=001-58035>, para. 56.

¹⁹² Asylum Office, Decision No. 26-4370/15 of December 27, 2017.

¹⁹³ Asylum Office, Decision No. 26-5044/15 of December 25, 2017.

¹⁹⁴ Asylum Office, Decision No. 26-1084/20 of June 7, 2021.

¹⁹⁵ Asylum Office, Decision No. 346/21 of June 29, 2022.

¹⁹⁶ Asylum Office, Decision No. 346/21 of June 29, 2022.

¹⁹⁷ Asylum Office, Decision No. 26-1222/22 of January 9, 2024; Decision No. 26-1223/22 of January 10, 2024; and Decision No. 26-560/23 of April 19, 2024.

a statement is simply not accurate because the expert reports clearly speak of the fact that they did not have adequate therapy and that the consequences of this have already occurred, that the alternating use of inadequate therapy is risky for their health, and that returning to such a regimen (in case of return to Cuba) would lead precisely to the consequences of a severe, rapid, and irreversible deterioration of their health condition and to faster death.

The aforementioned three cases are yet another proof of the contradictory and unpredictable practice of the Asylum Office. Of course, it should be pointed out that the circumstances under which foreign nationals in the past received subsidiary protection were perhaps the only example of the first-instance authority's practice that was more progressive than the practice of EU member states with developed international protection systems. It is certainly more reasonable for these individuals to realize their right to stay in Serbia through some form of temporary residence, in accordance with the Foreigners Act, but from a procedural aspect, it is also important that there is consistency in practice and its predictability, which was not the case in these matters.

3.5.5. Practice of the Asylum Office Regarding Subsequent Asylum Applications

As already stated, a total of 5 subsequent asylum applications were rejected in 2024. Of these, three were rejected as inadmissible, i.e., the applicants for subsequent asylum did not meet the procedural prerequisites set out in Article 46, paragraph 2 of the Asylum Act.¹⁹⁸ The remaining two applications are worth mentioning because, in the opinion of the authors of this report, they represent one of the two possible examples in which a subsequent asylum application should be assessed as well-founded. To reiterate, since 2018, when the concept of the subsequent application was introduced, not a single such application has been assessed as well-founded, although in many cases it was clear that either new facts had emerged or that facts not presented in the first asylum application were not presented for justified reasons.¹⁹⁹

In the case of the applicant for subsequent asylum from Brazil,²⁰⁰ the Asylum Office stated that no new facts were highlighted in his application, and that the facts that existed during the previously conducted asylum procedure were considered by the first-instance authority. Such a statement is simply not accurate for the simple reason that the facts that support his allegations of potential persecution and suffering serious injustice were not in the possession of either the asylum seeker, or the acting officer of the Asylum Office, or his legal

¹⁹⁸ Asylum Office, Decisions No. 26-2984/22 of January 18, 2024; 26-465/22 of February 8, 2024; and 26-2466/24 of October 1, 2024.

¹⁹⁹ Article 46, paragraph 1 of the Asylum Act and see more in AIDA Serbia 2023, pp. 151-153.

²⁰⁰ Asylum Office, Decision No. 26-10-45/23 of September 20, 2024.

representative, for the simple reason that they were on his laptop, which had been confiscated and was in the possession of the High Court in Belgrade, which was also deciding on the request for his extradition. Consequently, a whole series of new facts and evidence (over 3,000 pages of attachments) were submitted to the first-instance authority through the subsequent asylum application that the asylum seeker lodged after his release from extradition detention.

In the second decision, the applicant for subsequent asylum from the Russian Federation highlighted a whole series of new facts that did not exist in 2020 when the Asylum Office rejected his asylum application, which was later confirmed by the decisions of the Asylum Commission and the Administrative Court.²⁰¹ The main newly emerged circumstance is the aggression of the Russian Federation against Ukraine and the newly emerged risk of mobilization of the subsequent applicant, which has existed since February 2022. It is difficult to imagine a scenario in which the outbreak of war and the risk of mobilization, on which the EUAA published a special report, is not a sufficiently strong reason for his asylum application to be examined from a completely different perspective.

Therefore, even 6 years after the entry into force of the Asylum Act and the introduction of the concept of the subsequent asylum application, the first-instance authority has not approved any application of this type. The question that remains open is what circumstances would be serious or justified enough for the Asylum Office to assess a particular subsequent application as well-founded and justified.

3.5.6. Practice of the Asylum Office Regarding Asylum Applications of Trafficking Survivors

Perhaps the best practices of the first-instance authority in 2024 are two decisions recognizing refugee status for female citizens of Ukraine,²⁰² and Congo²⁰³, who were survivors of human trafficking. These two decisions are significant because they show that within the first-instance authority there is a capacity to assess various forms of exploitation in the country of origin as acts of persecution within the meaning of Article 28 of the Asylum Act, and to characterize individuals who have survived human trafficking as members of a particular social group within the meaning of Article 26, paragraph 1, point 5 of the Asylum Act.

What is common to both cases is that the first-instance authority accepted the report of the Center for the Protection of Victims of Human Trafficking, which granted the asylum seekers victim status, as evidence of persecution, and that in

²⁰¹ Asylum Office, Decision No. 26-1529/18 of January 25, 2024.

²⁰² Asylum Office, Decision No. 26-296/24 of October 29, 2024.

²⁰³ Asylum Office, Decision No. 26-1969/24 of October 10, 2024.

relation to both asylum seekers, the procedure lasted significantly shorter than other procedures (4 months in relation to the citizen of Congo and 7 and a half months in relation to the citizen of Ukraine).

In addition, these two decisions confirm that there is a consistent practice regarding asylum seekers who have survived human trafficking that occurred in their country of origin, and that no case has yet been recorded in which such cases have been rejected on the merits. In other words, individuals for whom exploitation is also an act of persecution in their country of origin have so far not been rejected in the asylum procedure according to the information available to the authors of this report, or this has not been the case in the previous few years.²⁰⁴

²⁰⁴ See more in AIDA Serbia 2023, pp. 103, 105, 112 and 141.

04 Second Instance Asylum Procedure – Legal Framework and Practice of the Asylum Commission

4.1. Introductory Remarks and Legal Framework for Initiating the Second Instance Asylum Procedure

The practice of the Asylum Commission during 2024 once again confirmed the generally accepted view that this body has no practical significance in the Serbian asylum system, i.e., that the previous 16 years have shown that its corrective role in relation to the work of the Asylum Office has never been fulfilled. The European Commission,²⁰⁵ the United Nations CAT,²⁰⁶ and numerous non-governmental organizations²⁰⁷ have criticized the lack of corrective influence of the Asylum Commission on the work of the Asylum Office. Furthermore, unlike the first-instance authority, the Asylum Commission has never in its history allowed appellants an oral hearing, i.e., a direct hearing on the circumstances, facts, and arguments presented in the appeal. This body has never conducted any separate evidentiary action, nor has it made a decision on a submitted asylum application, i.e., recognized the right to asylum or subsidiary protection, in the last four years. In fact, since the establishment of the Serbian asylum system, the

²⁰⁵ European Commission, *Serbia: Progress Report*, SWD(2022) 338, October 12, 2022, available at: <https://bit.ly/3LedaYB>, p. 62 and *Serbia: Progress Report*, SWD(2024), October 30, 2024, available at: https://enlargement.ec.europa.eu/document/download/3c8c2d7f-bff7-44eb-b868-414730cc5902_en?filename=Serbia%20Report%202024.pdf] p. 50.

²⁰⁶ 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).

²⁰⁷ AIDA Serbia 2023, pp. 24-25, 125, 127.

Asylum Commission has only recognized the right to subsidiary protection for asylum seekers on 4 occasions.²⁰⁸

One of the reasons why the Asylum Commission, i.e., an appeal submitted to it, cannot be treated as an effective and efficient legal remedy lies in the fact that this body consists of 9 members appointed by the Government, who perform their duties to the Commission as an additional activity alongside their regular jobs. The Asylum Commission does not have its own offices, i.e., premises where they reside and work on appeals, does not have a professional service or secretariat, and does not have a special organizational unit dealing with COI research. Simply put, the members of the Commission perform their duties on a supplementary level, and it is not reasonable to expect that in such circumstances, the majority of members can devote due attention to the consideration of each appeal.

Furthermore, the criteria for the selection of members of the Asylum Commission are also questionable, as they are set out in the Asylum Act in a general and abstract manner. The Asylum Act stipulates that the Asylum Commission consists of a president and eight members, appointed by the Government for a term of four years. A citizen of Serbia with a law degree, at least five years of work experience, and knowledge of human rights regulations may be elected as the president and a member of the Asylum Commission. The president and members of the Asylum Commission are entitled to compensation for their work in the Asylum Commission, with the president receiving 25,000 RSD and the other members 18,000 RSD. The Asylum Commission is independent in its work and decides by a majority vote of the total number of members, based on the proposal of the reporting member of the Commission for a specific case.²⁰⁹

Taking into account the current composition of the Commission, it is clear that it primarily consists of civil servants who have a good knowledge and application of the Law on General Administrative Procedure. However, their knowledge of international human rights law and international refugee law and their application in asylum procedures remains questionable. At this time, both the president and members of the Commission are serving in an acting capacity.

The Asylum Commission considers appeals from asylum seekers who are not satisfied with the decision of the Asylum Office. The appeal is submitted within 15 days from the date when the first-instance decision was received by the applicant or their legal representatives.²¹⁰ The deadline for deciding on the appeal is 60 days.²¹¹

²⁰⁸ See more in Annex 1 to this report the decisions marked with AŽ.

²⁰⁹ Article 21 of the Asylum Act.

²¹⁰ Article 95 of the Asylum Act.

²¹¹ Article 174 of LGAP

The grounds for lodging an appeal are defined by the Law on General Administrative Procedure, which stipulates in Article 158 that an appeal may be lodged against a first-instance decision:

- > Because the law, other regulation, or general act was not applied at all or was not properly applied;
- > Because it was issued by an incompetent authority;
- > Due to incorrectly or incompletely established facts;
- > Because an incorrect conclusion about the factual situation was drawn from the established facts;
- > Due to a violation of procedural rules;
- > Because the limits of discretionary powers in deciding on free assessment were exceeded or because the decision was not made in accordance with the purpose for which that power was given;
- > Because the power to decide on free assessment was not properly applied;
- > Because it was not adopted in accordance with the guarantee act.

In practice, the most common grounds for appeal are incorrectly or incompletely established facts that occurred as a result of ignoring individual evidence and circumstances, as well as the partial and selective citing of COI sources that favor the rejection of the asylum application. However, the very fact that COI sources were selectively cited, or that certain individual evidence was completely ignored, i.e., that it cannot be seen from the reasoning of the first-instance decision that this evidence was assessed, or that the submissions of legal representatives containing citations of COI sources that favor proving the existence of a risk of persecution or suffering serious injustice were assessed, also represents a complete absence or incorrect application of both the Law on General Administrative Procedure and the Asylum Act. Namely, Article 141, paragraph 4 of the Law on General Administrative Procedure stipulates:

The reasoning must be understandable and contain a brief presentation of the party's request, the factual situation and the evidence on the basis of which it was established, the reasons that were decisive in the assessment of each piece of evidence, the regulations and reasons that, given the established factual situation, lead to the decision in the operative part, and the reasons why a certain request or proposal was not accepted. The reasoning also contains the reasons why the authority deviated from decisions it had previously made in the same or similar administrative matters. If the decision was made on a free assessment, the reasoning also contains the regulation authorizing the authority to do so, the reasons that guided it in making the decision, and within what limits and with what purpose it applied the power to decide on a free assessment. If the appeal does not postpone the execution of the decision, the reasoning also contains a reference to the law that provides for this.

The counterpart to Article 141, paragraph 4 of the Law on General Administrative Procedure as *lex generalis* is Article 32 of the Asylum Act, which specifies the

assessment of facts and circumstances in the asylum procedure and the path that the first-instance authority, as well as higher instances, must take to establish the existence of a justified fear of persecution or suffering serious injustice. In other words, Article 32 stipulates in paragraphs 2 and 3 which facts and circumstances must be an integral part of the reasoning:

When deciding on the merits of an asylum application, the Asylum Office collects and considers all relevant facts, evidence, and circumstances, taking into account in particular:

- > relevant facts and evidence presented by the applicant, including information on whether they would be or could be exposed to persecution or the risk of suffering serious injustice;
- > current reports on the situation in the applicant's country of origin or country of habitual residence and, if necessary, on the countries through which they traveled, including the laws and regulations of those countries, as well as the manner in which they are applied – which are contained in various sources of international organizations, such as UNHCR and the European Union Agency for Asylum (hereinafter: EUAA), as well as other organizations dealing with the protection of human rights;
- > the applicant's situation and personal circumstances, including their gender and age, in order to assess on this basis whether the acts and deeds to which they were or could be exposed constitute persecution or serious injustice;
- > whether the applicant's activities since leaving the country of origin were aimed at creating decisive conditions for the granting of the right to asylum in order to assess whether these activities may expose the applicant to persecution or the risk of suffering serious injustice if they return to that country;
- > whether the applicant can obtain the protection of a state whose citizenship they could prove. The fact that the applicant has already been exposed to persecution or the risk of suffering serious injustice, or threats of such persecution or threats of serious injustice, is an indicator that there is a justified fear of persecution or suffering serious injustice, unless there are justified reasons to believe that such persecution or serious injustice will not recur.

According to the view of the authors of this report, the largest number of first-instance decisions contain violations of Article 32, paragraphs 2 and 3 in terms of the assessment of facts and circumstances, which are not adequately reasoned within the meaning of Article 141, paragraph 4 of the Law on General Administrative Procedure. In other words, violations relating to the establishment of facts and the incorrect application or complete absence of the application of the Law on General Administrative Procedure and the Asylum Act ultimately led to the third most frequent violation that the Asylum Commission considers in its practice, which is drawing an incorrect conclusion about the factual situation.

4.2. Overview of the Asylum Commission's Practice in 2024 and Duration of Proceedings

During 2024, the Asylum Commission issued 45 decisions covering 59 asylum seekers originating from: Burundi (16), Cuba (12), the 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 these were in relation to 2 individuals who survived sexual and gender-based violence and who originated from Burundi.²¹² In two other cases, the first-instance decisions were annulled, and the cases were returned to the Asylum Office for reconsideration after lawsuits filed with the Administrative Court were upheld.²¹³ All other appeals were rejected (41 in total).

A total of 9 decisions by the Asylum Commission rejecting appeals related to challenges against Asylum Office decisions that had suspended the procedure for asylum seekers due to absence from the asylum center for more than 3 days.²¹⁴ Another 5 decisions were made in relation to citizens of Cuba whose asylum applications cannot be considered credible, as already noted in the analysis of the Asylum Office's work. For another 4 decisions in total, it can be immediately stated that they are justified as they reject appeals from asylum seekers whose asylum applications are *prima facie* unfounded because the allegations made in them are either unrealistic in relation to the situation in the country of origin (Germany and Croatia, for example) or the reasons for leaving the country of origin are not reasons for which international protection can be enjoyed.

In addition, it is sufficient to note at this point that the Asylum Commission, through 8 of its decisions, simply confirmed the practice of arbitrary application of the concept of unacceptable security risk, and all irregularities and illegalities regarding this practice have already been addressed in the previous part of the report dealing with the practice of the Asylum Office. For this reason, these decisions will not be analyzed in more detail. The authors adopt the same approach regarding one decision rejecting an appeal lodged against a decision rejecting a subsequent asylum application of a citizen of the Russian Federation.

²¹² These cases will be discussed in more detail later in the report.

²¹³ Both lawsuits were upheld for procedural reasons related to either the suspension of the procedure or the respect for the principle of family unity, and they are not relevant for assessing the quality of the Asylum Commission's decision-making process.

²¹⁴ See the Table containing an overview of the practice later in the text.

