



Belgrade Centre
for Human Rights

ASYLUM IN THE REPUBLIC OF SERBIA: REPORT FOR THE PERIOD OF JANUARY – APRIL 2014



The Belgrade Centre for Human Rights (BCHR), supported by the UNHCR, has continued to conduct the project aimed to provide adequate legal aid to the asylum seekers as well as monitor and report on the realisation of the right to asylum in Serbia in 2014.

This brief Report refers to the period from the beginning of January until the end of April 2014 and it provides only the data relevant for this period, while further information on the functioning of the entire asylum system in Serbia can be found in the latest BCHR report, *The Right to Asylum in the Republic of Serbia in 2013*. Moreover, the Report includes the comprehensive recommendations of the BCHR to the authorised government institutions.

The Report was created by the associates of the BCHR, Nikola Kovacevic, Lena Petrović, Jovana Stopic and Sonja Toskovic.

Masculine gender is used in the Report unless a specific case refers to a female person. The authors of the Report, as well as the BCHR, advocate gender equality and generally support gender neutral language use.

Belgrade, May 2014

1. BRIEFLY ON THE PROJECT 'LEGAL AID PROVISION TO ASYLUM SEEKERS IN SERBIA'

The Belgrade Centre for Human Rights (BCHR), supported by the UNHCR, has continued to conduct the project aimed to provide adequate legal aid to asylum seekers during 2014. The BCHR team payies regular visits to centres for admission of asylum seekers, and advises potential asylum seekers so as to introduce them fully to their rights and obligations. The project activites also include monitoring of the decision-making process and analysis of individual decisions on asylum claims, as well as monitoring of activities of other state bodies that have a role in the asylum system.

Along with providing legal aid, monitoring and reporting, the Belgrade Centre makes an effort to raise the awareness of people and institutions of this matter, and promote new and adequate solutions for the observed problems. The Belgrade Centre team cooperates with the Legal Clinique for the Refugee Law of the Faculty of Law in Belgrade, where they share their knowledge and experience in this area with the young, future jurists.

Planned activities for the upcoming period:

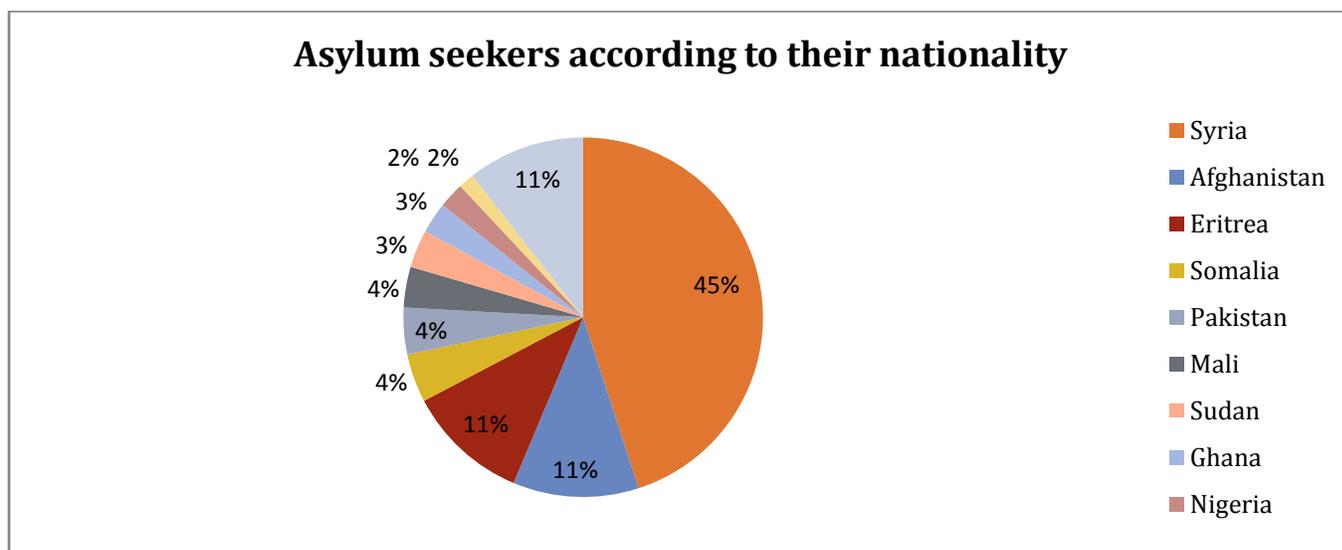
- *Monthly visits to asylum centres in Tutin and Sjenica, occasional visits to international zone od the Airport Nikola Tesla and regular visits to other accommodation centres for asylum seekers.*
- *In cooperation with the executive partners in the countries in the region, the production of the first regional report on the asylum systems in the regional countries is being prepared, and is to be presented at the international conference on the regional challenges in the field of asylum, in Belgrade in autumn 2014.*
- *Organisation of four one-day trainings for the judges and expert associates of the Administrative Court and Magistrate Courts on international refugee law and the standards of the ECHR in the field of asylum.*
- *Participation in the execution of four one-day trainings for the members of border police on the local and international standards in the treatment of asylum seekers as a particularly vulnerable group of migrants.*

