

CHALLENGE OF MIGRATIONS– THE CASE OF SERBIA

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*The reality always surpasses all imagination
(Danilo Kiš)*

ABSTRACT: Spring wave of refugees threatens Europe this year 2016. The paper highlights the problems caused by the influx of refugees in the Republic of Serbia, as well as legal norms in force. In Serbia, the refugees are treated more fairly than in many European countries. Our country is faced with all types of migration. This imposes a number of different yet clearly related challenges for modern migration management. On the territory of the Republic of Serbia there are 82 opened border crossings, of which 50 road, 14 railway, 4 airport, 12 river and 2 ferry. Back in December 2008, the Government of the Republic of Serbia has decided to establish the Center for asylum, which operates within the Commissariat for Refugees. To meet these challenges caused primarily due to a sudden increase in the number of asylum seekers in the Republic of Serbia in 2010, 2011 and 2012, particularly after the intensification of the armed conflict in Syria, the government has opened a new center for asylum in Bogovadja.

The situation with migrants is more serious in Serbia and now the checking of all migrants who pass through our country is reinforced. According to the Government's Decision on the issuing the certificate of entry on the territory of the Republic of Serbia for migrants coming from countries where their lives are in danger (2015), this certificate serves migrants to stay in the Republic of Serbia for a period of 72 hours of its issuance. With this certificate migrants may use the services of banks, stay in establishments providing accommodation and receive the necessary medical help. Holders of these certificates do not acquire the status of asylum seekers in terms of rules for asylum in the Republic of Serbia.

In Serbia there is a clear policy of migration management which is carried on through different national strategies and strategic documents for accession to the EU, though migration represent a global phenomenon whose impact and consequences transcend national boundaries. One of the foreign policy priorities of the Republic of Serbia is to be placed on the so-called "white Schengen list", what necessarily imposes the need of prevention of illegal migration, especially from our country or from other countries through the territory of the Republic of Serbia, toward other EU countries, candidate countries for EU membership, but also to other countries in general.

KEYWORDS: Migration; refugees; Serbia; legal norms; strategy.

JEL CODE: K33

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1. INTRODUCTION

Spring wave of refugees was threatening Europe this year 2016. Already in 2002 it was written about "the local integration of refugees in the Republic of Serbia" (Vorkapić, 2002). Today, at the end of 2016, the migrant crisis in the region is still lasting. Greeks are in panic because of the influx of migrants (there are more than 60.000 mainly on the islands of Greece), and in neighboring Bulgaria is now located about 13.000 migrants.

In Serbia, the refugees are treated more fairly than in many European countries. It is known that in Sweden the respect for gender equality is inviolable, but it is also interesting that, back in 2008, originated the proposal not to allow the establishment in the Scandinavian countries to "illiterate" and for those people with low education.

Serbia is faced with all types of migration: external and internal, voluntary and forced, legal and illegal, migration of highly skilled and unskilled workers, immigration and emigration. This imposes a number of different yet clearly related challenges for modern migration management. (Grant, 2013). In 2011 in Serbia there were 7.272 permanently residing foreigners, what represented a rise compared to 2010 when there were 6.750. Among the permanent foreign residents the largest number is from Romania, the Russian Federation, the Republic of Macedonia and Ukraine.

The total length of the borders of the Republic of Serbia is 2,351.7 kilometers, of which the length of the terrestrial borders of 1654.4 km, and a length of 697.3 km of water borders. Illegal border crossing and a violation of the border regime will be prevented by permanent surveillance of the state border crossings. On the territory of the Republic of Serbia there are 82 opened border crossings, of which 50 road, 14 railway, 4 airport, 12 river and 2 ferry.

The situation with migrants is more serious in Serbia and now the checking of all migrants¹ who pass through our country is reinforced. As a member of the United Nations (and the legal successor of the Socialist Federal Republic of Yugoslavia, the Federal Republic of Yugoslavia and the State Union of Serbia and Montenegro, as the former state) the Republic of Serbia is a signatory of the *United Nations Charter* (1945), the *Universal Declaration of Human Rights* (1948) and eight core international human rights treaties, including the *International Treaty on Civil and Political Rights* (1966) and the *International Convention on the Abolition of All Forms of Racial Discrimination* (1965).

The paper highlights the problems caused by the influx of refugees, as well as legal norms in force in the Republic of Serbia.