In three other cases, the authors of this report believe that the decisions of the Asylum Commission are most likely justified,²¹⁵ and therefore will not be analyzed in more detail in the following section.²¹⁶ Also, it is sufficient to note that the appeal of a Turkish citizen who claimed political persecution was rejected because it is clear that in practice, Turkish citizens fleeing political persecution simply cannot be recognized as refugees.²¹⁷

The remaining 12 decisions will be analyzed in more detail because they precisely confirm the claims of the authors of this report, which is that the corrective influence of the Asylum Commission on the problems in the work of the Asylum Office essentially does not exist as a rule, but as an exception. On the contrary, the contradiction and unpredictability in decision-making that is described regarding the practice of the Asylum Office is confirmed by the decisions of the Asylum Commission, both in terms of the inadequate and combined assessment of individual and general circumstances (selective citation of COI sources) and in terms of deviations regarding previously established practice. In addition, from the reasoning of the Asylum Commission's decisions, it can be clearly seen that this body also lacks the capacity to assess individual and general circumstances and to present this assessment in the reasoning of its decisions, in accordance with Articles 141, paragraph 4 of the Law on General Administrative Procedure and Article 32, paragraphs 2 and 3 of the Asylum Act.

Finally, what is also important to emphasize is that the average duration of proceedings before the Asylum Commission in 2024 was 3 months, which can be considered reasonable and commendable.

²¹⁵ Either due to the fact that they acted as legal representatives, or due to the fact that they do not have enough information because they did not act as legal representatives.

²¹⁶ Asylum Commission, Decisions No. AŽ 32/23 of February 5, 2024, AŽ 29/24 of September 11, 2024, and AŽ 52/24 of November 13, 2024.

²¹⁷ See more in AIDA Serbia 2023, p. 130.

Overview of the Asylum Commission's Practice in 2024²¹⁸

No.	Country of origin	Number of people	Outcome	Duration of proceedings (months)
1.	Cuba	1	Rejection	4,5
2.	Cuba	1	Rejection	0,5
3.	Cuba	1	Rejection	1,5
4.	Russian Federation	3	Rejection	2
5.	Türkiye	1	Rejection	2,5
6.	Burundi	1	Rejection	5
7.	Burundi	1	Upheld	1
8.	Russian Federation	1	Rejection	1
9.	Ruska Federacija	1	Rejection	1,5
10.	Cuba	1	Rejection	2,5
11.	Burundi	1	Rejection	2
12.	Russian Federation	1	Rejection	2
13.	Burundi	1	Rejection	2
14.	Russian Federation	2	Rejection	1,5
15.	Kazakhstan	1	Rejection	3,5
16.	Burundi	1	Rejection	3
17.	Syria	1	Rejection	1
18.	Burundi	1	Rejection	2,5
19.	Burundi	1	Rejection	2
20.	Russian Federation	1	Rejection	1
21.	Syria	1	Rejection	5,5
22.	Syria	1	Rejection	2
23.	Burundi	1	Rejection	10
24.	Iran	4	Upheld	N/A
25.	Russian Federation	1	Rejection	5
26.	Croatia	1	Rejection	3
27.	Afghanistan	1	Upheld	N/A
28.	Germany	1	Rejection	3
29.	Syria	1	Rejection	1
30.	Syria	1	Rejection	1
31.	Burundi	4	Rejection	4
32.	Cuba	1	Rejection	1,5
33.	Burundi	2	Upheld	7,5
34.	Sweden	1	Rejection	7
35.	Cuba	1	Rejection	4
36.	Egypt	1	Rejection	1
37.	Burundi	1	Rejection	1
38.	Burundi	1	Rejection	1
39.	Cuba	3	Rejection	1,5

²¹⁸ Asylum Commission, response to the request for access to information of public importance No. 01/24 of February 4, 2025 (delivered on February 7, 2025).

40.	Armenia	3	Rejection	2,5
41.	Türkiye	1	Rejection	2
42.	Cuba	1	Rejection	4
43.	Ukraine	1	Rejection	6
44.	Cuba	1	Rejection	2
45.	Cuba	1	Rejection	1

4.3. Contradictory Practice of the Asylum Commission Regarding Appellants from Burundi

The most striking examples in which the Asylum Commission confirmed the contradictory, unpredictable, and above all unlawful positions of the Asylum Office are decision No. AŽ 27/23 of February 12, 2024, by which the appeal of an asylum seeker from Burundi who survived rape was rejected as unfounded. Along with her asylum application, the appellant submitted photographs, witness statements, evidence that her family members enjoy international protection worldwide, a psychological report, as well as a report prepared by forensic medicine and gynecology specialists in accordance with the rules and structure of the Istanbul Protocol (which established that she was raped). A report by a gender-based violence expert, medical documentation from the country of origin, as well as a whole series of individual evidence corroborating the circumstances of the event that led to persecution, were also submitted. In addition, the legal representatives submitted, both with the appeal and with the asylum application, a detailed submission containing objective circumstances describing widespread sexual violence applied to real or perceived opponents of the ruling party,²¹⁹ as well as decisions of the Asylum Office in which identical cases were recognized as refugee status. What is important to note is that the decision of the Asylum Office rejecting the asylum application²²⁰ is one of the examples analyzed in the chapter dealing with the practice of the first-instance authority and describing the template decisions made regarding Burundian citizens. These automatic

²¹⁹ HRC, Concluding observations on the third periodic report of Burundi, CCPR/C/BDI/CO/3, August 29, 2023, available at: <https://bit.ly/46hLFpC>, paras. 37 and 38; CAT, Concluding observations on the third periodic report of Burundi, CAT/C/BDI/CO/3, December 11, 2024, available at: <https://bit.ly/3LwYtPa>, paras. 20 and 21; 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, August 11, 2023, available at: <https://bit.ly/4d76bv9>, paras. 63-68.

²²⁰ Asylum Office, Decision No. 26-1119/23 of August 10, 2023.

decision-making templates involve citing the UK Foreign Office website,²²¹ which represents alleged evidence that survivors of sexual violence have effective protection in Burundi, and referring to UNHCR and IOM statistical reports on the repatriation of Burundian refugees. Neither the Asylum Office's decision nor the Asylum Commission's decision mentions other relevant sources that, unlike the aforementioned, actually represent COI sources and that had to be assessed *ex nunc* and *proprio motu*, as well as evidence submitted by the legal representatives. In fact, the Asylum Commission's decision does not contain a single reference to COI sources, not even those submitted by the legal representatives, which, in terms of Article 141, paragraph 4, must be treated as evidence in relation to which a position must be taken as to whether it is valid or not, and the content of that position must be clearly stated in the reasoning. The Asylum Commission subsumed all the mentioned circumstances, including the submission on the situation in the country of origin, under the usual formulation: "*The Asylum Commission has considered other allegations from the appeal, but they do not affect the decision in this legal matter.*" On the other hand, it failed to state the reasons why the appellant, whose case of political persecution materialized through sexual abuse, was not decided in the same way as the already mentioned case. In the opinion of the authors of this report, the amount of individual evidence, corroborated by COI sources dating from 2023 and 2024, undoubtedly created space for the application of the "benefit of the doubt" principle. In fact, this is one of the cases in which the act of persecution was proven beyond any doubt, but this was not sufficient for either the Asylum Office or the Asylum Commission. In November 2024, the appellant was recognized as a refugee in Belgium, where she submitted all the aforementioned evidence, including reports produced by Serbian experts.

On the same day that the appeal of the survivor of sexual and gender-based violence who later received asylum in Belgium was rejected (February 12, 2024), the Asylum Commission upheld the appeal of another survivor of sexual and gender-based violence from Burundi who was rejected in the same way by the Asylum Office through decision No. 26-2985/22, and for whom the legal representatives presented identical arguments. In that case, the quantity and strength of individual evidence was considerably less because an examination under the Istanbul Protocol was not conducted, but other evidence was submitted, such as a written statement from the appellant's brother stating that the persecution she suffered arose as a result of his political activities. In other words, this case is one of the typical cases of persecution of family members of politically active opponents of the ruling regime in Burundi, which is reflected through sexual abuse in cases where the targets of persecution are women. The

²²¹ UK Foreign Office, *Burundi: information for victims of rape and sexual assault*, available at: <https://www.gov.uk/government/publications/burundi-information-for-victims-of-rape-and-sexual-assault>.

arguments against the first-instance authority's usual COI, which relates to statistical figures of returnees to Burundi and the UK Foreign Office's tourist website describing the legal procedure for victims of sexual violence, were repeatedly mentioned sources of UN human rights bodies. In its decision, the Asylum Commission correctly noted that the Asylum Office had not assessed the individual circumstances of the appellant, without specifying which ones exactly. It was also established that not all COI sources relevant to the case had been examined, again without specifying which sources, but aimed at the practical functioning of the legal framework protecting victims of sexual abuse. These instructions were issued by referring to Article 32, paragraph 2 of the Asylum Act. Therefore, in one day, regarding two identical cases – Burundian women who suffered sexual abuse due to their presumed political stance – the Asylum Commission, probably at the same meeting of the Commission members, made two completely contradictory decisions. This confirmed not only that it lacks the capacity to act correctively on the first-instance authority, giving it instructions aimed at harmonizing practice and making it predictable, but also that its own practice of credibility assessment suffers from inconsistency and unpredictability.

An example of inconsistency regarding the treatment of women from Burundi who survived sexual and gender-based violence can be found in the second half of the year. These are asylum seekers who survived sexual and gender-based violence as members of a particular social group, and not because of their political stance. These are individuals who were forcibly married, i.e., who were at risk of forced marriage. One of them was also a victim of incest, and her appeal was upheld by decision No. AŽ 15/24 of October 7, 2024, where the Asylum Commission requested the Asylum Office to explain and prove that the system for the protection of survivors of gender-based violence in Burundi functions effectively. Two weeks later, i.e., on October 21, 2024, in a case containing a smaller amount of individual evidence, the Asylum Commission rejected the appeal of an asylum seeker from Burundi by decision No. AŽ 41/24, stating that Burundi has an "established protection mechanism" for survivors of sexual and gender-based violence and that it is "willing and able to provide such protection to its citizens." Thus, another example of two diametrically opposed views on whether Burundi has a system for the protection of survivors of sexual and gender-based violence or not.

In addition to the cases of sexual and gender-based violence considered by the Asylum Commission, it is important to note that in at least three other cases of Burundian citizens,²²² the appeal against the template decisions described in detail in the section of the report dealing with the practice of the Asylum Office was rejected. Without entering into the degree of credibility of the mentioned

²²² Decisions of the Asylum Commission No. AŽ 01/23 of February 29, 2024, AŽ 05/24 of March 8, 2024, and AŽ 26/23 of May 27, 2024.

cases, the very fact that the Asylum Commission approves the template use of introductory parts of reports on the human rights situation in Burundi that speak of positive developments, while ignoring 90% of the remaining extremely negative content, as well as UNHCR and IOM statistical data, supports the claim that the second-instance authority has no corrective influence on the Asylum Office. In other words, regardless of the degree of credibility of the submitted asylum applications, every instance in the asylum procedure is obliged to individually consider each case by cumulatively assessing the allegations of the asylum seeker, the specific evidence they presented, and the objective circumstances that coincide with those allegations and that, as such, can lead to the application of the "benefit of the doubt" principle.

To be completely clear, the authors of this report will offer a model of the aforementioned decision-making method through the Asylum Commission's decision No. AŽ 05/24. Namely, in the mentioned case of an asylum seeker from Burundi who claims to have fled persecution due to his journalistic work, neither the Asylum Office's decision No. 26-2165/22 nor the aforementioned Asylum Commission's decision contains a reference to any source that speaks of the status of journalists in Burundi. However, both the HRC and the CAT, as well as the Special Rapporteur on Human Rights in Burundi,²²³ in their 2023 and 2024 reports, speak precisely of the persecution of journalists through enforced disappearances, arbitrary deprivation of liberty, execution, or ill-treatment. Interpreting cumulatively Article 141, paragraph 4 of the Law on General Administrative Procedure, as well as Article 32, paragraphs 2 and 3 of the Asylum Act, it would be logical for the mentioned parts of the reports to be cited, and then a position to be taken as to why they are not applicable in the case of the asylum seeker. Unfortunately, the first-instance decision as the main source exclusively resorts to UNHCR and IOM statistical leaflets, while the Asylum Commission does not cite a single source in the reasoning of its decision, not even the aforementioned UNHCR and IOM statistics.

Finally, regarding asylum seekers from Burundi, it is important to refer to the Asylum Commission's decision No. AŽ 42/44, which rejected the appeal of an LGBTQI+ asylum seeker as unfounded, thereby confirming the Asylum Office's 2024 decision. This decision of the Asylum Commission indicates several things. Firstly, in the analysis of the Asylum Office's practice, it has already been pointed out that the contradictory treatment in which one LGBTQI+ asylum seeker from Burundi received asylum and another did not (and who was also rejected by the

²²³ HRC, *Concluding observations on the third periodic report of Burundi*, CCPR/C/BDI/CO/3, August 29, 2023, available at: <https://bit.ly/46hLFpC>, paras. 37 and 38; CAT, *Concluding observations on the third periodic report of Burundi*, CAT/C/BDI/CO/3, December 11, 2024, available at: <https://bit.ly/3LwYtPa>, paras. 20 and 21; 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, August 11, 2023, available at: <https://bit.ly/4d76bv9>, paras. 63-68

Asylum Commission) is a systemic problem of the first-instance authority. However, the fact that the positive decision of the first-instance authority is an example of exceptional practice in assessing individual, and above all general circumstances based on credible COI sources, supports the claim that the development of decision-making practice in asylum procedures is dictated by the Asylum Office in certain cases. The Asylum Commission, when considering the appeal, did not take into account a single source that the Asylum Office referred to in the positive decision, and which, according to the content of the reasoning of the second-instance decision, was also referred to by the legal representative and which are publicly available like all others. Furthermore, in the past few years, no decision of the Asylum Commission has been recorded in which it upheld the appeals of asylum seekers who left their country of origin as members of a particular social group defined by sexual orientation.²²⁴ In other words, if LGBTQI+ asylum seekers are not recognized as refugees or persons at risk of suffering serious injustice in their country of origin at the first instance, they have practically no chance of obtaining protection before the Asylum Commission.

4.4. Quality of Credibility Assessment of Applications from Citizens of the Russian Federation

The Asylum Commission rejected three appeals from citizens of the Russian Federation who cited the risk of forced mobilization, as well as the risk of criminal prosecution for evading it, as one of the risks in their asylum applications.²²⁵ First of all, it is fair to point out that none of the three mentioned cases correspond to the categories of citizens of the Russian Federation who, either formally or informally (through unpredictable practices), face the risk of mobilization, except perhaps one who had completed military service as an artilleryman.²²⁶ However, the reason why these three decisions were taken for a more detailed analysis is that at the second instance, the Asylum Commission, taking into account the allegations in the appeals, considered the overarching COI source issued by the EUAA.²²⁷ This report, which specifically deals with Russian deserters, was not considered at all by the Asylum Office.

²²⁴ AIDA Serbia 2023, pp. 103 and 126.

²²⁵ Asylum Commission, AŽ 38/23 of February 19, 2024, AŽ 02/24 of February 29, 2024, and AŽ 10/24 of March 15, 2024.

²²⁶ Who nevertheless decided to voluntarily return to his country of origin with the help of IOM.

²²⁷ EUAA, *The Russian Federation - Military service*, December 2022, available at: https://euaa.europa.eu/sites/default/files/publications/2022-12/2022_EUAA_COI_Russia_Military_Service.pdf.

Nevertheless, in decision No. AŽ 38/23 of February 19, 2024, the Asylum Commission referred to the mentioned report and explained why it and the circumstances stated therein were not relevant to the appellant, which is positive. However, the mentioned report also contains data on informal recruitment practices that indicate unpredictability, and it would be useful if both the first and second instance authorities would also address that part of the EUAA report in similar cases.

In any case, the authors of this report considered it important to briefly refer to these decisions, considering that during 2024, a significant number of citizens of the Russian Federation cited the risk of mobilization, as well as criminal prosecution for evading it, in their applications, while some asylum seekers fled directly from the battlefield after being wounded.²²⁸

4.5. Practice of the Asylum Commission Regarding Asylum Seekers with Health Problems

Finally, it is important to mention the Asylum Commission's decision No. AŽ 26/24 of October 8, 2024, which upheld the Asylum Office's decision No. 26-3283/22 of April 18, 2024. In the mentioned decision, the Asylum Commission assessed that there was no deviation from established practice and engaged in an analysis of the appellant's ability to cope with their impaired health condition.