2. THE STATISTICS¹

From 1 January 2014 to 30 April 2014, a total of 2706 persons expressed the intention to seek asylum, which is a significantly higher number than 1221 persons recorded for the same period in 2013. 943 persons expressed the intention to seek asylum in January, 596 in February, 516 in March and 651 in April. There were 1218 persons from Syria, 306 from Afghanistan, 297 from Eritrea, 118 from Somalia, 114 from Pakistan, 99 from Mali, 92 from Sudan, 76 from Ghana, 62 from Nigeria, 38 from Bangladesh, 34 from Congo and Gambia each, 22 from the Democratic Republic of Congo and the Ivory Coast each and 174 more asylum seekers from other countries. The majority of asylum seekers, 2394 of them were men, and there were 312 women.

Since April 2008, when the Asylum Act was enforced, until the end of April 2014, the total of 14,501 persons expressed the intention to seek asylum in the Republic of Serbia. During the same period 7 persons were granted subsidiary protection, 5 were granted asylum.

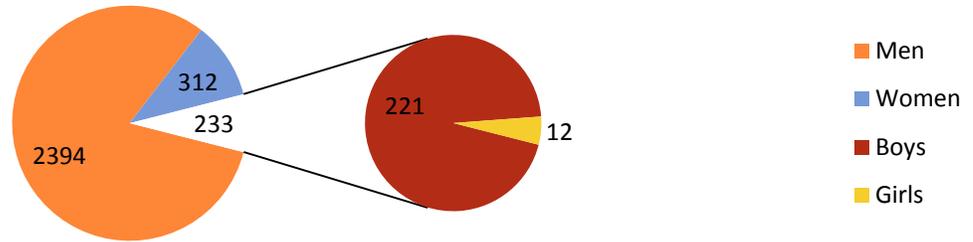
During the same period 233 unaccompanied minors expressed the intention to seek asylum in the Republic of Serbia, 12 girls and 221 boys. The structure of minors according to their nationality is as follows: Afghanistan 135, Syria 66, Eritrea 32, Ghana 18 and Gambia 17, 10 from Mali and Somalia each, 7 from Nigeria, 6 from Pakistan and Bangladesh each, and 14 from other countries. Since the beginning of 2014 until the end of April, 388 asylum seekers were registered, 47 asylum requests were submitted and seven persons were interviewed. In the same period, the Asylum Department² brought 24 conclusions on the suspension of procedures and seven decisions of the rejection of asylum requests.



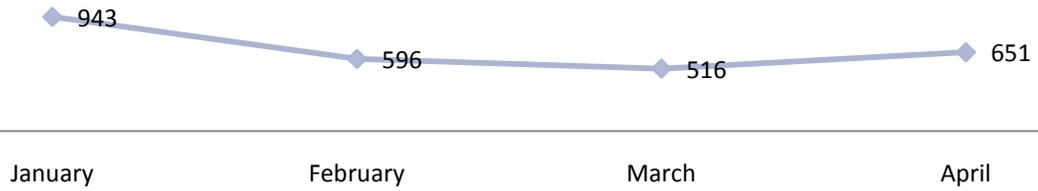
¹ All statistical data is obtained from the UNHCR office in Belgrade.