2. CONTEMPORARY TRENDS

In accordance with the Government's *Decision on the issuing the certificate of entry on the territory of the Republic of Serbia for migrants coming from countries where their lives are in danger* ("Official Gazette of the Republic of Serbia", no. 81/15) in force and in implementation from 25.09.2015, to migrants, foreign nationals who come in the Republic of Serbia from countries where their lives are in danger, the certificate of entry into the territory of the Republic of Serbia for foreign nationals who come from countries where their lives are in danger, is issued. This certificate serves migrants to stay in the

¹ Daily number of migrants goes up to 9000 people.

Republic of Serbia for a period of 72 hours of its issuance. With this certificate migrants may use the services of banks, stay in establishments providing accommodation and receive the necessary medical help. Holders of these certificates do not acquire the status of asylum seekers in terms of rules for asylum in the Republic of Serbia. The experience from the previous period on political migrants is modest considering that the Republic of Serbia took over responsibility for determining the status on the 1st of April 2008.

Back in December 2008, the Government of the Republic of Serbia has decided to establish the *Center for asylum*, which operates within the *Commissariat for Refugees*. To meet these challenges caused primarily due to a sudden increase in the number of asylum seekers in the Republic of Serbia in 2010, 2011 and 2012, particularly after the intensification of the armed conflict in Syria, the government has opened a new center for asylum in Bogovadja.

On the territory of the Republic of Serbia² there are 33 collective centers which accommodate 2.697 persons. Of the total number of collective centers in the territory of the Republic of Serbia, outside of Kosovo and Metohija, there are 20 collective centers with 2.173 persons, while in the territory of Kosovo and Metohija 13 collective centers with 524 persons accommodated. (Rakočević) Number of persons who expressed intention to seek asylum in the Republic of Serbia increased six times compared to 2010, so that in 2011 a total of 3.134 persons have expressed intention to seek asylum in the Republic of Serbia. Most of them are from the Islamic Republic of Afghanistan, Somali Republic and the Islamic Republic of Pakistan, followed by Islamic Republic of Iran and some North African countries. In 2012, 2.723 persons expressed the intention to apply for asylum in the Republic of Serbia.

Strategy for Combating Illegal Migration in the Republic of Serbia for the period from 2009 to 2014 ("Official Gazette of the Republic of Serbia", no. 25/09) is created to develop the capacity and capability of entities that create and develop strategy, cooperation with partners and other interested parties, the methodology of combating illegal migration, the system of measures the different categories of illegal immigrants and the establishment of a national concept Combating Illegal Migration. One of its core values stated is human treatment for illegal migrants. In late July 2009 the Government adopted a systematic, universal, umbrella Strategy for migration management, and in March 2011, revised, new *National Strategy for Resolving the issue of refugees and internally displaced persons for the period from 2011 to 2014* ("Official Gazette of the Republic of Serbia", no. 17/11). In late 2012, the Government adopted a complex *Migration profile of the Republic of Serbia for year 2011*.

Although the objectives and measures established by the Strategy adopted in 2011 are still valid, and activities taking place are continuously performed, certain changes in the national and international level that affect the status of refugees and internally displaced persons appeared. Therefore, *National Strategy for Resolving the issue of refugees and internally displaced persons for the period from 2015 to 2020* ("Official Gazette of the Republic of Serbia", no. 62/15), compared to the previously issued National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons for the period from 2011 to 2014, confirms previously identified goals and establishes new goals and objectives, develops measures and actions to be taken by the Government and other

² Data refer to the 1st of November 2012.

competent state authorities, in accordance with current conditions, needs and real possibilities.

The Government has adopted the *National Employment Strategy for the period from 2011 to 2020 year* ("Official Gazette of the Republic of Serbia", no. 37/11) in force and in effect as of 19.05.2011 which provides for expansion of the network of migration service centers at the National Employment Service that should provide information, advice and guidance to migrants and potential migrants what will contribute to reducing the risks of illegal migration. The Government has also adopted the *National Strategy for Youth for the period from 2015. to 2025* ("Official Gazette of the Republic of Serbia", no. 22/15) in force and in effect as of 27.02.2015 which proclaims improved mobility, expanding the scope of international cooperation of young people and support for young migrants as a strategic goal.

The present international position of Serbia is characterized by the fact that in March 2012 became a candidate for EU membership. This status requires further harmonization of national legislation with the standards and regulations of the European Union, as well as their full implementation.