One of the main arguments stated was the fact that the appellant is capable of working, and that this is an indicator that they do not face the risk of suffering serious harm in their country of origin within the meaning of the ECtHR's standard established in the already mentioned *Paposhvili v. Belgium* judgment. In other words, the Asylum Commission thus disqualified the expert findings of immunology specialists who clearly pointed out that the appellant did not have adequate therapy in Cuba, that therapy appropriate to their individual circumstances was only established in Serbia, and that returning to an inadequate treatment regimen in Cuba could lead to consequences that have been assessed as inhuman and degrading in the practice of the ECtHR. Moreover, the Asylum Commission dared to assess their health condition as not sufficiently serious, comparing the severity of the symptoms with the case of a Cuban citizen who was recognized as having the right to subsidiary protection in 2022. The question that remains open is how any member of the Asylum Commission can take a contrary stance to immunology specialists without engaging experts who would offer a different kind of expert opinion.

²²⁸ In the mentioned cases, IDEAS lawyers act as legal representatives.

In addition, and as was the case with the Asylum Office's decisions in the cases of LGBTQI+ asylum seekers from Burundi, where one set of COI sources was used for a positive decision and another for a negative decision, the Asylum Commission's reasoning does not refer to the diametrically opposed citation of COI sources in at least similar cases – the similarity lies precisely in the fact that the Cuban citizens are HIV positive and did not have therapy. It is logical and necessary for the complete establishment of the factual situation that the allegations from both cases be measured against the same COI sources. In this particular case, the Asylum Commission did not find it appropriate to do so. Furthermore, although it is not relevant to the ECtHR's standard set in the *Paposhvili* judgment, the asylum seeker from Cuba who was recognized as having the right to subsidiary protection is also capable of working and, with adequate therapy, can live and function normally. The question that neither the Asylum Commission nor the first-instance authority answered is whether returning to Cuba and denying the established therapy in Serbia would lead to a severe, rapid, and irreversible deterioration of their health condition. The expert opinion unequivocally gave a positive answer to this question.

05 Practice of the Administrative Court

5.1. Introductory Remarks and Legal Framework for Initiating an Administrative Dispute

An action may be brought and an administrative dispute initiated before the Administrative Court against the final decision of the Asylum Commission.²²⁹ The action has an automatic suspensive effect, and from this perspective, it can be considered an effective and efficient legal remedy. The deadline for filing an action is 30 days from the date of receipt of the Asylum Commission's decision.²³⁰ However, the substantive practice of the Administrative Court from the very beginning of the asylum system unequivocally indicates that this remedy cannot be considered effective and efficient, and that the corrective role of the Administrative Court is still an unattainable ideal. The reasons for this state of affairs are multiple.

First of all, the judges of the Administrative Court still do not have adequate resources to assess the actions filed by asylum seekers and their legal representatives, and none of the judges are specialized in asylum and migration issues despite occasional training and study visits. Thus, in practice, most asylum actions decided by the Administrative Court annually are rejected. On the other hand, no case has yet been recorded in which the Administrative Court decided in a dispute of full jurisdiction, nor has it in this way rendered a judgment recognizing the plaintiff's right to asylum within the meaning of Article 43 of the Law on Administrative Disputes. Also, no judgment has been rendered after the Administrative Court held a public hearing, within the meaning of Article 33, paragraph 1 of the Law on Administrative Disputes, but every judgment so far has been rendered in accordance with paragraph 2 of the same article. In other words, the work of the Administrative Court, when it comes to asylum

²²⁹ Article 17 of the Law on Administrative Disputes and Article 96 of the Asylum Act.

²³⁰ Article 96 of the Asylum Act and Article 18, paragraph 1 of the Law on Administrative Disputes.

procedures, is exclusively of a chamber nature and is based on the analysis of case files and submissions of legal representatives.²³¹

Also, within the Administrative Court, there is no specifically designated department consisting of judges with relevant and necessary knowledge and accompanying infrastructure, such as a COI department. The difficulty faced by the judges of the Administrative Court is also related to the fact that in their daily work they must know and apply several hundred laws and bylaws regulating the area of administrative measures (taxes, election disputes, municipal affairs, issuing permits, education, medical administrative disputes, and others).²³²

Regarding capacities, during 2024, a total of 62 judges of the Administrative Court presided over administrative-legal matters.²³³ As of December 31, 2023, there were 181,220 administrative cases pending, while that number as of December 31, 2024, was 163,236.²³⁴ In other words, it is not reasonable to expect that in such a constellation, the judges of the Administrative Court have the capacity and infrastructural support to adequately perform a corrective function in relation to the Asylum Commission and the Asylum Office.

5.2. Brief Overview of the Administrative Court's Practice in 2024

The practice of the Administrative Court in 2024 can only be described as modest in terms of its impact on the efficiency of the asylum procedure and represents a continuation of the practice from previous years.²³⁵ In 2024, the Administrative Court rendered 16 decisions in relation to 19 individuals originating from: Iran (7), Unknown (3), Afghanistan (3), Burundi (2), Türkiye (1), Cuba (1), Syria (1), and Ghana (1). Only three actions were upheld, two for procedural reasons related to family unity and the inclusion of a newborn in the asylum procedure, and one related to administrative silence.²³⁶ Only one action was upheld in the sense that the Asylum Commission received clear instructions on how to remedy the violations.²³⁷ However, that judgment is anonymized to the extent that it is impossible to conduct an appropriate analysis or determine the country of origin of the plaintiff. What can be established is that it took the Administrative Court 46 months to decide on the action, and the question that remains open is whether

²³¹ See more in AIDA Serbia 2023, pp. 127-128.

²³² Ibid.

²³³ The list of judges is available here: <http://www.up.sud.rs/cirilica/sudije>.

²³⁴ Annual Report of the Administrative Court of January 9, 2024, available at: <https://bit.ly/4bhck6J>, 1-2 and Annual Report of the Administrative Court of January 13, 2025, available at: <https://www.up.sud.rs/wp-content/uploads/2024/08/GODISNJI-IZVESTAJ-za-2024.pdf>.

²³⁵ See more in AIDA Serbia 2023, pp. 129-132.

²³⁶ See the Table of the Administrative Court's practice below.

²³⁷ Administrative Court, Judgment U 7899/20 of February 22, 2024.

the mentioned person is still in Serbia or not, which may call into question the effectiveness of the action as a legal remedy in this case.

And in fact, when the duration of the administrative dispute in cases related to the asylum procedure in 2024 is taken into account, the average duration of proceedings before the Administrative Court is slightly more than 34 months, i.e., slightly less than three years. In most proceedings where the merits of the claim were examined, the proceedings lasted 30, 38, 40, 57, 67, and 68 months. Procedures that lasted from 3 months to 1 year were usually related to subsequent asylum applications or cases where the concept of "unacceptable security risk" was applied and where the practice observed and analyzed at the Asylum Office and the Asylum Commission was more or less confirmed.

The fact that there is a serious problem in the Administrative Court's capacity to assess the individual circumstances of each mentioned case is also evidenced by judgments relating to issues that are now considered a "relic of the past" because they relate to the automatic application of the safe third country concept.²³⁸ In judgment U 4751/18 of November 8, 2024, the Administrative Court confirmed a practice that has not been applied by the first and second instance authorities for more than 5 years. This further confirms that there is no analysis of the practice of administrative bodies whose work may be the subject of an administrative dispute in the Administrative Court, and therefore no possibility for this body to influence the harmonization of practice, in accordance with Article 141, paragraph 4 of the Law on General Administrative Procedure.

Perhaps it is interesting to note that the Administrative Court confirmed the practice in which asylum seekers from Burundi who claim to have experienced or are at risk of political persecution are rejected on the merits.²³⁹ Moreover, the Administrative Court confirmed the practice in which victims of violence against women are systematically rejected based on information that the Asylum Office considered COI, which relates to the description of the legal framework for the protection of survivors of sexual and gender-based violence.²⁴⁰ In other words, the protection of survivors of sexual and gender-based violence in the Serbian asylum system, especially when they come from Burundi, is practically non-existent and is based on decision-making patterns that have already been described in the part of the report analyzing the practice of the Asylum Office and the Asylum Commission.

²³⁸ See more in AIDA Serbia 2023, pp. 154-155.

²³⁹ Administrative Court, Judgment U 4753/2021 of September 6, 2024.

²⁴⁰ Administrative Court, Judgment U 10674/23 of May 17, 2024.

Administrative Court Practice in 2024

No.	Country of Origin	No. of Persons	Outcome	Duration of Proceedings (months)
1.	Türkiye	1	Rejected	12,5
2.	Unknown	1	Upheld	46
3.	Unknown	1	Rejected	38
4.	Afghanistan	1	Rejected	42
5.	Iran	1	Rejected	6
6.	Iran	4	Upheld	30
7.	Burundi	1	Rejected	6
8.	Afghanistan	1	Upheld	40
9.	Afghanistan	1	Rejected	57
10.	Cuba	1	Rejected	5
11.	Burundi	1	Rejected	30
12.	Ghana	1	Rejected	58
13.	Unknown	1	Rejected	38
14.	Syria	1	Rejected	3
15.	Unknown	1	Rejected	68
16.	Iran	1	Rejected	67

06 Inclusion and Integration of Asylum Seekers and Persons Granted Asylum

The integration of refugees, in accordance with the Asylum Act, encompasses their inclusion in the social, cultural, and economic life of Serbia, along with resolving the issue of naturalization as a path to a durable solution.²⁴¹ The responsibility for providing integration support lies with the Serbian Commissariat for Refugees and Migration (SCRM), and it is important to emphasize that this support is provided exclusively to persons who have been granted asylum. Asylum seekers, apart from the right to reside in asylum centers and reception centers where they are provided with material reception conditions, are not foreseen as a category to whom any kind of institutional support in inclusion in social, cultural, and economic life is provided under the current legal framework. In other words, their institutional inclusion does not exist in the Serbian asylum system.

This circumstance is probably one of the fundamental problems faced by asylum seekers, primarily due to the fact that their asylum procedures last on average about 13 months at the first instance,²⁴² and if the outcome is negative, it can extend to several years. During this time, unless they enjoy some form of non-institutional support provided by international organizations or civil society organizations, they are left to their own both in terms of language learning and in

²⁴¹ Article 71 of the Asylum Act. Within its possibilities, the Republic of Serbia ensures the conditions for the inclusion of persons who have been granted the right to asylum in social, cultural and economic life, as well as to facilitate the naturalization of refugees.

²⁴² See more in Chapter V.3 of this report.

terms of access to the labor market, obtaining personal documents, and generally accessing economic and social rights.

The legal framework governing the integration of refugees is further defined by bylaws, among which the Decree on Integration is the most significant. According to the Decree on Integration, the integration assistance program lasts for one year from the date the Asylum Office's decision becomes final. During this period, SCRM is obliged to inform refugees about their rights and obligations, provide Serbian language classes, involve refugees in programs introducing Serbian culture, history, and constitutional order, provide assistance in integrating into the education system, assistance in exercising the right to health and social care, as well as assistance in integrating into the labor market.²⁴³ These activities are implemented through individual integration plans, developed by SCRM integration officers based on the needs and capabilities of each person granted asylum.²⁴⁴

During 2024, certain progress was made regarding the integration of refugees. However, there is still need for further improvement of the integration process by strengthening state support and follow up on individual cases by integration officers. Although the concept of integration refers to refugees, i.e., people who have been granted asylum or subsidiary protection, this part of the report will also address the position of asylum seekers regarding access to key economic and social rights.

6.1. Right of Residence and Personal Documents

In accordance with the Asylum Act, asylum seekers and persons granted asylum or temporary protection have the right to reside in Serbia, and they prove this right with a ID card issued by the Asylum Office.²⁴⁵ Furthermore, refugees, i.e., persons granted asylum in Serbia, acquire the right to permanent residence after three years of continuous residence in Serbia, in accordance with the Foreigners Act.²⁴⁶ The decision on granting permanent residence is made taking into account the specific and personal circumstances of refugees and close family members, whereby it is not necessary to meet the general conditions set by the Foreigners Act for other categories of foreign nationals.²⁴⁷

Residence, personal documents, and naturalization are interconnected elements that shape the legal status of refugees in Serbia. The right to residence guarantees legal certainty, while personal documents enable proof of identity and

²⁴³ Article 2 of the Decree on Integration.

²⁴⁴ Article 9 of the Decree on Integration.

²⁴⁵ Articles 49 and 60 of the Asylum Act.

²⁴⁶ Article 68a of the Foreigners Act.

²⁴⁷ Article 67 of the Foreigners Act.

residence status, facilitating access to basic rights and services. Naturalization represents the final step of integration, formally recognizing belonging to the host country and enabling full social and legal inclusion.²⁴⁸

According to the Convention relating to the Status of Refugees, contracting states are obliged to provide refugees lawfully staying in their territory with identity documents or certificates that would normally be issued to them by their countries of origin.²⁴⁹ In Serbia, the Asylum Office issues four types of ID cards: ID cards for asylum seekers, ID cards for persons granted refugee status, ID cards for persons granted subsidiary protection, and ID cards for persons granted temporary protection.²⁵⁰ These documents are issued upon request submitted to the Asylum Office. Their validity period differs depending on the legal status of the applicant, with the possibility of extension. ID cards for asylum seekers are issued for a period of six months, ID cards for persons with granted subsidiary protection for a period of one year, and ID cards for persons granted refugee status for a period of five years.²⁵¹ For persons granted temporary protection, the validity period of the ID card is equal to the validity period of the temporary protection.²⁵²

The content and appearance of ID cards are regulated by the Rulebook on the Content and Appearance of the Asylum Application Form and the Content and Appearance of Forms of Documents Issued to Asylum Seekers and Persons Granted Asylum or Temporary Protection.²⁵³ The Rulebook stipulates that ID cards contain basic information: the person's photograph, surname and first name, gender, date and place of birth, country of origin, address, document number, date of issue, and expiration date.²⁵⁴ The creation of the document involves a cardboard form being filled out by an Asylum Office official, and the only proof that the document was issued by a state authority is the Ministry of Interior's stamp. The document is then laminated. These documents serve for personal identification purposes and represent confirmation of legal stay in Serbia.

Although ID cards are crucial for exercising rights and accessing services, practice shows a number of problems that hinder the position of asylum seekers and refugees in society. One of the problems observed during the reporting

²⁴⁸ Article 34 of the Convention relating to the Status of Refugees.

²⁴⁹ Article 25 of the Convention relating to the Status of Refugees.

²⁵⁰ Article 87 of the Asylum Act.

²⁵¹ Articles 89-90 of the Asylum Act.

²⁵² Article 90 of the Asylum Act.

²⁵³ Rulebook on the Content and Appearance of the Asylum Application Form and the Content and Appearance of Forms of Documents Issued to Asylum Seekers and Persons Granted Asylum or Temporary Protection, *Official Gazette of the Republic of Serbia*, No. 42/2018, available at: <https://pravno-informacioni-sistem.rs/eli/rep/sgrs/ministarstva/pravilnik/2018/42/5>.

²⁵⁴ Ibid.

period are cases in which some asylum seekers were forced to wait for the issuance or extension of ID cards for several weeks. This problem was particularly pronounced in relation to individuals who, during the asylum procedure, do not reside in asylum centers but at a private address, with the approval of the Asylum Office. For these individuals to be issued an ID card, the local police station, upon the order of the Asylum Office, must conduct a field check and verify that the mentioned person actually resides there. After the field check, the local police station sends a report to the Asylum Office stating whether the mentioned person was present at the address during the field check or not. Only after a positive field check does the Asylum Office issue the ID card. In practice, due to the lack of adequate coordination between the Asylum Office as the issuer of the ID card, the local police directorate as the verification body, and the foreign national themselves, it is often the case that reports from field checks are negative because the foreign nationals were not at the address when it was conducted (for example, they were at work). Thus, in practice, it happens that several field checks are necessary to determine that the foreign national resides at the indicated address. Therefore, cases were recorded during the reporting period in which the issuance procedure lasted longer than a month.

During the reporting period, cases were also recorded in which the time for issuing the first ID card or extending a personal card was unacceptably long even for asylum seekers residing in asylum centers. The lack of personal documents can negatively affect access to almost all rights of asylum seekers and can also lead them into unpleasant situations during potential identity checks by the police.