² Terms Asylum Department and Asylum Office are used in the Report to denote the first instance body. The Asylum Act (hereafter AA) prescribes the establishment of an Asylum Office as the first instance body. However, this body was never formed, hence the duties of the Office were performed by the Asylum Department, the organisational unit of the Border Police Department of the Ministry of Internal Affairs (hereafter MIA), from the enactment of the AA to the publication of this Report.

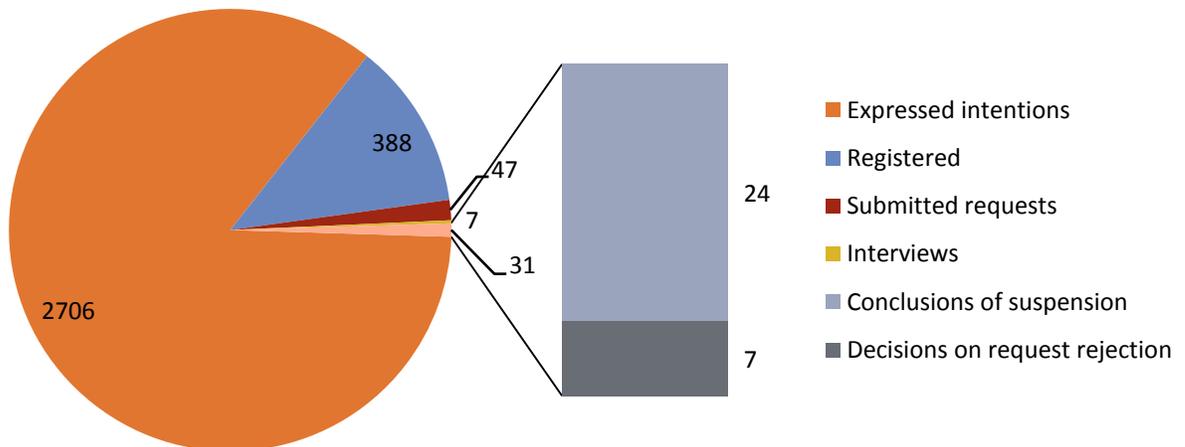
Adult and under-age asylum seekers: gender structure



Number of expressed intentions in 2014



The asylum procedure statistics



3. THE PROCEDURE

Access to the procedure. –The Asylum Act proscribes that during the border control at the entrance to Serbia, or within its territory, a foreign citizen may express their intention to seek asylum in a spoken or written form, to an authorised police officer of the Ministry of Internal Affairs, whereby they are issued a certificate which they are required to use and contact an Asylum Office or an asylum centre within 72 hours (Art. 22). However, during the first four months of 2014, the Belgrade Centre for Human Rights received the asylum seekers' complaints that they were refused to be issued certificates at the police stations. Such complaints referred particularly to the Obrenovac police station, where one of the temporary asylum centres is located. According to the asylum seekers, this police station, which is a branch of the Belgrade Police Department, is not issuing certificates on the expressed intention; rather they are directing the asylum seekers to address the Department of Foreign Citizens on Savska Street in Belgrade. Such practice unnecessarily complicates the access to the asylum procedure, as well as the position of asylum seekers who are exposed to additional expense and must make an extra effort, and travel to Belgrade, most often without any identification documents.

In March 2014, for the first time, the representatives of the Belgrade Centre for Human Rights (hereafter BCHR) were granted an *ad hoc* access at the “Nikola Tesla” Airport. Three Syrian citizens contacted the UNHCR from the airport, and the UNHCR notified the BCHR that they were located at the airport and that they intended to seek asylum in Serbia. These Syrian citizens attempted to enter Serbia with falsified passports and were noticed by the border police officers at the airport, who notified the authorised prosecutor about it.³ However, having in mind that these persons sought asylum in Serbia the criminal prosecution for the crime of the falsification of documents⁴ was suspended. Having received the notification from the UNHCR, the Belgrade Centre legal team contacted the airport with a request to be granted access to the Syrian asylum seekers. The Border Police Office at the airport then allowed a BCHR lawyer to enter the transit zone of the airport and contact the asylum seekers. On that occasion, at the airport, the asylum seekers were issued a certificate on the expressed intention for seeking asylum and they were admitted in Serbia. Next, the BCHR made a plea to the MIA for the BCHR team to be allowed to put up informative posters with the BCHR contact information, and to access the “Nikola Tesla” Airport premises where foreign citizens who do not meet the requirements for entering Serbia are stationed. This

³ Information obtained from a conversation with border police officers at the “Nikola Tesla” Airport.