On the status of certain migrant groups are applied the rules of special laws in the areas of the right to personal documents, the right to health and social care, education, employment, the right to pension insurance and the like. The legal regime for the issuing of identity documents is contained in a number of legal and sub-legal texts. Possession of identity documents is a fundamental prerequisite for the enjoyment of all other rights.

Work on establishing the visa information system of the Republic of Serbia has still not been ended. Keeping in mind the fact that the visa system of a country is an integral part of the security of the state and its ability for coordinated management of its borders, in order to harmonize technology and operations in this area with the EU, one of the priorities is the realization of the new visa module.³

By the CARDS 2006 Program equipment for the purposes of Administration of the Border Police was distributed to establish the minimum technical and technological infrastructure and renewal of existing equipment that was worn out. The existing equipment with equipment for the verification of travel documents and by their own forces developed application solution form the basis for the implementation of a new centralized solution for control of the border crossing.

Direct connection of border crossings with the Interpol database does not exist, but the data that Interpol forwards to the Ministry of Internal Affairs are directly inserted into a single information system which is immediately available for around 65% of border police stations. In order to increase efficiency and capacity of the state administration responsible for the implementation of the integrated border management system according to the European standards the twinning project of implementation of Integrated Border Management Strategy is realized in the Republic of Serbia.

The implementation of measures for better utilization of human resources for the country's development is the cooperation of experts in the homeland and those in the

³ The main carriers of the implementation of the project are the Ministry of Interior and Ministry of Foreign Affairs. The solutions envisaged by the project are based on Schengen Catalogue of the best practices and in accordance with the Consular instructions of European Union.

Diaspora, as well as the use of the migrant population and all their resources to reduce unemployment and poverty, as well as regional disparities (Finly, 2014).

In March 2009, the Serbian Parliament adopted the *Law on Prohibition of Discrimination* ("Official Gazette of the Republic of Serbia", no. 22/2009), and the reasons for the existence of discrimination can be found in the fact that a certain degree of intolerance exists in every society. State obligations in the field of human rights are not exhausted only by simple adoption of normative regulations on the prohibition of discrimination. Commitments extend also to the effective implementation of these provisions and the state's obligation to protect all citizens from discrimination, regardless of who makes it. By article 21, paragraph 1, of the Charter of Fundamental Rights of the European Union is envisaged that any discrimination *inter alia* on grounds of religion or belief will be prohibited.

The Strategy of prevention and protection against discrimination for the period from 2013 to 2018 ("Official Gazette of the Republic of Serbia", no. 60/13) in force and in the implementation from 27.06.2013 refers to the prevention and prohibition of all forms, types and specific cases of discrimination. The Strategy covers all persons and groups of persons with regard to their personal characteristics, especially ethnic minorities, and vulnerable social groups that are most frequently exposed to discrimination.

A clear strategy to prevent discrimination is crucial for the next five years in order to strengthen and improve the mechanisms of control, pass adequate laws and regulations and the Republic of Serbia has met and realistically implemented standards to eliminate or significantly reduce discrimination and discriminatory practices, particularly in terms of mentioned vulnerable groups.

The relationship of the local community and the majority population towards migrant groups is an important indicator of the possibility of discrimination against these groups. The survey data of the Commissariat for Refugees and Migration show that 64.4% of citizens support programs for solving the housing problems of refugees / internally displaced persons carried out by the state.

3. LEGAL BASIS

Strategically, legally and institutionally regulated area of migration is of great importance for the fulfillment of the necessary conditions primarily for visa liberalization, and then for joining the EU.

In the Law on Ratification of Constitution of the International Organization for Migration ("Official Gazette of the FRY-International Treaties", no. 4/01) in force and in effect as of 05.07.2001 confirming the Constitution of the International Organization for Migration, made on October 19, 1953, with amendments of 20 May 1987 in Geneva, it is noted that there is a need to strengthen cooperation between states and international governmental and non-governmental organizations, in the area of research and consultation on migration issues, not only in terms of the migration process, but also the specific situation and the needs of the migrant as an individual human being. The movement of migrants should, to the extent possible, be carried out using the services of regular transport. The International Organization for Migration based in Geneva is founded with the purpose and function to: (a) to make preparations for the organized transfer of migrants, for whom existing facilities are inadequate or who otherwise would

not be able to leave the country without special assistance, to countries offering the possibility of an regular migration; (b) deal with the organized transfer of refugees, displaced persons and other individuals in need of international migration and for what the arrangements can be arranged between the Organization and the States concerned, including States which accept their admission; (c) recognize the fact that control of standards of admission and the number of immigrants to be admitted, the issues under the jurisdiction of the states, and, in the exercise of its functions, shall comply with laws, regulations and policy measures of the states in question.