Another problem is the fact that personal cards issued to asylum seekers and refugees are not harmonized with the Law on Identity Cards.²⁵⁵ They do not contain the foreigner's registration number (EBS), which is equivalent to the unique identification citizen number (JMBG) and should be part of the content of ID cards.²⁵⁶ Instead, the EBS is issued on a separate certificate also by the Asylum Office, which represents an additional burden for both the foreign nationals themselves and for the Asylum Office, which, with its aforementioned low capacities, has to issue certificates of the EBS number individually for various purposes such as: work, health care, social benefits, bank accounts, and the like.

This situation primarily hinders the confirmation of the legal status of refugees and asylum seekers. In addition, it complicates the performance of administrative procedures, given that in many situations these individuals must obtain additional documentation, which can also mean additional costs. Some certificates of EBS possession require the payment of a republic administrative fee, e.g., a certificate

²⁵⁵ Official Gazette of the Republic of Serbia, Nos. 62/2006, 36/2011 and 53/2021, available at: https://www.paragraf.rs/propisi/zakon_o_licnoj_karti.html.

²⁵⁶ Article 7 of the Law on Identity Cards.

issued for the purpose of opening a bank account, translating a driver's license, etc. The need to repetitively request EBS number certificates from the Asylum Office further slows down other processes, such as access to employment. In addition, there are additional administrative costs such as the costs of preparing and mailing requests to the Asylum Office, as well as the preparation and mailing of certificates to the foreign national or their legal representative by the Asylum Office.²⁵⁷

As already stated, ID cards are laminated documents that are often not recognized as valid in many institutions, including health institutions, banks, educational institutions, and the like. These difficulties result in discrimination against domestic and other foreign nationals with temporary or permanent residence, who have the right to biometric identity documents.

6.2. Refugee Travel Documents

Freedom of movement is one of the fundamental human rights and implies not only the freedom of movement and residence within a state, but also the right to leave it and for individuals to return to it.²⁵⁸ Consequently, the issuance of travel documents is a prerequisite for exercising this right. The Convention relating to the Status of Refugees obliges contracting states to issue travel documents to refugees lawfully staying in their territory for the purpose of free movement outside their territory, except in cases where there are compelling reasons of national security or public order.²⁵⁹

In accordance with the Asylum Act, refugees in Serbia have the right to a travel document. The travel document for persons granted refugee status is issued by the Asylum Office on a prescribed form with a validity period of five years.²⁶⁰ In exceptional cases, the Office may also issue this document to persons granted subsidiary protection, with a validity period of up to one year.²⁶¹ The design of the travel document, as well as its content, is determined by the Ministry of Interior through a bylaw that should have been adopted within 60 days of the law's entry into force.²⁶²

²⁵⁷ For example, in 2024 alone, the IDEAS legal team submitted hundreds of requests for the issuance of EBS for various needs of clients, and the Asylum Office responded to hundreds of requests.

²⁵⁸ Freedom of movement is prescribed by numerous universal and regional instruments, among which are the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the European Convention on Human Rights.

²⁵⁹ Article 28 of the Convention relating to the Status of Refugees.

²⁶⁰ Article 91, paragraph 1 of the Asylum Act.

²⁶¹ Article 91, paragraph 3 of the Asylum Act.

²⁶² Article 101 of the Asylum Act.

Although the Asylum Act entered into force in 2018, the Rulebook on the Appearance and Content of the Refugee Travel Document Form²⁶³ was only adopted in November 2023.²⁶⁴ The legal vacuum limited the freedom of movement of refugees for years and contributed to their dissatisfaction and disappointment with the asylum system. If they did not possess a valid travel document issued by their country of origin, refugees were unable to leave Serbia in a regular and legal manner.²⁶⁵

The application of the rulebook began on February 1, 2024. This enabled the issuance of these documents for the first time since the establishment of the asylum system in Serbia. Travel documents in accordance with the rulebook contain the personal data of the holder, including biometric data.

From the beginning of the application of the new rulebook until December 31, 2024, a total of 49 refugee travel documents were issued.²⁶⁶ Of that number, 39 documents were issued to males, including 6 children, while 10 documents were issued to females, including 3 girls.²⁶⁷

Biometric refugee travel documents differ from passports for Serbian citizens and are subject to the visa regime that applies to the refugees' countries of origin. Nevertheless, their issuance represents a significant step in the realization of refugees' rights. The Asylum Office and the Ministry of Interior have shown a high level of efficiency in implementing this process, ensuring a fast and orderly procedure - from scheduling appointments and submitting the necessary documentation to the creation and delivery of the documents themselves. This has finally opened the possibility for refugees in Serbia to travel legally and plan their future with a greater degree of security and freedom of movement.

²⁶³ Rulebook on the Appearance and Content of the Refugee Travel Document Form, Official Gazette of the Republic of Serbia, No. 104/2023, available at: <https://pravno-informacioni-sistem.rs/eli/rep/sgrs/ministarstva/pravilnik/2023/104/7>.

²⁶⁴ The same provisions were also foreseen in the first Law on Asylum from 2008. However, the adoption of the bylaw was completely absent then. Consequently, refugees in Serbia, from the establishment of the asylum system until last year, did not have the opportunity, if they did not possess documents from their country of origin, to regularly leave the territory of Serbia.

²⁶⁵ IDEAS, Šta donosi novi Pravilnik o izgledu i sadržini obrasca putne isprave za strance? (What does the new Rulebook on the appearance and content of the travel document form for foreigners bring?), available at: <https://ideje.rs/sta-donosi-novi-pravilnik-o-izgledu-i-sadrzini-obrasca-putne-isprave-za-izbeglice/>.

²⁶⁶ From the beginning of the application of the new rulebook until June 30, 2024, a total of 39 refugee travel documents were issued. Of that number, 32 documents were issued to men, including 6 children, while 7 documents were issued to women, including 3 girls.

²⁶⁷ Ministry of Interior-Border Police Directorate, Responses to the request for access to information of public importance, No. 07-34/24, August 30, 2024 and No. 07-2/25, February 11, 2025 (delivered on February 21, 2025), hereinafter: Ministry of Interior-IJZ 2024.

6.3. Permanent Residence and Naturalization

Access to the citizenship of the state that has recognized international protection for a refugee represents the highest degree of integration. It brings legal benefits such as protection from forced removal, the right to vote, greater access to social services and travel opportunities, as well as other benefits such as greater stability, a better position in the labor market, and a sense of belonging. The Convention relating to the Status of Refugees obliges signatory states to facilitate and expedite the naturalization procedure, with minimal costs.²⁶⁸ The Asylum Act stipulates that the Republic of Serbia will enable the naturalization procedure for refugees.²⁶⁹

However, in practice, there is no clearly defined procedure to help refugees realize this right. The problem arose from the inconsistency of the Asylum Act with the Foreigners Act and the Law on Citizenship,²⁷⁰ which hindered this process. To achieve admission to citizenship, it is necessary for the type of residence granted to refugees to be recognized as a type of residence that meets the conditions prescribed for admission to citizenship, which was a legal gap for a long time.

With the amendments to the Foreigners Act, the application of which began on February 1, 2024, refugees with continuous residence longer than three years gained the possibility to exercise the right to permanent residence. When applying for permanent residence, their specific circumstances are taken into account, and these individuals do not have to meet all the conditions that apply to other foreign nationals.²⁷¹ Consequently, when submitting the application, a decision granting the foreign national the right to asylum in accordance with the law is submitted, as well as a copy of the personal card of the person granted the right to asylum, along with proof of paid administrative fees.

In the period from February 1 to December 31, 2024, a total of 37 refugees were granted permanent residence in Serbia. The analysis shows the diversity of the countries of origin of the persons granted permanent residence. Among them, the most represented are citizens of Libya (15) and Iran (6). In addition, permanent residence was also granted to citizens of Cuba (3), Burundi (3), Syria (2), Ukraine (2), Iraq (1), Pakistan (1), Tunisia (1), South Sudan (1), and Kazakhstan (1). Out of

²⁶⁸ Article 34 of the Convention relating to the Status of Refugees.

²⁶⁹ Article 71 of the Asylum Act.

²⁷⁰ Official Gazette of the Republic of Serbia, Nos. 135/2004, 90/2007 and 24/2018, available at: https://www.paragraf.rs/propisi/zakon_o_drzavljanstvu_republike_srbije.html.

²⁷¹ Article 68a of the Foreigners Act.

the total number of decisions, 20 were issued to females, including 4 girls, and 17 to males, including 2 boys.

Although the possibility of acquiring permanent residence brings greater legal security to refugees and opens the way to citizenship, to date, no person granted asylum has acquired Serbian citizenship. This data indicates the need for further improvement of the legal framework and administrative procedures to enable simpler and more efficient access to citizenship for refugees who wish to remain permanently in Serbia.

6.4. Right to Work

Finding employment in destination countries is a prerequisite for the successful integration of asylum seekers and refugees, as it contributes to economic independence, facilitates language learning, familiarization with culture and customs, as well as the establishment of social connections.²⁷² The Asylum Act guarantees asylum seekers and refugees access to the labor market. The legal framework regulating this issue in Serbia during the reporting period underwent significant changes, including the abolition of work permits and the shortening of the waiting period for asylum seekers to gain the right to work.

Although these changes are a step forward, access to employment remains challenging. Language barriers, unfamiliarity with the system, and discriminatory practices hinder entry into the labor market. Employers are often not familiar with the rights of refugees and asylum seekers, while administrative procedures, although simplified, are still an obstacle for many who want to find a job.²⁷³ One of the recurring issues is the opening of bank accounts, which remains a practical challenge.

The Convention relating to the Status of Refugees obliges contracting states to provide refugees with the same treatment as their own nationals regarding the right to work, including employment, working conditions, and labor protection.²⁷⁴ The right to work is also prescribed by other relevant human rights instruments.²⁷⁵

In Serbia, the right to work for asylum seekers,²⁷⁶ and refugees²⁷⁷ is prescribed by the Asylum Act, which stipulates that access to the labor market is achieved in accordance with the regulations governing the employment of foreign citizens.

²⁷² UNHCR, Integration Handbook: Employment&Training, available at: <https://www.unhcr.org/handbooks/ih/employment-training/employment>.

²⁷³ Data provided to IDEAS by the Center for Crisis Policy and Response for the purpose of drafting this report.

²⁷⁴ Article 24 of the Convention relating to the Status of Refugees.

²⁷⁵ See Chapter I.1 of this report.

²⁷⁶ Article 57 of the Asylum Act.

²⁷⁷ Article 65 of the Asylum Act.

This area is regulated in more detail by the Law on the Employment of Foreigners (Foreigners Employment Act),²⁷⁸ the amendments and additions of which began to be applied on February 1, 2024. The amendments facilitate the employment procedure for refugees and asylum seekers. They imply a more open access to the labor market in Serbia, harmonized with the practice of EU member states.²⁷⁹

The new provisions have reduced the period after which asylum seekers can access labor market. Instead of the previous nine months, they now have access to the labor market after six months from lodging their asylum application.²⁸⁰ Additionally, instead of obtaining personal work permits, asylum seekers can now be employed with their personal card, a certificate of EBS possession, and a confirmation of the lodged asylum application issued by the Asylum Office.

Refugees, as before, have the right to access the labor market immediately upon obtaining status, also without obtaining a work permit. It is sufficient for them to possess a personal card and a certificate of EBS possession.²⁸¹ For refugees, the Decree on Integration also provides assistance in integrating into the labor market.²⁸² Support is an integral part of integration assistance – the responsibility of the SCRM – and follows the development of an individual integration plan.

SCRM support includes assistance in collecting the necessary documentation for registration with the National Employment Service (NES),²⁸³ as well as assistance in initiating the process of recognizing foreign educational documents for employment purposes. Additionally, SCRM has jurisdiction over the inclusion of refugees in additional education and training programs, adapted to the needs of the labor market, as well as in active employment policy measures, all in cooperation with the NES.²⁸⁴ The aim of this support is to facilitate and enable refugees to become economically independent.

In practice, SCRM support in integrating refugees into the labor market is often absent or delayed. Every person granted asylum in Serbia is informed in a timely manner during their interview with an SCRM integration officer about the right to initiate the procedure for the recognition of foreign educational documents as assistance in integrating into the labor market, as well as the right to additional

²⁷⁸ Law on the Employment of Foreigners, Official Gazette of the Republic of Serbia, Nos. 128/2014, 113/2017, 50/2018, 31/2019 and 62/2023, available at: https://www.paragraf.rs/propisi/zakon_o_zaposljavanju_stranaca.html, hereinafter: Foreigners Employment Act

²⁷⁹ Center for Research and Development of Society IDEAS, Unapređenje pristupa tržištu rada za izbeglice i tražioce azila: Ključne izmene Zakona o zapošljavanju stranaca (Improving Access to the Labor Market for Refugees and Asylum Seekers: Key Amendments to the Law on the Employment of Foreigners), available at: https://ideje.rs/wp-content/uploads/2024/03/clanak_1_SRB-3.pdf.

²⁸⁰ Article 3 of the Foreigners Employment Act.

²⁸¹ Ibid.

²⁸² Article 2 of the Decree on Integration.

²⁸³ Hereinafter: NES.

²⁸⁴ Article 7 of the Decree on Integration.

education and training in accordance with labor market needs. However, during the reporting period, there were no requests for these types of SCRM assistance and support,²⁸⁵ which suggests that measures, although relevant, they are often offered at a stage when beneficiaries have already been guided towards these solutions by the UNCHR integration partner or UNHCR Integration unit.

The experience of these organizations indicates that despite legal changes and improvements, obstacles still exist. The Center for Crisis Policy and Response, as a UNHCR partner that provided support to asylum seekers and refugees in finding employment during the reporting period, states that employers are still not informed about the rights of refugees and asylum seekers in the labor market.²⁸⁶

One of the key steps towards improving access to the labor market for refugees and asylum seekers is strengthening employer awareness through targeted campaigns and training. Experience working with refugees shows that employers are often not familiar with the legal frameworks that allow the employment of refugees and asylum seekers, nor with the simplified procedures introduced by the latest legal amendments. Although certain efforts in this area are being undertaken by UNHCR, including through the #ForRefugees network²⁸⁷, a more systematic and coordinated approach by state institutions is needed—particularly when it comes to improving the recognition of ID documents and ensuring that employers are consistently and clearly informed about refugees' right to work.

Also, it is necessary to introduce systematic support in learning the Serbian language, which is lacking for asylum seekers. Learning the language at an earlier stage of their stay in Serbia would help them acquire basic language skills that are crucial for integration into the labor market.

6.5. Healthcare

The right to health implies not only access to medical services but also the possibility of timely treatment, psychosocial support, and preventive care. Preserving physical and mental health is particularly important for refugees and asylum seekers, who are often exposed to traumatic experiences, insecurity, and stress due to uncertain legal status and challenges in a new environment.²⁸⁸

The legislative framework in Serbia recognizes the right of refugees and asylum seekers to healthcare, stipulating that they receive health services under the

²⁸⁵ Ibid.

²⁸⁶ Data provided to IDEAS by the Center for Crisis Policy and Response for the purpose of drafting this report.

²⁸⁷ Activities involved organization of information sessions, development of guides and instructions adapted to employers, as well as direct cooperation with business associations.

²⁸⁸ UNHCR, *Integration Handbook: Health*, available at:
<https://www.unhcr.org/handbooks/ih/health/health-care>

same conditions as Serbian citizens. However, if they are unemployed, these individuals do not have health insurance and health cards, and healthcare professionals are often not sufficiently informed about their rights, which further complicates access to services. A particular challenge is the availability and development of mental health services, which are crucial for recovery.

6.5.1. Right to Healthcare

The Asylum Act guarantees the right of asylum seekers and refugees to healthcare, and this right is exercised in accordance with the regulations governing the healthcare of foreign nationals.²⁸⁹ The provisions on the healthcare of foreigners are contained in the Law on Healthcare,²⁹⁰ according to which healthcare²⁹¹ for foreigners is provided under the same conditions as for Serbian citizens. Accordingly, healthcare institutions, private practices, and healthcare professionals are obliged to provide foreigners with emergency medical assistance, as well as other examinations. Healthcare services provided to registered foreigners who have expressed their intention to apply for asylum, asylum seekers, and materially deprived refugees are financed from the budget of the Republic of Serbia.²⁹²

In practice, the exercise of this right depends on the individual's legal status and place of residence. Asylum seekers accommodated in centers under the jurisdiction of SCRM can undergo basic examinations in the medical services located within the centers. Upon arrival at the center, they are scheduled for medical examinations, which include anamnesis, general examination, and other diagnostic procedures.²⁹³ During their stay in the centers, medical services provide basic healthcare, with a special focus on individuals with serious illnesses, victims of torture, rape, and other severe forms of psychological, physical, or sexual violence, and individuals with mental health issues.²⁹⁴ When the healthcare needs of asylum seekers exceed the capacities of the medical services in the centers, they are referred to health centers, hospitals, or other healthcare institutions.