⁴ Felony in the Criminal Act (Art. 355), The Official Gazette of the Republic of Serbia, no. 85/2005, 88/2005 - rev. 107/2005 - rev. 72/2009, 111/2009, 121/2012 and 104/2013.

request was approved by the Border Police Department.⁵ Foreign citizens residing at the transit zone of the Airport should have the possibility to get informed about their right to asylum in Serbia, and the possibility to realise their right to free legal aid guaranteed in Art. 10 of the Asylum Act.⁶ The Belgrade Centre believes that this cooperation with the border police will significantly ease the effort of all authorities in the asylum procedure and provide access to the process as well as the respect of international obligations which Serbia had accepted through ratification of the UN Refugee Conventions and the European Conventions on Human Rights and Fundamental Freedoms.

Registration.– In the period from January to April 2014, 388 foreign citizens who expressed the intention to seek asylum were registered.⁷ The Asylum Office did not administer registration at the temporary asylum centres in Sjenica and Tutin until the middle of April 2014⁸ therefore; the asylum seekers who resided at these centres were *de facto* prevented from obtaining identification documents which are issued upon registration. Since the middle of April, the Asylum Office has started administering the registration in Tutin temporary center. Without identification documents, the asylum seekers are restricted from peacefully enjoying numerous human rights, which BCHR had pointed out in previous reports.⁹

Submission of asylum requests. – Over the course of the first four months of 2014, the Asylum Office enabled the submission of 47 asylum requests. In comparison to the information that throughout the entire 2013 there were 153 submitted asylum requests,¹⁰ it could be asserted that the efficiency of the asylum procedure had not been increased. Although the Asylum Act proscribes that the asylum procedure is initiated by the submission of an asylum request to an official at the Asylum Office on the proscribed form within 15 days from the day of registration, this deadline is rarely respected in practice as the submission of an asylum request does not depend on the initiative of the party in the procedure, rather the timely action of the Asylum Office, i.e. the request is submitted at the time assigned by the Asylum Office. Such practice leads to the situation where the asylum seekers wait even up to five months to be enabled

⁵ Official letter from MIA 01 no. 3343/14-3 of 23 April 2014.

⁶ To BCHR knowledge, this is the first time that an organisation which provides legal aid to asylum seekers has had access to these persons at the airport.

⁷ The registration process includes: determination of identity, finger-printing, photographing and temporarily taking away all papers and documents which may be of importance in the asylum procedure, which the foreign citizen is issued a certificate about. After the registration process, the foreign citizen is issued an identification document (Asylum Act, Art. 24).

⁸ Data obtained from a conversation with an official of the Asylum Office.

⁹ See e.g. *Right to Asylum in the Republic of Serbia 2012*, p. 24, available at: http://www.azil.rs/doc/Pravo_na_utociste_u_Republici_Srbiji_1.pdf.

¹⁰ Reply to the request for the access to information of public significance, Border Police Department 03/10 no. 26-176/14 from 28 January 2014.

the submission of asylum requests, i.e. to be scheduled by the Asylum Office to submit their requests. This way, the asylum seekers are denied the access to the asylum procedure since positive regulations do not prescribe any legal means which asylum seekers could use so that the Asylum Office would enable them to submit requests. Namely, a complaint against the administrative silence can only be submitted after the administrative procedure has been initiated, and in case that it was not finalised within the deadline imposed by law.¹¹ However, in the aforementioned case, the administrative procedure had not been initiated since the asylum seekers were denied the initiation of the procedure, i.e. the submission of the asylum request.

It is particularly problematic that the Asylum Office at the temporary asylum centers in Obrenovac, Sjenica and Tutin is not administering the official duty of the submission of asylum requests, therefore all asylum seekers who reside at these Centres are virtually denied access to the procedure.