Integrated Border Management Strategy in the Republic of Serbia ("Official Gazette of the Republic of Serbia", no. 11/06), the Government adopted in January 2006. After adoption of the Strategy an Action plan for implementation of the Strategy was established and functional strategies which define areas of common interest for all border services (border police, customs and inspection services - veterinary and phyto-sanitary) were made. Functional strategy was made in the field of joint training, infrastructure, equipment and IT and telecommunication systems.

In accordance with the *Strategy of combating human trafficking in the Republic of Serbia* ("Official Gazette of the Republic of Serbia", no. 111/2006) the strategic objectives of the Republic of Serbia in the fight against trafficking in human beings are grouped in a number of areas: institutional framework, prevention, assistance, protection and reintegration of victims, international cooperation and monitoring and evaluation of results. A mechanism for coordination of activities and creation of policy for combating human trafficking was established. This mechanism consists of two levels, central-strategy, which includes the Council for Combating Trafficking in Human Beings, Coordinator for Combating Trafficking in Human Beings, the National Team for Combating Human Trafficking and operating one, which includes judicial authorities, police and the Office for Coordination of Protection of protection of victims of human trafficking. Significant support at the operational level provide specialized non-governmental organizations and international organizations. (Milisavljević, 2011). Bearing in mind the standards of protection of victims of trafficking, in 2004 the Ministry of Interior passed the *Instruction on conditions for approving temporary residence to foreign nationals victims of human trafficking*.

Aliens Act ("Official Gazette of the Republic of Serbia", no. 97/08) regulates the stay of foreigners and, in terms of this law, that is the stay up to 90 days, temporary and permanent residence. Illegal staying in the Republic of Serbia is considered to be staying in its territory without a visa, residence permit or other legal grounds. This Act regulates also the stay of foreigners in the immigration shelter, as well as the forced removal.

The Law on State Border Protection ("Official Gazette of the Republic of Serbia", no. 97/08) is harmonized with European standards. The application of this law in the Republic of Serbia will establish an effective system of protection of national borders, a high standard of controls and regulated cooperation of all authorities that participate in this procedure.

Criminal Code ("Official Gazette of the Republic of Serbia", no. 85/05, 88/05 and 107/05) recognized, among others, the following criminal acts: the illegal crossing of the state border and people smuggling, falsification of documents, guidance to notarization of false content, as well as trafficking.(Vuković, 2016).

The Government adopts *Strategy for Migration Management* ("Official Gazette of the Republic of Serbia", no. 59/09) in force and in effect as of 23.07.2009 according to which the basic elements of migration management are the visa policy, integrated border management, regulated stay of foreigners, the mechanisms for the integration of migrants into society, total protection of its nationals who are working and living abroad, as well as active labor market policies. A prerequisite for successful migration management is to ensure effective coordination between the institutions, so central that are responsible for making policy, and operational implementing them.

Joining the European Union for the Republic of Serbia is a strategic issue, which implies the acceptance of adopted European values and standards in a number of areas. The values on which the management of migration will be based are: - the security of national borders and citizens; - Respect for human rights of all migrants; - Facilitating the integration of vulnerable groups of migrants in society; - Developed international cooperation with the countries in the region and beyond; - Non-discrimination; - Facilitating family reunification; - Respecting the needs of all stakeholders.

According to the *Law on Refugees* ("Official Gazette of the Republic of Serbia", no. 18/92, "Official Gazette of the FRY", no. 42/02 and "Official Gazette of Republic of Serbia", no. 45/02), the Ministry for Human and Minority Rights is responsible for: performing tasks related to the protection and promotion of human and minority rights, especially the rights of vulnerable migrant groups, as well as - to provide assistance to vulnerable migrant groups of the population, while the *Law on Migration Management* ("Official Gazette of Republic of Serbia", no. 107/12) in force and in effect as of 17.11.2012 is governing migration management principles, the body responsible for migration management and a unique system of collection and exchange of information in the field of migration management. According to article 9. of the Law on Migration Management professional and other tasks related to the management of migration established by this law and related administrative tasks are performed by the Commissariat for Refugees and Migration.