²⁸⁹ Articles 54 and 63 of the Asylum Act.

²⁹⁰ Law on Healthcare, *Official Gazette of the Republic of Serbia*, Nos. 25/2019 and 92/2023, available at: https://www.paragraf.rs/propisi/zakon_o_zdravstvenoj_zastiti.html.

²⁹¹ The right to healthcare includes measures for the preservation and improvement of health, prevention, suppression, early detection of diseases and injuries, as well as treatment, healthcare, and rehabilitation.

²⁹² Articles 236-240 of the Law on Healthcare.

²⁹³ Rulebook on Health Examinations of Asylum Seekers upon Admission to an Asylum Center or Other Accommodation Facility for Asylum Seekers, *Official Gazette of the Republic of Serbia*, No. 57/2018, available at: <https://pravno-informacioni-sistem.rs/eli/rep/sgrs/ministarstva/pravilnik/2018/57/3/reg>.

²⁹⁴ Article 54 of the Asylum Act.

Unlike asylum seekers in centers, asylum seekers and refugees residing at private addresses do not have access to healthcare services in centers under the jurisdiction of SCRM. They can undergo medical examinations and treatment at health centers, hospitals, and other healthcare institutions that provide primary, secondary, and tertiary healthcare. Although the legal framework provides for equal treatment of these individuals with domestic citizens, there are practical challenges in accessing healthcare services, especially when it comes to timely referrals for specialist examinations or the provision of medication.

6.5.2. Right to Health Insurance

Although asylum seekers and refugees in Serbia have the right to healthcare, the exercise of this right in practice is hindered by the way the healthcare system is organized. Healthcare in state institutions is provided through a system of compulsory health insurance, which is regulated by the Law on Health Insurance.²⁹⁵ In addition to access to healthcare institutions, health insurance also enables continuous treatment, therapy, monitoring of chronic diseases, and access to prescription drugs.

According to this law, certain categories of insured persons have the right to health insurance, including foreigners who are employed or who have temporary residence in Serbia for the purpose of education. When it comes to refugees, the law only recognizes refugees from the territory of the former Socialist Federal Republic of Yugoslavia, while asylum seekers and refugees under international protection are not explicitly mentioned. Therefore, as foreign citizens, asylum seekers and refugees can be included in the system if they are employed and if their employer pays contributions. However, this is not possible for asylum seekers in the first six months after lodging their application, as they do not have the right to work during that period.

One possible solution to this problem is provided by the law itself, which allows individuals not covered by the basic categories of insured persons to be included in health insurance by paying contributions themselves. However, there are two key challenges. The first relates to the insufficient information of officials in the branches of the Republic Health Insurance Fund,²⁹⁶ which hindered the inclusion procedure in previous years.²⁹⁷ According to the experience of the Center for Crisis Policy and Response, which provided support in accessing healthcare to refugees and asylum seekers during 2024, there were no major problems in practice. Nevertheless, the procedure required the mediation and support of CSOs during inclusion in the health insurance system.

²⁹⁵ Law on Health Insurance, *Official Gazette of the Republic of Serbia*, Nos. 25/2019 and 92/2023, https://www.paragraf.rs/propisi/zakon_o_zdravstvenom_osiguranju.html

²⁹⁶ Hereinafter: RFHI.

²⁹⁷ See more in AIDA Serbia 2023, p. 183.

The second challenge is the cost of contributions themselves. In 2024, the monthly payment for health insurance amounted to RSD 4,134.73, which can represent a serious financial burden for unemployed asylum seekers and families with multiple members. So far, the costs of health insurance for asylum seekers and refugees with serious health problems have been covered by UNHCR, but a long-term solution to this issue has not yet been found.

6.5.3. The Problem of Access to Healthcare and Further Steps

Due to the lack of health insurance, asylum seekers and refugees often encounter obstacles in accessing healthcare. An additional problem is the fact that they have not been issued health cards and are not registered in healthcare systems. In many cases, healthcare professionals are not familiar with their rights, so they do not recognize them as individuals entitled to healthcare.²⁹⁸

In certain healthcare institutions, especially those covering the area of the Krnjača Asylum Center, there is a higher level of awareness among healthcare professionals regarding the rights of asylum seekers, which facilitates their access to healthcare services. However, in most other healthcare institutions, the situation is more complex. Without clear records and defined procedures, asylum seekers and refugees have faced administrative obstacles for years, and the mediation of legal representatives or cultural mediators is necessary for them to exercise their right to treatment. The problems continued in 2024.

Therefore, it can be concluded that the legal framework in Serbia guarantees the right to healthcare to refugees and asylum seekers, but that in practice they often face obstacles in exercising this right. The biggest problem is health insurance, which has not been systematically resolved. The only way for asylum seekers and refugees to obtain health insurance is through formal employment or self-payment of contributions, which is not a feasible option for many.

Amendments to the Law on Health Insurance are necessary to clearly define the right to insurance for asylum seekers and refugees under international protection. One possible model would be to include asylum seekers and refugees in existing national social programs that provide healthcare to vulnerable groups, such as social welfare beneficiaries. In this way, healthcare would not depend solely on donor funds but would become part of the state support system.

In addition, one of the practical problems is the uneven implementation of legal provisions by the branches of the Republic Health Insurance Fund (RHFI). Officials are not always familiar with the possibilities provided by the law, which leads to unnecessary administrative obstacles. Although the law allows individuals to pay insurance contributions themselves, practice shows that many

²⁹⁸ All allegations are based on the practical experience of IDEAS employees.

RHIF branches do not recognize this option in the case of asylum seekers and refugees. Therefore, it is necessary to conduct training for RHIF officials to ensure consistent application of regulations and prevent administrative errors that further impede the realization of the right to healthcare.

6.6. Social Welfare Rights

Access to basic social rights and services enables individuals and families to maintain a dignified life and overcome economic and social difficulties. For refugees and asylum seekers, it often represents a factor in their safety and the possibility of starting a new life in the state that provides them with international protection.

The legal framework in Serbia guarantees asylum seekers and refugees the right to social assistance, and they can exercise certain forms of support in accordance with the laws regulating the area of social welfare. In addition, refugees are also entitled to special assistance measures provided by SCRM, including one-time financial assistance and the provision of temporary accommodation. These measures represent an important segment of support for refugees who are in the process of adapting to life in a new environment and striving to achieve basic security.

Regarding international standards related to refugees, the Convention relating to the Status of Refugees obliges contracting states to provide refugees with the same treatment in respect of social welfare as their own nationals.²⁹⁹ This obligation relates to various forms of social assistance and support, including material assistance, access to social services, and other forms of support aimed at protecting basic living needs.

In national legislation, the right to social assistance for asylum seekers and refugees is guaranteed by the Asylum Act.³⁰⁰ The conditions for exercising this right, the amount of assistance, and the procedure for its approval are more closely regulated by the Rulebook on Social Protection for Persons Seeking or Granted Asylum.³⁰¹ According to current regulations, financial assistance can be granted to individuals who are not accommodated in asylum centers and who do not have other sources of income above the prescribed minimum.³⁰² The procedure for exercising the right to assistance is conducted by the social welfare center in the user's place of residence, while the competent ministry is responsible for resolving appeals and deciding in second-instance proceedings.

²⁹⁹ Chapter IV, Convention relating to the Status of Refugees.

³⁰⁰ Articles 52 and 67 of the Law on Asylum and Temporary Protection.

³⁰¹ *Official Gazette of the Republic of Serbia*, No. 12/2020, available at: <https://pravno-informacioni-sistem.rs/eli/rep/sgrs/ministarstva/pravilnik/2020/12/1/reg>.

³⁰² Article 3 of the Rulebook on Social Assistance for Persons Seeking or Granted Asylum.

Once the right to social assistance is approved, it is reviewed annually to determine whether the circumstances affecting its allocation have changed.

The legal framework provides support mechanisms, but practice shows that the system does not fully meet the needs of refugees and asylum seekers. One of the key problems is that the right to financial social assistance is not provided for individuals residing in collective centers, even though they are often at greater risk of poverty and social exclusion.

In addition, the very procedure for obtaining social assistance is often lengthy and administratively complex, which can discourage asylum seekers and refugees from even starting the application process. In cases where assistance is approved, the amounts are often insufficient to cover basic living costs, especially considering that refugees and asylum seekers often have no other sources of income or the ability to obtain them in the short term.³⁰³

Given these challenges, the question arises as to what extent the existing social welfare system recognizes the specific needs of asylum seekers and refugees and to what extent it can meet them. The current framework does not provide a sufficient degree of flexibility that would allow for the adaptation of social welfare programs to the real needs of users, which is why it is necessary to consider possible amendments and improvements to this system.

6.7. Integration Assistance

Integration assistance for refugees in Serbia encompasses a range of activities aimed at facilitating their inclusion in social, cultural, and economic life. Key elements of this process are timely information, learning the Serbian language, access to education and the labor market, as well as financial support in cases of special social and health needs. These activities are provided for a period of up to one year from the date the decision recognizing the right to asylum becomes final.³⁰⁴

To ensure support tailored to individual needs, SCRM defines individual integration plans. These plans take into account information on gender, age, level of education, marital status, occupation, health status, work experience of refugees, and other relevant information for proposing appropriate activities, as well as the type and scope of assistance needed to enable the most effective inclusion in society.³⁰⁵ In addition to SCRM, the competent social welfare center, educational institutions, the NES, healthcare institutions, and other bodies should participate in the development of the plan, if necessary. The integration plan is prepared in Serbian, and the person for whom the plan is developed is acquainted

³⁰³ See more in AIDA Serbia 2023, pp. 213-215.

³⁰⁴ Article 9 of the Decree on Integration.

³⁰⁵ Ibid.

with this plan in a language they understand. SCRM is responsible for monitoring the implementation of the integration plan and proposing amendments.³⁰⁶

During 2024, a total of six individual integration plans were developed. In the first six months, subsidiary protection was granted to one person, after which an integration plan was defined for them. In the second half of the year, two more people acquired this status, while refugee status was recognized for four people. For all of them, except for one person who did not respond to the invitation for the initial interview, individual integration plans were developed.³⁰⁷ Based on the defined plans, during the reporting period, two people were included in the Serbian language and literacy learning program, while three people were included in programs introducing Serbian history, culture, and constitutional order.³⁰⁸ SCRM approved one-time financial assistance in two cases. There were no requests to SCRM to initiate the procedure for the recognition of foreign educational documents or for assistance in the form of inclusion in education.

Furthermore, although the process of developing integration plans is clearly defined, in practice it is not fully implemented in accordance with the prescribed procedures. First of all, although it is foreseen that other institutions participate in the development process, this was not the case. Of the six developed plans, five were for IDEAS clients, and at those meetings, in addition to the integration counselor from SCRM, representatives of UNHCR and, when necessary, cultural mediators from the Center for Crisis Policy and Response also attended.³⁰⁹ Due to these limitations, SCRM's activities in the integration process are currently predominantly focused on enabling access to Serbian language classes, providing information on available forms of material support, and ensuring the same. Strengthening coordination among institutions and adapting plans to the individual needs of beneficiaries could contribute to improving the integration process. Given that the number of people granted international protection in Serbia is not large, there is an opportunity to approach their integration in a more efficient manner.

6.8. Right to Accommodation

The Asylum Act guarantees the right to accommodation to refugees in Serbia. Accommodation includes a specific living space provided for temporary use or financial assistance needed for temporary accommodation.³¹⁰ It is provided in

³⁰⁶ Ibid.

³⁰⁷ SCRM, Response to the request for access to information of public importance, no. 019-3496/2-2024, dated 31 January 2025; CRMS, Response to the request for access to information of public importance, no. 019-2040/1-2024, dated 2 August 2025.

³⁰⁸ Ibid.

³⁰⁹ At the initiative of IDEAS, representatives of the CSO Atina attended the meetings in certain instances.

³¹⁰ Article 55 of the Asylum Act.

accordance with a special regulation governing the accommodation of refugees - the Decree on Criteria for Temporary Accommodation of Persons with Asylum or Subsidiary Protection.³¹¹

Providing accommodation to refugees is under the jurisdiction of SCRM, and the right to this type of assistance lasts for a maximum of one year from the date the decision granting asylum becomes final. To exercise this right, refugees must prove that they do not have their own financial means to rent an apartment. Also, attending Serbian language classes is one of the prerequisites for receiving financial assistance for accommodation.³¹²

During 2024, assistance was approved for 3 individuals, exclusively in the form of financial support for renting an apartment.³¹³ The problem is the complex procedure for submitting applications for assistance, which is lengthy and includes conditions that are difficult to meet. Most refugees seeking assistance are unemployed and do not have stable income, which they prove with a certificate issued by the NES. Although this certificate is listed in the Decree on Accommodation as an example of proof of income to be submitted with the application, in practice it is not accepted as sufficient. An additional statement certified by a notary public is often required, in which the applicant confirms that they have no regular income or that it is insufficient for independent living. Although both the certificate and the statement are listed as examples of evidence, in practice the applicant is required to submit both documents, which further complicates the procedure and imposes additional costs on refugees, as notary public certifications are not free.

A significant challenge is also the time limit for the duration of assistance, which lasts one year from the date the decision recognizing the right to asylum becomes final. Given that the right to temporary accommodation is valid for one year from the date the decision granting asylum becomes final, and the process of submitting the application and making the decision can take several months, the period during which assistance is actually available is further shortened.

Another problem is the amount of financial assistance for housing. Instead of providing specific housing units, SCRM provides financial assistance, the amount of which is determined depending on the income per family member. Individuals

³¹¹ Official Gazette of the Republic of Serbia, Nos. 55/2005, 71/2005 - corr., 101/2007, 65/2008, 16/2011, 68/2012 - CC decision, 72/2012, 7/2014 - CC decision and 44/2014, available at: <https://www.paragraf.rs/dnevne-vesti/200715/200715-vest15.html>, hereinafter: Decree on Accommodation.

³¹² The Decree on Accommodation stipulates that if a refugee does not report to SCRM to attend Serbian language classes within 15 days of the final decision granting asylum or if they stop attending Serbian language classes without a justified reason, they lose the right to temporary accommodation assistance.

³¹³ SCRM, Response to the request for access to information of public importance, no. 019-3496/2-2024, dated 31 January 2025; CRMS, Response to the request for access to information of public importance, no. 019-2040/1-2024, dated 2 August 2025.

who have no income or whose income per family member does not exceed 20% of the minimum wage in Serbia can receive an amount equal to the minimum wage. Those whose income is up to 40% of the minimum wage receive 60% of the minimum wage, while individuals with income up to 60% of the minimum wage can exercise the right to 20% of the minimum wage. If income exceeds 80% of the minimum wage, the applicant does not meet the conditions for assistance. Given the rise in real estate prices and the cost of living, especially in larger cities, the amounts allocated are often insufficient to cover housing costs. An additional challenge is the fact that the number of household members is not taken into account when making decisions, so the amount of assistance is the same regardless of whether the application is submitted by an individual or a family. This means that larger families, who have higher costs, do not receive proportionally greater support, which can hinder their integration and stability.

These challenges indicate the need to improve the refugee integration system to ensure that support measures are available at the right time and in sufficient quantity to truly contribute to their empowerment.

Therefore, lengthy administrative procedures, insufficient financial assistance, and strict conditions for exercising rights are key problems faced by asylum seekers and refugees in exercising their social welfare rights. To make support more effective and tailored to their needs, it is necessary to create more flexible mechanisms that allow for faster and more efficient support.

One of the first steps is to expand the right to social assistance so that it also includes individuals accommodated in asylum centers, as they are also in a vulnerable position and often have no other sources of income. It is also crucial to speed up the procedure for approving social assistance to ensure timely support for those in need. In addition, the amount of assistance should be reconsidered to ensure that individuals can meet basic living needs.

Furthermore, it is necessary to develop more flexible individual integration plans that can be adapted to changes in the living circumstances of refugees. It should also be ensured that plans are regularly reviewed and updated to reflect the current needs and goals of refugees. Regular monitoring and evaluation of the effectiveness of integration programs are essential for identifying problems and making necessary corrections. Feedback should also be collected from refugees to ensure that their needs are met.