Interview.– Since the beginning of 2014, until the end of April, only seven interviews were held, one in January and February each, four in March and one in April. According to the experience of the BCHR, in practice, the period between the submission of the asylum request and the interview is often longer than two months, which is not in compliance with Art. 208 (1) of the Law on General Administrative Procedure, which prescribes the deadline of two months since the submission of the request for the issuance of the decision on a administrative procedure.¹²

First-instance decisions. – In the period from January to the end of April 2014, the Asylum Office issued 24 conclusions on the suspension of the procedure and seven negative decisions. During the same period, not a single decision was made whereby the request for asylum was granted. All the decisions, delivered to the legal representatives of the asylum seekers, were the decisions of rejection of asylum requests pursuant to Art. 33, paragraph (1) item 6,¹³ i.e. because the asylum seeker came to Serbia from a safe third country. In all its previous reports¹⁴ the BCHR drew attention to the problems of the immediate application of the safe third country concept to the right to asylum in the Republic of Serbia. It is

¹¹ Art. 236 of the Law on General Administrative Procedure in relation to Art. 208 (2) of the Law on General Administrative Procedure.

¹² Z. Tomić and V. Bačić, *Commentary of the Law on General Administrative Procedure with the case law and index*, The Official Gazette 2012, 9th edition, p. 445.

¹³ Information obtained from the Asylum Protection Centre NGO.

¹⁴ See e.g. *Right to Asylum in the Republic of Serbia 2012*, pp. 28 – 31, *supra* 9.

concerning that the Asylum Office has continued with this practice notwithstanding the serious criticism by the UNHCR¹⁵ and all non-government organisations which provide legal aid to asylum seekers.

Second-instance procedure. – A complaint against the decision of the Asylum Office may be filed to the Asylum Commission¹⁶ within 15 days from the day of the receipt of the decision. Within the first four months of 2014, the Asylum Commission issued four decisions: two conclusions based on the complaint for the administrative silence and two decisions whereby the first-degree decision was revoked.¹⁷ One of the two complaints for administrative silence was submitted by the legal representatives of BCHR on behalf of their client. In case the second-instance body determines that the reasons for the failure to reach the first-instance solution are not justified, pursuant to Art. 236 (1 and 2) of the Law on General Administrative Procedure, they are obliged to conduct the procedure themselves – the interview and resolve the administrative matter. Pursuant to such provision, exceptionally, in case the second-instance body finds that the first-instance body would conduct the first-instance procedure faster and more economically, they can instruct them to do so and deliver the collected data in the specified period, after which they will regulate the administrative matter. Since the AA was enacted, the Asylum Commission has not held a hearing (an interview) of the asylum seekers in a single matter, although by doing so, they could improve their practice significantly and improve the quality of their decisions, nor have they resolved an administrative matter pursuant to Art. 236 of the Law on the General Administrative Procedure. Pursuant to that same article (1), the second-instance body shall assign an additional a period of one month to the first-instance body to resolve the administrative matter if they find that the resolution was not brought until the proscribed deadline due to justified reasons or the party's fault. The Asylum Commission, however, applies this exception almost as a rule; while in the conclusions brought to the complaints on the administrative silence they do not explain the reasons why they find the overstepping the legal deadline on the part of the Asylum Department was justified. In addition, upon accepting the complaint for administrative silence and assigning the additional deadline for the first-instance body for deciding upon the asylum request, in practice, the Asylum Office does not always respect this deadline.¹⁸

¹⁵ *Serbia as a county of asylum*, UNHCR, August 2012, para. 36-40, available at http://www.unhcr.rs/media/Srbija_zemlja_azila.pdf.

¹⁶ See more on the composition and activities of the Asylum Commission in the Report of the Belgrade Centre for Human Rights, *Right to Asylum in the Republic of Serbia 2013*, The Belgrade Centre for Human Rights, Belgrade, pp. 41 - 43, available at: <http://azil.rs/documents/category/izvestaji>.

¹⁷ Data obtained from a conversation with the president of the Asylum Commission.

¹⁸ Based on the experience of the Belgrade Centre for Human Rights in legal aid provision to asylum seekers.

4. ACCOMMODATION OF ASYLUM SEEKERS: TEMPORARY CENTRES IN TUTIN AND SJENICA

From 1 January to 30 April 2014, the accommodation of asylum seekers until the final decision on their request has been reached, was organised in the premises for accommodation of asylum seekers in Banja Koviljaca, Bogovadja and the newly opened centres in Sjenica, Tutin and Obrenovac, which are under the jurisdiction of the Commissariat for Refugees and Migration of the Republic of Serbia (hereafter the Commissariat) and are financed from the budget of the Republic of Serbia.