Government made *Decision on the establishment of the Working Group for solving problems of mixed migration flows* ("Official Gazette of the Republic of Serbia", no. 54/15, 60/15, 72/15, 78/15) which is in effect from 09.19.2015, and by which the Working Group for solving the problem of mixed migration flows was established. The Working Group has duty to monitor, analyze, and discuss questions of mixed migration flows in the Republic of Serbia, with special emphasis on the problems in this area, gives the analysis of the situation and proposes measures for solution of the identified problems and harmonization of positions of competent state bodies and other organizations and institutions dealing with the issue of mixed migration flows.

The *Law on Budget of the Republic of Serbia for year 2015* ("Official Gazette of the Republic of Serbia", no. 142/14) envisages support to forced migrants and improvement of the system of migration management. Reserve funds are allocated to the Commissariat for Refugees and Migration, in order to provide the missing funds to local governments in the Republic of Serbia, for the urgent need to solve the elementary living conditions and eliminate the consequences arising from the increase in the number of migrants who are grouped in the territories of those local governments.

4. CONCLUSION

It can be concluded that in Serbia there is a clear policy of migration management which is carried on through different national strategies and strategic documents for accession to the EU, though migration represent a global phenomenon whose impact and consequences transcend national boundaries. One of the foreign policy priorities of the Republic of Serbia is to be placed on the so-called “white Schengen list”, what necessarily imposes the need of prevention of illegal migration, especially from our country or from other countries through the territory of the Republic of Serbia, toward other EU countries, candidate countries for EU membership, but also to other countries in general. Therefore, it is necessary not only to conclude readmission agreements with those countries, but also to tighten the visa regime with all the countries of Afro-Arab and Asian complex, in order to impede the entry of their nationals in the Republic of Serbia and thus prevent illegal transit and migration into the European Union or other countries.

According to the taken obligations from the Republic of Serbia is expected to speed up the implementation of appropriate reforms in the area of justice, freedom and security, such as strengthening the rule of law, fighting organized crime and corruption, strengthening administrative capacities in the area of border control and security of documents.

Minister of Internal Affairs of the Republic of Serbia stressed the necessity of establishing a quality system of biometric data, which would be unique and not that every country in the process enters individually. Cooperation between countries on migrant Balkan route is good, but we need to work on its strengthening and improvement.

The precarious economic situation aggravated by the world economic crisis will further impede the position of certain groups of migrants, and will affect migration flows. The Republic of Serbia will manage migration in a universal manner, with respect for European standards and the implementation of the EU acquis in the area of migration, with respect of the specific features of its own, in order to make them a positive force for further economic and social development of the country, as well as mutually beneficial force for both the country of origin as well as countries of destination.

As strategic objectives stand out:

1. Establishment and implementation of mechanisms for a universal and consistent monitoring of migration flows in the Republic of Serbia, so in that sense it is necessary to:
 - institutionalize the responsibility for the collection and analysis of data on migration scope and flows (by Commissariat for Refugees);
 - identify indicators for the monitoring of migration flows;
 - establish appropriate technical and human resources for the regular updating of the migration profile of the Republic of Serbia;
 - establish cooperation with countries in the region and the EU in order to exchange experiences, as well as with relevant international organizations;
2. Completion of the strategic, legal and institutional framework for the integrated management of migration where it is necessary to provide appropriate support to relevant ministries and institutions in the preparation of strategic documents in the field of migration;
3. The protection of migrants' rights, creating the conditions for integration and social inclusion, along with raising awareness of the importance of migration;

4. Improving the implementation of international agreements that refer to refugees, internally displaced persons or other vulnerable migrant groups ratified by the Republic of Serbia and provide conditions for realization of demands arising from the International Convention on the Rights of All Migrant Workers and Members of Their Families;

One of our important duties is also preparation of *Draft proposals for amending the Law on prohibition of discrimination*, which would predict a special case of discrimination - discrimination of refugees, asylum seekers and persons enjoying some of the legally prescribed forms of international protection and internally displaced persons. It would be useful to adopt the *Law on Free Legal Aid*, which would allow associations as providers of legal aid to refugees, internally displaced persons, asylum seekers and other vulnerable migrant groups.

At the end of the World's Economic Forum in Davos, in January 2016 Serbian Prime Minister said that some countries are trying to offer their special ramps and walls to reach a solution, but that can lead to major problems in the region. He stressed that Serbia has the strength to preserve and protect itself during this migrant's crisis and that right now can accommodate up to 5.000 refugees, but not more people, because our economy can not withstand that.

The hope is stronger than intellect and of death. Joint European solution is necessary for the migrant crisis and when there is strong will, everything is possible.

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