To ensure timely support, it is necessary to speed up the procedure for allocating financial assistance. Although the Decree on Accommodation stipulates that the NES certificate can be used as proof of income, in practice an additional statement certified by a notary public is often required. This additional condition represents a financial burden for refugees, who often do not have funds even for basic needs, let alone for covering the costs of document certification. To eliminate unnecessary obstacles in exercising rights, it is necessary to simplify

the income verification procedure and abolish the obligation to submit a certified statement, especially when other relevant evidence already exists. In addition, the amount of financial assistance for housing should be sufficient to cover real costs, taking into account the number of family members.

Finally, it is necessary to simplify the income verification procedure by abolishing the requirement for a statement certified by a notary public, as this represents an additional financial burden for refugees. Instead, consideration should be given to taking into account other evidence of income, which is also submitted with the application and does not represent a financial burden.

6.9. Education

The right to education is another fundamental human right important in the integration process. Through the education system, refugees and asylum seekers acquire knowledge, skills, and competencies. The national legislative framework guarantees this right, allowing asylum seekers access to primary and secondary education, while refugees also have the right to preschool and higher education. However, administrative procedures during enrollment are often complex and require additional documentation, which can pose a challenge for refugees who do not possess all the necessary documents. Financial difficulties can also be a problem, especially when it comes to buying textbooks, school supplies, or covering education costs. In addition, language barriers hinder the learning process, as many asylum seekers and refugees do not speak Serbian well enough to follow classes.

The Asylum Act specifically guarantees the right to education to asylum seekers and refugees. Asylum seekers have the right to free primary and secondary education. Access to education for children of asylum seekers is provided immediately, and no later than three months from the date of lodging the asylum application in the Republic of Serbia.³¹⁴ Refugees are enabled to attend free primary and secondary education, as well as preschool and higher education under the same conditions as domestic citizens.³¹⁵ The Decree on Integration recognizes the importance of assistance in education for refugees, providing SCRM support to those granted protection in the translation of school documents, provision of textbooks and school supplies, learning assistance, as well as inclusion in extracurricular activities.³¹⁶ In this way, efforts are made to facilitate the educational process and enable refugees to participate equally in the education system.

Access to education for children and adult refugees and asylum seekers in Serbia includes various forms of support, but also challenges that need to be overcome

³¹⁴ Article 55 of the Asylum Act.

³¹⁵ Article 64 of the Asylum Act.

³¹⁶ Article 6 of the Decree on Integration.

for the education system to be truly inclusive. Enrollment in educational institutions is carried out with the assistance of SCRM for children residing in asylum and reception centers, while children living at private addresses are supported in this process by civil society organizations. Unaccompanied and separated children are included in the school system by their temporary guardians, who provide them with additional support in the process of adapting to a new environment.

6.9.1. Preschool Education

Access to preschool education remains a challenge for asylum seekers and refugees in Serbia. Although refugees formally have the right to enroll children in kindergartens, asylum seekers face legal uncertainty because this right is not explicitly recognized in the Asylum Act. For both groups, administrative and financial barriers hinder the enrollment of children in preschool institutions. Such a situation further complicates the situation of parents who want to work or attend vocational training programs but do not have the opportunity to leave their children in a safe environment.

The kindergarten application process takes place through the eUprava Portal (eVrtić). Electronic submission of applications is done by filling out an electronic form on the Portal, and it is not necessary to attach documents that previously had to be submitted, as they are obtained ex officio.³¹⁷ 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.³¹⁸

The financial aspect further hinders access to preschool education for children of asylum seekers, as they are not entitled to subsidies available to Serbian citizens and foreigners with permanent residence.³¹⁹ Subsidies for the stay of children in kindergartens significantly reduce costs for parents, but the criteria for obtaining them are set in such a way that asylum seekers cannot meet them.

For a family to exercise the right 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 municipality where the child is enrolled in kindergarten, and that it was previously not possible for the child to be enrolled

³¹⁷ Available at: <https://euprava.gov.rs/vrtic?>

³¹⁸ The Center for Crisis Policy and Response, which provided support to asylum seekers and refugees in the kindergarten enrollment process, points to the problem of a child with granted asylum who could not be enrolled electronically because the portal rejected the mother's EBS, although the father and child had granted asylum.

³¹⁹ Decision on the Right to Reimbursement of Costs of Children's Stay in a Preschool Institution Founded by 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.htm

in a state kindergarten due to insufficient capacity.³²⁰ These conditions precisely exclude asylum seekers, significantly hindering or completely preventing their access to kindergartens. The method of subsidy payment further indicates institutional support for domestic families, while asylum seekers have no access to these benefits at all.

This situation leaves many families of asylum seekers and refugees in a vicious cycle – without kindergarten, parents cannot work or educate themselves, and without work, they cannot afford kindergarten, which hinders their integration and economic independence.

6.9.2. Primary and Secondary Education

Primary and secondary education is guaranteed to all persons in the asylum procedure, while refugees are provided with additional support through the Decree on Integration. The existing legal framework allows the enrollment of children with proof of previous education in appropriate grades, while for those without documents, an assessment of knowledge is carried out. Schools are obliged to develop individual support plans that include an adaptation program, intensive Serbian language classes, individualized teaching activities, and extracurricular programs.³²¹

For the recognition of previous education, it is important that there is a Decision on the Recognition of a Foreign School Document. The decision is issued in a procedure conducted by the organizational unit of the Qualifications Agency – the ENIC/NARIC center³²² – and during the reporting period, as well as in previous years, there were no major problems in its implementation.³²³ SCRM is formally responsible for providing support to refugees in this process, while it is formally absent for asylum seekers.³²⁴ In practice, both asylum seekers and refugees rely on CSOs when submitting requests for the recognition of school documents.

Although, in accordance with the professional instruction, the recognition of previous education is not necessary for continuing schooling, experience shows

³²⁰ Ibid.

³²¹ Ministry of Education, Science and Technological Development, number: 601-00-00042/2017, May 5, 2017, Professional Instruction on the Inclusion of Refugee/Asylum Seeker Students in the Education System of Serbia, available at:

<https://prosveta.gov.rs/vesti/strucno-uputstvo-za-ukljucivanje-ucenika-izbeglicatrailaca-azila-u-sistem-obrazovanja-i-vaspitanja/>

³²² Qualifications Agency, ENIC/NARIC center, available at:

<https://azk.gov.rs/stranica.php?id=95>

³²³ In March 2023, the Qualifications Agency and UNHCR in Serbia signed a Memorandum of Cooperation. This normalized cooperation between the two institutions towards finding solutions that will enable refugees access and inclusion in the education system, lifelong learning, and career guidance. Applicants were, in certain cases, exempt from paying the costs of the procedure with their requests

³²⁴ Article 6 of the Decree on Integration.

that it becomes crucial in later stages of education. For example, children enrolled in primary schools without this decision had to submit it when taking the entrance exam for secondary schools, while for enrollment in universities, the recognition of previously completed secondary school was necessary. This poses a problem for many refugees, as they may not possess the necessary school documents or may not be able to obtain them from their countries of origin.

Long-term monitoring of the schooling of asylum seekers and refugees indicates that the language barrier remains the main challenge. The lack of language assistants hinders integration into the school system, as children without adequate support have difficulty following classes. During the reporting period, the Center for Crisis Policy and Response organized informal Serbian language classes and learning assistance, but a systemic solution is needed for this problem.

6.9.3. Higher Education

Access to higher education in Serbia is enabled for refugees under the same conditions as citizens. In 2022, the University of Belgrade confirmed that these individuals can enroll in studies under the same conditions as domestic citizens.³²⁵ This also applies to enrollment in master's and doctoral studies at higher education institutions founded by the state of Serbia.³²⁶ However, the number of students from the refugee population remains low, partly due to financial barriers.

UNHCR, in cooperation with Serbian institutions and international partners, supports educational opportunities for refugees, including DAFI (Albert Einstein German Academic Refugee Initiative) scholarships that enable students worldwide, including in Serbia, to continue their education. Currently, 6 individuals with refugee status or asylum seekers are studying on DAFI scholarships.³²⁷

³²⁵ Professional Instruction for the Implementation of Enrollment in the First Year of Study Programs of Basic and Integrated Studies at Higher Education Institutions Founded by the Republic of Serbia for the 2022/2023 School Year, "Official Gazette of the Republic of Serbia", No. 49/2023, available at: <https://pravno-informacioni-sistem.rs/eli/rep/sgrs/ministarstva/uputstvo/2023/49/1/reg>

³²⁶ Professional Instruction for the Implementation of Enrollment in the First Year of Study Programs of Master's and Doctoral Studies at Higher Education Institutions Founded by the Republic of Serbia for the 2024/2025 School Year, "Official Gazette of the Republic of Serbia", No. 51/2024, available at: <https://pravno-informacioni-sistem.rs/eli/rep/sgrs/ministarstva/uputstvo/2024/51/2/reg>

³²⁷ UNHCR Serbia, Marking Four Years of DAFI Scholarship Implementation in Serbia, available at: <https://www.unhcr.org/rs/en/28623-marking-four-years-of-dafi-implementation-in-serbia.html>

07 Asylum Centers and Reception Centers

SCRM is responsible for providing material reception conditions for asylum seekers, as well as for the temporary accommodation of individuals granted asylum.³²⁸ Material reception conditions include accommodation, food, and financial assistance for personal needs.³²⁹ In addition, SCRM must ensure special reception conditions for asylum seekers in particularly vulnerable situations, such as: children, unaccompanied children, persons with disabilities, elderly persons, pregnant women, single parents with minor children, victims of human trafficking, persons with mental disorders, as well as victims of torture, rape, or other severe forms of psychological, physical, or sexual violence.³³⁰

During 2024, a total of 12 asylum centers (AC) and reception/transit centers (RTC) were operational, with some operating throughout the year while others were active only during certain periods. RTC Principovac, after the closure of RTC Šid, became an accommodation facility for unaccompanied children. RTC Šid was only operational in the first half of the year, as were the centers in Pirot, Dimitrovgrad, and Bosilegrad, which also operated for a limited time. On the other hand, RTC Bujanovac and RTC Preševo were active throughout the year. As for asylum centers, AC Tutin stopped accepting new users in the second half of the year. AC Krnjača, Obrenovac, Sjenica, and Vranje operated without interruption.

Data on the occupancy of centers during 2024 show significant differences in the number of accommodated persons in certain periods. For example, RTC Preševo, with a capacity of 950 places, had between 41 and 279 users per month, while the RTC Bujanovac, with a capacity of 230 places, recorded a number of users ranging from 26 to 116. Among the asylum centers, Sjenica had the largest number of accommodated persons, but this number gradually decreased during the year, while Krnjača had a relatively constant occupancy rate.

³²⁸ Article 23 of the Asylum Act.

³²⁹ Article 50 of the Asylum Act.

³³⁰ Article 17 of the Asylum Act.

Number of accommodated users in reception centers at the end of each month – 2024

RTC	Capacity	01	02	03	04	05	06	07	08	09	10	11	12
Principovac	200	0	0	0	0	0	0	0	8	12	3	3	28
Šid	120	20	36	57	4	15	16	10	0	0	0	0	0
Pirot	192	57	34	21	9	30	14	4	0	0	0	0	0
Dimitrovgrad	84	10	0	8	0	0	0	0	0	0	0	0	0
Bosilegrad	110	33	5	3	11	26	15	10	0	0	0	0	0
Bujanovac	230	82	116	70	53	44	38	26	82	95	42	75	36
Preševo	950	279	198	55	41	65	68	162	119	58	211	138	233

Number of accommodated users in asylum centers at the end of each month – 2024

AC	Capacity	01	02	03	04	05	06	07	08	09	10	11	12
Krnjača	830	141	125	106	102	101	119	113	116	112	103	98	104
Obrenovac	1000	173	61	59	54	41	42	41	41	34	32	31	26
Sjenica	440	278	342	317	164	151	119	88	127	122	133	95	78
Tutin	380	94	199	170	124	65	35	17	0	0	0	0	0
Vranje	220	45	46	48	51	54	49	35	34	42	60	62	61

A report published by the Centre for Research and Social Development IDEAS in February 2024 highlighted the need to improve reception conditions for asylum seekers and the importance of providing special conditions for vulnerable categories.³³¹ Additionally, research conducted by IDEAS during the first half of 2024 indicates serious shortcomings in ensuring adequate reception conditions for vulnerable groups, particularly LGBTIQ+ asylum seekers and survivors of gender-based violence.³³²

³³¹ Centre for Research and Social Development IDEAS (2024). Submission of the Centre for Research and Social Development IDEAS to the Human Rights Committee's 140th Session Related to examination of the 4th Periodic Report, <https://ideje.rs/wp-content/uploads/2024/03/SUBMISSION-OF-THE-CENTER-FOR-RESEARCH-AND-SOCIAL-DEVELOPMENT-IDEAS-TO-THE-HUMAN-RIGHTS-COMMITTEE-RELATED-TO-EXAMINATION-OF-THE-FOURTH-PERIODIC-REPORT-OF-SERBIA-2024-1.pdf>.

³³² Milanović, M. (2024). Assessment of LGBTIQ+ Asylum Seeker Experiences in Serbia: Analysis of Reception Conditions, Support Services and Recommendations for Policy Reforms, Center for Research and Development of Society IDEAS: <https://ideje.rs/wp-content/uploads/2024/09/Assessment-of-LGBTIQ-Asylum-Seeker-Experiences-in-Serbia.pdf>; Šemić, A. (2024). Bridging the Gap: Enhancing Support for GBV Survivors in Serbia's Asylum System: <https://ideje.rs/wp-content/uploads/2024/09/Enhancing-Support-for-GBV-Survivors-in-Serbias-Asylum-System.pdf>.

08 Situation of Particularly Vulnerable Groups of Asylum Seekers

The Asylum Act provides for special procedural and reception guarantees for individuals in a particularly vulnerable position, including children, persons with disabilities, the elderly, pregnant women, single parents with young children, as well as victims of human trafficking, serious illnesses, persons with mental difficulties, and victims of violence or torture.³³³ However, it remains unclear how individuals needing these guarantees are identified, nor how the competent authorities determine and implement the protection measures that should be available to them.

Although certain institutions are responsible for providing protection to vulnerable individuals, there is a lack of clear coordination and shared responsibilities among them. The Asylum Office,³³⁴ the Asylum Commission, and the Administrative Court do not issue specific decisions regarding the need for special procedural guarantees. Similarly, the vulnerability assessment system is not sufficiently developed within the reception centers, and the role of SCRM in this process is not precisely defined.

In the absence of a systematic approach, the identification and support for vulnerable individuals largely depend on CSOs. They play a crucial role in recognizing individual needs and connecting them with available services, but

³³³ Article 17, Asylum Act.

³³⁴ In practice, the Asylum Office recognizes the vulnerability of certain applicants through the reasoning of its decisions, especially in cases of unaccompanied children. These cases are resolved by invoking the principles of the best interests of the child and special procedural guarantees, emphasizing that a legal guardian and legal representative have been appointed for the child, and that they have been placed in a social welfare institution. However, this approach has not been consistently applied to other categories of vulnerable asylum seekers.

they have limited capacities and resources. Consequently, only a small number of vulnerable individuals receive comprehensive assistance, and many remain without any support. A particular problem is those who are in Serbia but have not lodged an asylum application – this group remains entirely outside institutional protection and without the possibility of accessing necessary services.³³⁵

A clearer support procedure has been established for unaccompanied children, who, after lodging an asylum application, are referred to guardianship and can be placed in social welfare institutions.³³⁶ For victims of human trafficking and gender-based violence, there is also the possibility of accommodation in the safe house of the non-governmental organization (NGO) Atina, but this form of support is available only to a small number of individuals, while systemic support in this area is lacking. Other vulnerable categories, including pregnant women, single parents, persons with serious health problems, and mental difficulties, are generally accommodated in SCRM's accommodation capacities, designated for vulnerable asylum seekers.³³⁷ Only in cases where health problems are so serious that they require hospitalization can a different type of accommodation and care be ensured.

For the system to truly respond to the needs of all vulnerable asylum seekers, additional efforts are needed to develop clear identification and vulnerability assessment procedures, provide better conditions in asylum centers, enable faster access to specialized services, and strengthen cooperation among all relevant actors.