After an influx of a great number of asylum seekers at the end of 2013, due to the insufficient accommodation capacity in the existing centres, the Government reached a decision on the opening of Sjenica and Tutin temporary centres¹⁹ upon the recommendation of the Minister without portfolio, Mr. Sulejman Ugljanin and the Commissariat for Refugees and Migration of the Republic of Serbia. The centres were open on 5 December 2013, and the initial agreements, which can be extended, provide that they should operate until 31 May 2014. The centres in Tutin and Sjenica can accommodate up to 100 persons.²⁰

The accommodation Centre for asylum seekers in Tutin is, in fact, the space of the former sponge industry, which was abandoned until the opening of the asylum centre. The asylum seekers are accommodated in larger rooms with 10 to 14 beds and smaller rooms with six to eight beds. The dining room is separated and spacious, there is a separate room intended for medical examinations and a large storage room. However, there are no common rooms which would serve as a living room; hence the asylum seekers spend most of their time in the corridors or in their rooms. It is a general impression that the municipality authorities and persons entrusted the management of the centre, have invested great effort to adjust the facilities to the need of the accommodation of asylum seekers to the fullest possible extent and within the shortest period possible. Nevertheless, this facility does not entirely meet the accommodation standards.²¹

The Centre for accommodation of asylum seekers in Sjenica is organised in the hotel Berlin, in the city centre. The asylum seekers are accommodated in the ground floor of the hotel, where there are rooms

¹⁹ According to the Conclusion of the Government of Serbia 05 no: 031-10087/2013 from 25 November 2013 and According to the Conclusion of the Government of Serbia 05 no: 031-10248/2013-1 from 28 November 2013, facilities for temporary accommodation of asylum seekers were assigned in the municipalities of Sjenica and Tutin.

²⁰ Agreement on the provision of accommodation and food for asylum seekers between the Municipality of Sjenica and the Commissariat for Refugees and Migration of the Republic of Serbia no. 9-9/312, from 5 December 2013, and Agreement on the provision of accommodation and food for asylum seekers between the Municipality of Tutin and the Commissariat for Refugees and Migration of the Republic of Serbia no. 9-9/310, from 5 December 2013.

²¹ Annotation of the BCHR lawyers, after a visit to the Centre on 15 April 2014.

for sleeping, common activities and dining. The asylum seekers are not accommodated in the rooms of the hotel, but a hall in the ground floor. In the hall, a screen is used to divide the room into a space for sleeping, where bunker beds are placed and the dining space, which also serves as a living room area. Other floors and parts of the hotel are intended for the accommodation of tourists, while the asylum seekers are restricted from these areas.²²

It is a general impression that the opening of the asylum centres, and the asylum seekers themselves were eagerly accepted in the local community, which is by all means positive, given the circumstances at which the centres began to operate - the local authorities and citizens were not prepared in advance for the reception of a larger number of migrants, as well as a high degree of the intolerance and prejudice that the asylum seekers were exposed to in other local communities, mainly in the municipalities of Obrenovac, Mladenovac and Vracevic, at the same time.²³

The biggest problem is the distance of the centres in Sjenica and Tutin from Belgrade, where the head office of the Asylum Department and other parties involved in the asylum procedure are located. The travel and accommodation expense of interpreters, MIA officials and legal representatives from NGOs which provide free legal aid to asylum seekers require significant financial assets which these organisations do not have at their disposal, which complicates regular visits to the centres in Sjenica and Tutin.

Accommodation for asylum seekers could be organised in such manner on more adequate locations, so it would serve the purpose of a more efficient and economical asylum procedure.

5. THE LEGISLATIVE FRAMEWORK REFORM

Project group for the production of the Asylum Act. – According to the decision of MIA, a Project group for the production of the Asylum Act was founded at the Ministry of Internal Affairs in December 2013.²⁴ During the first four months of 2014, the Project group held six meetings. The attendants of the Project group meetings were the representatives of the state institutions (the Ministry of Internal Affairs, the Commissariat for Refugees and Migration of the Republic of Serbia, the Ombudsman), the representatives of international agencies and organisations (UNHCR, IOM, the EU Delegation in Serbia, the UN Office in Serbia) and the representatives of non-government organisations (the Belgrade Centre for

²² *Ibid.*

²³ See more in *Right to Asylum in the Republic of Serbia 2013, supra 16.*

²⁴ The BCHR obtained the presented data at the Project group meetings.