8.1. Situation of Unaccompanied and Separated Children

In 2024, 850 individuals expressed their intention to seek asylum in Serbia, and children constituted a significant portion of this group – 131 of them (15.4%). According to Asylum Office data, among these children, only 17 were unaccompanied children, representing 1.88% of all registered foreign nationals.

³³⁵ AIDA Serbia 2023, pp. 139-143.

³³⁶ Ministry of Labour, Employment, Veteran and Social Affairs, Response to the request for information of public importance number 003611250202413400009001041001, January 8, 2025.

³³⁷ During the reporting period, AC Krnjača was the center that mainly accommodated vulnerable asylum seekers.

UASC who expressed their intention to seek asylum in Serbia - 2024

UASC	01	02	03	04	05	06	07	08	09	10	11	12	01
Male	4	0	0	1	6	1	0	1	1	2	1	0	4
Female	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	4	0	0	1	6	1	0	1	1	2	1	0	4

This number, however, is not consistent with the data from the Ministry of Labor, Employment, Veteran and Social Affairs, which recorded 40 unaccompanied children expressing their intention to seek asylum in April, May, and September 2024 alone.³³⁸

Official statistics show a small number of unaccompanied children who wish to seek asylum in Serbia, but a significant number of them remain outside the system. Data from reception centers and asylum centers under the jurisdiction of SCRM, as well as social welfare institutions under the Ministry's jurisdiction, indicate that their presence in Serbia is much greater.

At the end of 2024, a total of 2,637 unaccompanied children were identified in Serbia, while 1,829 of them were under the guardianship of social welfare centers.³³⁹ Nevertheless, data from centers under the jurisdiction of SCRM, as well as from social welfare institutions, show that the presence of these children is often temporary and that most of them do not remain in Serbia long-term. Information gathered during IDEAS' visits to these centers indicates that many unaccompanied children continue their journey towards the EU, where they wish to join family members.

This situation further complicates the provision of adequate support and protection for unaccompanied children, who rely on smugglers on their journey through the Western Balkans and are exposed to serious risks. There is growing concern that protection measures for this group are becoming weaker, leaving them more vulnerable to exploitation and violence. This indicates the need for a detailed review of the legal framework regarding their reception.

8.1.1. Absence of Age Assessment Procedure

One of the main problems related to the protection of unaccompanied children in Serbia is the lack of a clear and standardized age assessment procedure.

³³⁸ Ministry of Labour, Employment, Veteran and Social Affairs, Response to the request for information of public importance number 003611250202413400009001041001, January 8, 2025.

³³⁹ Ibid.

Currently, the national legal framework does not regulate this area, so an individual's age is most often determined solely based on their statement. Police officers are responsible for identity verification, which includes age, either on their own initiative or at the request of state authorities.³⁴⁰ However, at the Ministry of Interior level, there are no regulations establishing a formal procedure, nor clear guidelines that would assist officers in conducting this process.³⁴¹

The role of the social welfare system involved in this process introduces additional complexity. The Instruction on the Work of Social Welfare Centers³⁴² stipulates that a child is considered a minor based on their own statement and the assessment of a field worker.³⁴³ This instruction, however, does not provide further guidance on what constitutes a valid observation, nor does it establish a legally recognized method of age assessment.

The absence of a reliable mechanism for age determination has several negative consequences. One of the most obvious problems is the inconsistency in data on the number of unaccompanied children in Serbia. Different institutions – the Ministry of Labor, Employment, Veteran and Social Affairs, the Asylum Office, and SCRM – maintain separate databases, leading to discrepancies and errors in official records due to the lack of a unified procedure. This fragmentation complicates monitoring and resource allocation, further weakening the system's ability to adequately respond to the needs of unaccompanied children.

A more serious consequence of the lack of a clear age assessment procedure is the risk of misclassifying children as adults. The absence of a clear age assessment process can particularly create challenges in cases where it is not immediately obvious whether an individual is a child. In such situations, there is a risk that children may be incorrectly identified as adults, which can affect their access to appropriate care, accommodation, and procedural protection measures. The uncertainty in identifying and supporting children can also hinder their access to specialized reception and protection measures.

³⁴⁰ Law on Police, "Official Gazette of the Republic of Serbia", Nos. 6/2016, 24/2018 and 87/2018, Article 77.

³⁴¹ Centre for Research and Social Development IDEAS, Submission of the Center for Research and Social Development IDEAS to the Human Rights Committee's 140th Session Related to the Examination of the Fourth Periodic Report of Serbia, <https://ideje.rs/wp-content/uploads/2024/03/SUBMISSION-OF-THE-CENTER-FOR-RESEARCH-AND-SOCIAL-DEVELOPMENT-IDEAS-TO-THE-HUMAN-RIGHTS-COMMITTEE-RELATED-TO-EXAMINATION-OF-THE-FOURTH-PERIODIC-REPORT-OF-SERBIA-2024-1.pdf>, p. 27.

³⁴² Ministry of Labor, Employment, Veteran and Social Affairs, Instruction 019-00-19/2018-05 (2018): Instruction on the Method of Work of Social Welfare Centers – Guardianship Bodies in the Realization of Accommodation of Unaccompanied Minor Migrants/Refugee Children, April 12, 2018.

³⁴³ Ibid.

8.1.2. Protection of Unaccompanied Children – Social Welfare System

In addition to problems with age assessment, another challenge in the reception system for unaccompanied children is Serbia's social welfare system itself. The Family Law³⁴⁴ entrusts guardianship to social welfare centers, which have a wide range of responsibilities, far broader than just child protection. Although the law provides a basic framework for guardianship, including guardian responsibilities, appointment procedures, oversight mechanisms, and reasons for termination of guardianship, there are no clear standards for performing guardianship protection at the legal framework level.³⁴⁵ These gaps in the system often result in insufficient support for unaccompanied children.

Furthermore, one of the practical challenges is the overburdening of the social welfare system. The competent guardianship authorities do not have enough human resources to provide effective support to each child individually. Thus, it often happens that one guardian is responsible for a large number of unaccompanied children, which makes it difficult to build trust and a close relationship with the children, despite the guardians' efforts and motivation. As a consequence of this overburdening, children often have to wait a long time before a guardian is assigned to them, which delays their access to basic support and services. While official reports state that the average time for assigning a guardian is between two and five days after identification,³⁴⁶ during the reporting period there were cases where this process lasted significantly longer. This further hinders unaccompanied children from receiving adequate protection in a timely manner.

8.1.3. Accommodation of Unaccompanied Children

During the reporting period, most unaccompanied children were accommodated in ACs and RTCs. Key locations for their stay were AC Tutin, AC, as well as RTC Bujanovac, Šid, and Principovac. In the first half of the year, unaccompanied children were most often accommodated in RTC Šid, but after its closure in July 2024, RTC Principovac became the main place for their accommodation.

Regarding the origin of unaccompanied children, most who resided in asylum and reception centers came from Syria and Afghanistan (1,294 out of 2,253,

³⁴⁴ Family Law, "Official Gazette of the Republic of Serbia", Nos. 18/2005, 72/2011 - other law and 6/2015, available at: https://www.paragraf.rs/propisi/porodicni_zakon.html

³⁴⁵ Centre for Research and Social Development IDEAS, Submission of the Center for Research and Social Development IDEAS to the Human Rights Committee's 140th Session Related to the Examination of the Fourth Periodic Report of Serbia, p. 29.

³⁴⁶ Ministry of Labor, Employment, Veteran and Social Affairs, Response to the request for information of public importance number 003611250202413400009001041001, January 8, 2025.

accounting for 57.4%), followed by Egypt, Morocco, Pakistan, Iraq, and Türkiye. Although it is often assumed that unaccompanied children are predominantly boys, data show that girls constituted a significant portion of this population – 33.8% of the total number (761 out of 2,253).³⁴⁷

In addition to asylum and reception centers, some unaccompanied children were also accommodated in social welfare institutions under the jurisdiction of the Ministry of Labour, Employment, Veteran and Social Affairs. The Institute for the Education of Children and Youth in Niš and the Institute for the Education of Children and Youth in Belgrade – Vodovodska unit – accommodated a total of 103 children. The total number of children accommodated in the Niš Institute was 77, and in Belgrade, it was 26. In Niš, almost all children were boys, mostly from Syria, Afghanistan, and Egypt, while in Belgrade, children from Türkiye, Egypt, Norway, and China were also accommodated.³⁴⁸ Although foster care is recognized as the preferred solution for accommodating unaccompanied children, it was not used at all during 2024.³⁴⁹

The system for protecting unaccompanied children in Serbia requires improvements to ensure the respect for their rights and the child's best interests. Existing age assessment procedures are inadequate and inconsistent with international standards, which can lead to arbitrary decisions that jeopardize children's rights. It is necessary to establish a standardized age assessment procedure that will be independent of migration management, with mandatory implementation of protective measures until such a system is fully developed. A child-centered approach that prioritizes interviews over medical examinations and ensures transparency and the possibility of appeal is crucial to ensure through better coordination of institutions and training of professionals working with unaccompanied children.

Furthermore, the guardianship system must be significantly improved to ensure children have adequate protection and support. Amendments to the Family Law are necessary to allow for full-time engagement of guardians, with clearly defined standards for workload, qualifications, and obligations specific to working with unaccompanied and separated children. Increasing the number of professionals in the social welfare system and ensuring sustainable funding for guardianship through national resources, instead of relying on external sources, is crucial for the long-term effectiveness of this system.

Ensuring adequate accommodation remains one of the main challenges. Foster care, as the most desirable solution, must be actively developed through

³⁴⁷ Ministry of Labor, Employment, Veteran and Social Affairs, Response to the request for information of public importance number 003611250202413400009001041001, January 8, 2025.

³⁴⁸ Ibid.

³⁴⁹ Ibid.

programs for recruiting and training foster families. Reception centers must be adapted to the specific needs of children, providing safe and stimulating conditions for their development. Accommodation in facilities such as RTC Principovac, which due to its location and function is not suitable for long-term stay, cannot be a permanent solution. Instead, it is necessary to develop accommodation models that ensure stability, support, and the possibility of integration, with full respect for the child's ethnic, religious, cultural, and linguistic background.

8.2. Individuals Who Have Survived Sexual and Gender-Based Violence

Gender-based violence (GBV) encompasses all forms of violence, including physical, sexual, and psychological abuse.³⁵⁰ In the context of displacement, GBV emerges as a reason for leaving the country of origin, a threat during the journey itself, and a problem that can persist after arriving in a new environment. Perpetrators can vary – from intimate partners and family members to smugglers and human traffickers. Although it most often affects women and girls, men and boys are not exempt from the risk.³⁵¹

The legal framework in Serbia provides certain guarantees for the protection of asylum seekers and survivors of GBV. The Asylum Act recognizes GBV as an act of persecution,³⁵² and provides special procedural and reception guarantees for vulnerable asylum seekers, including survivors of severe forms of violence.³⁵³ The Law on Gender Equality³⁵⁴ defines GBV,³⁵⁵ and prescribes measures for its prevention and support for survivors, including free legal and social protection.³⁵⁶ Protection from domestic violence is also regulated by the Law on the Prevention of Domestic Violence,³⁵⁷ and the Family Law, which define forms of violence and prescribe protective measures for victims. The Law on the Prohibition of

³⁵⁰ ASC, *GBV Guidelines for Integrating GBV Interventions in Humanitarian Action, Part 1*, 2015, available at:

<https://interagencystandingcommittee.org/sites/default/files/migrated/2021-03/IASC%20Guidelines%20for%20Integrating%20Gender-Based%20Violence%20Interventions%20in%20Humanitarian%20Action%2C%202015.pdf>.

³⁵¹ Centre for Research and Social Development IDEAS, *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>.

³⁵² Article 28, Asylum Act.

³⁵³ Article 17, *Ibid.*

³⁵⁴ Law on Gender Equality, "Official Gazette of the Republic of Serbia", No. 52/2021, available at: <https://www.paragraf.rs/propisi/zakon-o-rodnoj-ravnopravnosti.html>.

³⁵⁵ Article 6, *Ibid.*

³⁵⁶ Articles 51-55, *Ibid.*

³⁵⁷ Law on the Prevention of Domestic Violence, "Official Gazette of the Republic of Serbia", Nos. 94/2016 and 10/2023 – other law, available at: https://www.paragraf.rs/propisi/zakon_o_sprecavanju_nasilja_u_porodici.html.

Discrimination³⁵⁸ provides additional protection by prohibiting discrimination based on gender identity and sexual orientation.³⁵⁹ The Criminal Code includes a range of criminal offenses related to GBV, including femicide, stalking, sexual harassment, and forced marriage.³⁶⁰

Although the legislative framework recognizes GBV and prescribes certain protection measures, challenges remain in practice regarding the identification and adequate support for survivors, especially among asylum seekers and refugees.

8.2.1. Problems in Identification and Support

The effective application of special procedural and reception guarantees for asylum seekers, particularly those with heightened vulnerabilities such as survivors of GBV and LGBTIQ+ individuals, requires establishing a robust system for the early and appropriate assessment of their specific needs, ideally during initial intake process, or in first few days after arrival. This initial assessment should be based upon standardized procedure and conducted by appropriately trained personnel. However, upon arrival at reception and asylum centers, the intake assessment is generally limited to collecting basic identification data. Consequently, specific vulnerabilities, risks, and immediate needs – crucial for ensuring adequate support and appropriate accommodation from the outset – is not consistently undertaken.

According to research on reception conditions published by IDEAS in April 2024, many asylum seekers report that during their admission to the centers, officials only asked for their first name, last name, and country of origin. Sometimes, even this information was omitted if they had appropriate identification documents. Interviews are generally conducted in English, which poses a serious barrier for those who do not speak it, further complicating the disclosure of sensitive information.³⁶¹ This practice indicates a lack of systematic needs assessment during admission, resulting in the specific needs and risks of GBV survivors remaining unrecognized and without adequate support.

In addition to procedural challenges, there is also the problem of distrust in institutions. Many asylum seekers and migrants who have experienced violence do not report their experience out of fear, shame, or fear of retaliation by

³⁵⁸ Law on the Prohibition of Discrimination, "Official Gazette of the Republic of Serbia" Nos. 2/2009 and 52/2021, available at:

https://www.paragraf.rs/propisi/zakon_o_zabrani_diskriminacije.html.

³⁵⁹ Article 2 and Article 13, Ibid.

³⁶⁰ Criminal Code, "Official Gazette of the Republic of Serbia", Nos. 85/2005, 88/2005 - corr., 107/2005 - corr., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016, 35/2019 and 94/2024, available at: <https://www.paragraf.rs/propisi/krivicni-zakonik-2019.html>.

³⁶¹ Centre for Research and Social Development IDEAS, Bridging the Gap: Enhancing Support for GBV Survivors in Serbia's Asylum System.

perpetrators. The short stay in Serbia further hinders the establishment of trust with professionals who could provide them with assistance, and the lack of information about available protection mechanisms only further increases uncertainty. Although some Ministry of Interior officials manage to identify vulnerable individuals during registration, in most cases, information about victims comes from CSOs.³⁶²

8.2.2. Lack of Systemic Support

Despite legal obligations, systemic support for survivors of GBV among refugees and asylum seekers in Serbia is not sufficiently developed. The identification of these individuals is lacking, and available assistance largely depends on CSOs and international actors.

Access to justice, which is crucial for survivors of sexual and gender-based violence, is often inaccessible in practice. A very small number of survivors decide to report violence to competent institutions, and the reasons for this are numerous – from fear of consequences and distrust to language barriers and dependence on the individuals who brought them to Serbia. In addition, prejudices among some institutional representatives can further discourage survivors from seeking protection. Although the legal framework provides mechanisms for sanctioning violence, their implementation in practice is often lacking, which prevents the realization of the right to protection and justice.

Regarding accommodation, women who have survived violence are in some cases allowed to stay in a safe house run by the NGO Atina.³⁶³ However, the capacities of this shelter are limited and not available to all who need help. In most situations, the Ministry of Interior, in cooperation with SCRM, refers women traveling alone or men at risk to one of the asylum centers designated for the accommodation of vulnerable categories of asylum seekers. During 2024, these individuals were referred to the AC Krnjača, along with other vulnerable categories among asylum seekers. Although long-standing practice shows that staying in centers with mixed populations can increase the risk of further violence and retraumatization, there is no alternative within the state system. A particular problem is the fact that safe accommodations in Serbia are not systematically available to asylum seekers and migrants who have survived sexual or gender-based violence.³⁶⁴ Although the assistance provided by the NGO Atina is of

³⁶² AIDA, Country report: Serbia, p. 185.

³⁶³ Ibid., p. 140.

³⁶⁴ Atina's 2023 analysis of the functioning of all shelters for women and children survivors of violence in Serbia shows that women without documents, as well as those with the status of foreign nationals, are often denied access to this service for procedural reasons, despite the fact that the law guarantees their right to it. *Funkcionisanje i rad prihvatilišta za žene žrtve*

immense importance for the emergency care of vulnerable individuals and their empowerment through various programs, this solution is not sufficient.

Finally, a major challenge for women who have survived violence and are also single mothers is accessing services that are crucial for their long-term stability. One example is the inability to enroll children in kindergarten with the help of subsidies (See section: Right to Education), which means they have to pay the full price of the child's stay. This barrier is particularly problematic in the first six months of their stay, when they are not allowed to work. Even after that period, when they acquire the right to work, the question arises as to whom they can leave their children with while they try to find employment. The absence of systemic solutions in this area further complicates the exit from vulnerability and the empowerment of women who have survived violence.

Although the legal framework in Serbia recognizes gender-based violence and provides certain protection measures, survivors among refugees and asylum seekers still face serious challenges. The lack of systematic vulnerability assessment upon admission, limited access to justice, systemic shortcomings in providing accommodation, and hindered access to basic services, such as kindergartens for children of single mothers, further complicate the exit from situations of violence and the long-term stabilization of these individuals. Support largely depends on CSOs, which is not a sustainable solution.

To make protection more effective, it is necessary to improve the vulnerability recognition system through mandatory needs assessment upon admission, with adequate training for officials. Survivors of violence must have access to safe accommodation, which requires the development of state capacities for their care, including safe houses available to both refugees and asylum seekers. While existing shelters run by municipal Centers for Social Welfare are formally accessible to this population, their services are not free of charge—costs are covered by the entity making the referral, as is the case for Serbian nationals. Access to justice must be facilitated through the provision of interpreters and better coordination of institutions. At the same time, it is necessary to adapt the social welfare system to enable single mothers to enroll children in kindergartens at subsidized prices and facilitate access to empowerment and employment programs. Raising awareness among migrants and refugees about their rights and available protection mechanisms, as well as educating professionals working with this population, are crucial for reducing prejudice and building trust in the system.

nasilja u Srbiji, available at:

<http://atina.org.rs/sites/default/files/Funkcionisanje%20i%20rad%20prihvatili%C5%A1ta%20za%20%C5%BEene%20%C5%Bertve%20nasilja%20u%20Srbiji%20-%20Analiza%20zate%C4%8Denog%20stanja.pdf>

09 Temporary Protection for Persons Displaced from Ukraine

9.1. Legal Framework

Article 74 of the Asylum Act provides for the possibility of granting temporary protection. Temporary protection is granted in an extraordinary procedure in cases of a mass influx of displaced persons who cannot return to their country of origin or habitual residence if there is a risk that, due to this mass influx, it is not possible to effectively conduct every¹ individual asylum procedure to protect the interests of displaced persons and other individuals seeking protection. The decision on providing temporary protection is made by the Government.

Displaced persons are defined as foreign nationals who have been forced to leave their area or country of origin or habitual residence, or who have been evacuated, and who cannot return to permanent and safe living conditions due to the prevailing situation in that country, particularly:

- > Individuals who have left an area of armed conflict or local violence;
- > Individuals who are in serious danger of mass human rights violations or who have been victims of such violations.³⁶⁵

Temporary protection may also be granted to individuals who, at the time of the decision on temporary protection, were lawfully residing in Serbia, but whose right to reside expired before the revocation of the temporary protection decision.³⁶⁶ Individuals granted temporary protection are registered, and a

³⁶⁵ Article 74, paragraph 2 of the Asylum Act.

³⁶⁶ Article 74, paragraph 3 of the Asylum Act.

special decision is made, after which they enjoy the rights under Article 76 of the Asylum Act.³⁶⁷

Temporary protection can be granted for a maximum of one year and can be extended if the reasons for it still exist for an additional 6 months or a maximum of one year. However, this does not prevent the Government from making a new decision with a new validity period of one year with the possibility of extension, which has been done in relation to Ukrainian refugees. It ceases when the period for which it was granted expires or when the reasons for which it was granted cease to exist, a decision on which is also made by the Government.³⁶⁸

9.2. Practice of Granting Temporary Protection to Displaced Persons from Ukraine

The Government's decision on temporary protection was first adopted on March 19, 2022,³⁶⁹ and has been extended twice since then. It was last extended on March 16, 2024, with a provision that temporary protection would automatically be extended if the reasons for it still exist.³⁷⁰ In other words, temporary protection for citizens of Ukraine and other forcibly displaced persons from that country remains in effect.

During 2024, 381 individuals were registered in accordance with the temporary protection provisions, temporary protection was granted for the first time to 355 of them, while a decision to extend temporary protection was issued for 672 individuals.

³⁶⁷ Article 74, paragraph 4 of the Asylum Act.

³⁶⁸ Article 75 of the Asylum Act.

³⁶⁹ *Official Gazette of the Republic of Serbia*, Nos. 36/2022, 21/2023 and 21/2024, available at: <https://pravno-informacioni-sistem.rs/eli/rep/sgrs/vlada/odluka/2022/36/1/reg>.

³⁷⁰ Decision on Providing Temporary Protection in the Republic of Serbia to Displaced Persons Coming from Ukraine, *Official Gazette of the Republic of Serbia*, Nos. 36/2022, 21/2023 and 21/2024, available at: <https://www.paragraf.rs/propisi/odluka-o-pruzanju-privremene-zastite-raseljenim-licima-koja-dolaze-iz-ukrajine.html>.

Number of persons registered in accordance with temporary protection provisions³⁷¹

Month	Ukraine	Russian Federation	Other	Total	M	F	Children
January	17	0	2	19	11	8	0
February	17	1	0	18	7	11	0
March	24	0	0	24	7	12	5
April	32	1	0	33	8	19	6
May	26	1	0	27	4	16	7
June	21	0	1	22	10	12	0
July	25	1	1	27	11	12	4
August	34	2	0	36	12	15	9
September	38	2	0	40	15	20	5
October	54	2	0	56	17	26	13
November	50	3	0	53	21	19	13
December	43	2	0	45	17	25	3
Total	381	15	4	400	140	195	65

Number of persons granted temporary protection in Serbia from January 1, 2024 to December 31, 2024³⁷²

UASC	Ukraine	Russian Federation	Other	Total
January	15	2	1	18
February	19	1	1	21
March	8	0	0	8
April	39	2	0	41
May	0	0	0	0
June	7	0	0	7
July	72	1	2	75
August	13	0	0	13
September	20	1	0	21
October	75	4	0	79
November	36	2	0	38
December	51	3	0	54
Total	355	16	4	375

³⁷¹ Monthly reports of the Asylum Office.

³⁷² Monthly reports of the Asylum Office.

Number of Persons Whose Temporary Protection in Serbia Was Extended from January 1, 2024 to December 31, 2024³⁷³

UASC	Ukraine	Russian Federation	Other	Total
January	0	0	4	4
February	0	0	0	0
March	39	2	1	42
April	544	16	11	571
May	7	0	0	7
June	5	0	0	5
July	62	1	0	63
August	5	0	0	5
September	2	0	0	2
October	6	0	0	6
November	2	0	0	2
December	0	0	2	2
Total	672	19	18	709

³⁷³ Monthly reports of the Asylum Office.

10

Recommendations

Access to Territory and Asylum Procedure

- > All institutions responsible for state border control shall refrain from all practices by which persons who may be in need of international protection are informally, i.e., outside legally established procedures, forcibly deterred or returned to the countries from which they enter Serbia.
- > It is necessary to ensure that all border procedures contain adequate guarantees and instructions for action that would prevent potential human rights violations and illegal practices that could lead to violations of the right to access territory and the asylum procedure, by establishing appropriate oversight and control mechanisms.
- > Every person found under the effective control of the competent authorities, in the context of border control, shall be considered a person deprived of liberty. Upon their arrival in Serbia, they shall be identified and registered in accordance with the Asylum Act or the Foreigners Act. A medical examination and initial vulnerability assessment shall be conducted, and the deprivation of liberty itself shall be officially recorded. These persons shall be enabled to access legal aid and to inform a person of their choice about their deprivation of liberty, and they shall be informed, both verbally and in writing, about their rights, obligations, and applicable procedures, which include notification of the right to express an intention to lodge an asylum application in Serbia.
- > Persons who may be in need of international protection, and in relation to whom the issuance and serving of a refusal of entry decision is being considered, must be provided with all information about their rights and obligations and applicable procedures, and above all, information about the right to lodge an asylum application in Serbia, as well as to enjoy legal aid and the possibility to appeal against the refusal of entry decision.
- > It is necessary to amend the Foreigners Act to recognize the status of a person deprived of liberty in the airport transit zone or any other transit zone for individuals whose refusal of entry into Serbia is being considered or has already been realized through a refusal of entry decision. Through the mentioned amendments, these individuals must be guaranteed all rights that are an integral part of the right to liberty and security of person, which include the serving of a deprivation of liberty decision, the possibility of appeal, and the possibility of access to legal aid.
- > Also, the Foreigners Act should enable an appeal lodged against a refusal of entry decision to have an automatic suspensive effect, so that the appeal can achieve its full effect.
- > It is necessary to improve practice and all standard operating procedures related to border control and the practice of issuing and serving refusal of

entry decisions to further guarantee respect for the principle of non-refoulement, which is guaranteed by the Constitution, the Asylum Act, and the Foreigners Act, by establishing mechanisms for monitoring the implementation of these practices and procedures.

- > An individual's previous immigration status should not affect that person's right to seek asylum, given that it is a constitutionally guaranteed right. It is necessary for the Asylum Office, in communication with all regional border police centers and police directorates, to clearly point out this fact.
- > Regarding access to the asylum procedure, it is necessary to amend the Asylum Act and abolish the deadline for lodging an asylum application after the issuance of a registration certificate, given that an already established practice has proven effective in fulfilling the right to asylum.
- > Taking into account the migration situation that has been ongoing for several months and the significantly smaller number of people arriving in Serbia, SCRM and the Ministry of Interior, in coordination, could consider reducing the current number of operational asylum centers and reception centers and consider the Krnjača and Obrenovac asylum centers as centers where all foreign nationals registered in accordance with Article 35 of the Asylum Act will be accommodated.
- > The registration certificate should be translated into all languages that persons in need of international protection most frequently understand. More effective communication could also be ensured through telephone interpretation services, the use of modern technologies, and similar means.

Asylum Procedure

- > It is necessary to enable sustainable ways of financing interpretation in the asylum procedure to ensure the sustainable application of the principle of free interpretation guaranteed by Article 13 of the Asylum Act.
- > It is necessary to harmonize internal procedures and shorten the duration of the asylum procedure as much as possible to ensure the effective application of the Asylum Act.
- > An internal quality control system for first-instance decisions should be introduced within the Asylum Office to harmonize and standardize practice regarding identical or similar cases, thereby making it more predictable and ensuring continuous quality control of decision-making.
- > Country of origin reports cited by the Asylum Office in negative decisions should be presented in their entirety, stating both the parts that support the rejection of the asylum application and the parts that corroborate the individual allegations of asylum seekers, regardless of the legal representatives' submissions.
- > In cases involving asylum seekers who have been assessed as a threat to the security of Serbia, the decision should contain at least part of the facts on which the security assessment is based, so that asylum seekers can challenge the mentioned assessment before higher instances.

- > It is necessary to establish better coordination between competent state authorities, expert associations or individual experts acting within competent state authorities, civil society organizations, or professional associations to improve special procedural guarantees for all categories listed in Article 17 of the Asylum Act during the asylum procedure.
- > The Asylum Commission should introduce a practice of hearing asylum seekers on the circumstances of the lodged appeal.
- > The Asylum Commission should introduce a practice of comprehensive analysis of decisions made by the Asylum Office to ensure consistency in practice and to establish a corrective influence on the work of the Asylum Office.
- > Given the complexity of cases considered by the Asylum Commission, the time required to process appeals, and the need for a thorough analysis of individual and general circumstances of applicants, it is necessary for the members of the Asylum Commission to receive adequate financial compensation for their work.
- > The Asylum Commission should be provided with an office, a secretary, and staff who would independently conduct research on the human rights situation in the country of origin.
- > The Asylum Commission should more frequently make decisions recognizing the right to asylum in Serbia, especially in cases that are by their nature such that they have been recognized in the past as persons in need of international protection.
- > The Administrative Court should establish a special department composed of judges with narrow expertise in areas regulated by the Asylum Act and the Foreigners Act, with an auxiliary department for conducting research on the human rights situation in the country of origin.
- > The Administrative Court should introduce the practice of holding oral hearings and deciding in disputes of full jurisdiction.
- > Cases related to asylum matters should be prioritized by the Administrative Court.

Inclusion and Integration

- > The Ministry of Interior should ensure that the appearance and content of personal cards for refugees and asylum seekers are harmonized with the Law on Identity Cards, including the introduction of the EBS (Foreigner's Registration Number). This would facilitate the identification and confirmation of the legal status of these individuals and reduce the need for obtaining additional documentation, which in some situations, in addition to complicating procedures, also represents an additional cost.
- > The Ministry of Interior, the Ministry of Labour, Employment, Veteran and Social Affairs, in cooperation with SCRM and with the support of international organizations and civil society organizations, should conduct information campaigns and training for employers on the rights of asylum seekers and

refugees in the field of work and employment, including the use of existing simplified procedures.

- > Better coordination between SCRM, the National Employment Service (NES), and civil society organizations is crucial to ensure timely and effective provision of support to asylum seekers and refugees in employment. Joint planning of activities and better information exchange between these actors could significantly improve the support system and enable refugees, as well as asylum seekers, to receive relevant information and assistance in finding employment in a timely manner.
- > It is necessary to harmonize the Asylum Act in the area of healthcare with the Law on Healthcare and the Law on Health Insurance. The Law on Health Insurance should be amended to clearly define the right to health insurance for asylum seekers and refugees under international protection.
- > The Ministry of Health and the Republic Health Insurance Fund (RHIF), in cooperation with SCRM and with the support of international partners, should conduct training for employees in all RHIF branches to ensure consistent and lawful action regarding the exercise of the right to health insurance for asylum seekers and refugees, including the possibility of individual payment of contributions.
- > The Ministry of Health should continue to implement continuous educational programs for healthcare professionals and staff in healthcare institutions, with the aim of raising awareness of the rights of asylum seekers and refugees and ensuring equal and non-discriminatory access to healthcare services.
- > Amendments to relevant laws and bylaws are necessary to explicitly extend the right to financial social assistance to persons accommodated in asylum centers, given their vulnerable position and lack of other sources of income.
- > It is necessary to develop more flexible individual integration plans that can be adapted to changes in the living circumstances of refugees. It should also be ensured that plans are regularly reviewed and updated to reflect the current needs and goals of refugees. Regular monitoring and evaluation of the effectiveness of integration programs are essential for identifying problems and making necessary corrections.
- > SCRM should take measures to simplify procedures related to proving income for exercising the right to financial assistance, including abolishing the obligation to submit a certified statement at a notary public when other valid evidence, such as a certificate from the National Employment Service, already exists. Additionally, it is necessary to re-examine the existing model of housing cost assistance and ensure that the amount is aligned with real housing costs, taking into account the number of family members and other specificities.
- > It is necessary to provide systematic support for learning the Serbian language for children of asylum seekers through intensive and continuous language courses to enable equal participation in the educational process.

- > To enable facilitated access to citizenship for persons granted international protection, in accordance with the Convention relating to the Status of Refugees, it is necessary to precisely define the conditions that refugees must meet to acquire the right to citizenship and to clearly define the deadlines for processing applications.
- > In accordance with Article 89 of the Law on General Administrative Procedure, which provides for exemption from paying costs when it would be in the interest of the party, it is necessary to consider introducing the practice of exempting persons granted international protection from paying fees when submitting applications for permanent residence and citizenship.