In the next periodical report, the BCHR will publish the information about the act based on which the Project group was founded, as well as the exact and official data on its structure and term of office.

Human Rights, the Asylum Protection Centre, Group 484 and Zero Tolerance), and the chairman was the State Secretary in the MIA, Mr. Vladimir Bozović.

The Workgroup for the production of the Asylum Act was formed by the same Decision of MIA. Some of the members of the Workgroup for the production of the Asylum Act are: Ivica Tončev – the former National Security Adviser to the Prime Minister, Milorad Todorović – the State Secretary at the MIA, Jovo Puletić – the president of the Asylum Commission and the Assistant to the Head of the Border Police Department, Miloš Zatezalo – the Head of the Department for Foreign Citizens, and Olivera Nikolić – the Commissariat for Refugees and Migration. The mandate of the Project group is also the consideration and analysis of the legal regulations and conditions in the field of asylum and the recommendation of solutions based on which the Workgroup will produce the new Asylum Act. The deadline to fulfil the mandate of this group is 30 June 2014. The Workgroup operates on the principle of the *Chatham House Rule*,²⁵ which means that the participants are free to use the information obtained during the meetings, but are not allowed to reveal the source of these information i.e. the identity of the speaker who revealed them, which guarantees the openness and free information sharing among the Group members.

*The BCHR and the NGO Group 484 drafted the Working version of the amended Asylum Act. This working version aspires to adjust the Asylum Act, i.e. the asylum procedure and the international protection institution to the EU and UNHCR standards and the international standards of human rights. **In the working version BCHR offers a new concept of the asylum procedure, which provides the immediate judicial revision of the decisions of the Asylum Office.** Further, the working version offers introduction of the summary procedure, specification of deadlines, redefinition of the institution of the safe third country and the equalization of asylum and subsidiary protection, introduction of humanitarian protection etc.*

All actors within the Workgroup were provided the possibility and space to comment on the existing Asylum Act, and to point out the problems in its implementation. Moreover, the Project group members were able to submit their proposals for the Asylum Act amendments. However, a question remains to which extent the final version of the amended Asylum Act draft will contain the proposals of the civil society, and to which extent it will present the compromises of different politics and interest.

²⁵ See more at <http://www.chathamhouse.org/about-us/chathamhouserule>.

The Project work operations provide an example of good practice of the gathering of civil society organisations, international organisations and state organs into one wide forum with a common goal, to enhance the existing asylum system in Serbia.

6. RECOMMENDATIONS BY THE OMBUDSMAN

In February 2014, the Ombudsman determined the faults in the practice of the MIA and the Commissariat for Refugees and Migration to the foreign citizens who expressed the intention to seek asylum in Serbia.²⁶ The faults include failure of timely registration, status determination and provision of appropriate support to foreign citizens who expressed the intention to seek asylum in Serbia, due to which they were prevented from the realisation of rights guaranteed by the domestic and international regulations. On the basis of these findings, the Ombudsman sent 26 recommendations to the authorised state bodies – the Police Administration of the MIA²⁷ and the Commissariat.²⁸

The MIA is recommended to register the expressed intentions for asylum, which is a legal obligation of the MIA pursuant to Art. 22 of the AA, and to issue certificates on the expressed intention which will include a photograph and other biometric data (Recommendation III 2). The Ombudsman further states that the MIA should form an independent Asylum Office,²⁹ separate from the Border Police Department, and provide adequate capacities and conditions for its operations (Recommendation V 1). A set of recommendations refers to taking duly action, including registration and issuance of identification documents which should be done immediately upon reception of the person in the centre (Recommendation V 3), instruction on the obligation of the request submission within 15 days on the language which the person understands (Recommendation V 4)³⁰ and the interview with the person who has submitted the request as soon as possible (Recommendation V 5). Finally, it is recommended that

²⁶ Ref. no. 3220, from 10 February 2014, available at: <http://azil.rs/documents/category/odabrane-presude>. The conclusions and recommendations also refer to the treatment of the foreign citizens whose identity has not been determined, who do not hold a passport or do not have a legal basis for residing on the territory of Serbia, i.e. who, due to the existing regulations and standards, were not possible to be forcibly removed from Serbia.

²⁷ See the official letter of MIA to the Ombudsman on the necessary conditions for the application of recommendations, Case 01 no. 1686/14-10 (1), available at <http://azil.rs/documents/category/odabrane-presude>.

²⁸ See the reply of the Commissariat for Refugees and Migration to the Ombudsman's report and recommendations, no. 019 -707/2, available at <http://azil.rs/documents/category/odabrane-presude>.

²⁹ *Supra* 2.

³⁰ As this right can be realized in practice only if the person submits a request for the register, the obligation of the request submission in fact implies the responsibility of the Asylum Office to enable the person to submit the request for the register.

financial means are assigned from the budget for removing the persons whose asylum requests have not been accepted (Recommendation V 9), with additional directions that when removing foreign citizens relevant legal boundaries must be respected (Recommendation V 7).

In his recommendations to the Commissariat, the Ombudsman shares the opinion of BCHR, that the asylum centres should be established and organised exclusively in the manner which puts them to the practice of the efficient implementation of the asylum procedure (Recommendation IV 1),³¹ and that it is necessary to increase the accommodation capacities (Recommendation IV 2), which would need to meet appropriate standards in terms of accommodation conditions, food, hygiene maintenance, provision of health-care etc. (Recommendation IV 3). The Commiserate is particularly required to put a stop to the practice of approval of leave outside the Centre (Recommendation IV 5),³² and “saving rooms” or beds for persons who have left the centre on any grounds (Recommendation IV 6).

According to the findings of the Belgrade Centre for Human Rights, none of the abovementioned recommendations has yet been fully implemented.

Since the implementation of some of these recommendations requires the alteration of existing regulations, the Ombudsman has recommended that within 15 days from the reception, the MIA delivers to the Government the drafts of suggested amendments (Recommendation VI 1).

7. RECOMMENDATIONS OF THE UN COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (CEDAW)

In June 2013, the UN Committee on the Elimination of Discrimination against Women considered the second and third periodical report of the Republic of Serbia.³³ The Committee expressed their concern

³¹In the Commiserate’s reply to this recommendation it is stated that rooms for the duty of the Asylum Office officials are provided in the Centres (see Reply no.1, supra). In view of the BCHR, this is very good, but insufficient to be able to determine whether all centres were established in a manner which vitally puts them in the purpose of the procedure, e.g. see more in Chapter 4: Accommodation of asylum seekers: temporary centres in Tutin and Sjenica.

³²The asylum centres’ administrators give permissions to persons accommodated in the centres for residing outside of the centres for a certain number of days, most often for 72 hours, therefore they can easily move in all parts of the country including the wrong places. Although in exceptional cases such leaves can be justified, the existing practice shows that the permission system is widely misused for attempts of illegal border-crossing.

³³Concluding annotations of the UN Committee on the Elimination of All Forms of Discrimination against Women on the second and third periodical report of the Republic of Serbia, CEDAW/C/SRB/2-3, 25 July 2013.

due to the lack of state monitoring of the living conditions of female refugees, female asylum seekers and internally displaced women and and required that the Republic of Serbia establish a mechanism of monitoring of this delicate category of women, in order to protect their rights, including protection from violence and provision of adequate data on them.³⁴ In compliance with the undertaken political commitments, the Republic of Serbia shall consider the Concluding Annotations of the CEDAW, enter their execution and report on it to the said Committee in the next reporting cycle. Pursuant to item 45 of the Concluding Annotation, the next delivery and presentation of the state report of the Republic of Serbia to this UN body is scheduled for July 2017. The Gender Equality Directorate of has prepared the first periodical Report on the first interval of the monitoring of implementation of the UN Committee recommendatios which includes the period until 25 March 2014.³⁵

In the Directorate's Report it is stated that the Commiserait failed to deliver the appropriate data on the fulfilment of these recommendations, hence "it is necessary to address them again at the time of the reporting in the next interval in regard to the monitoring of the application of the Concluding Annotations of the UN Committe for the Elimination of Discrimination against Women".³⁶

³⁴ *Ibid*, st. 36 i 37.

³⁵ See the whole report at http://www.gendernet.rs/files/dokumenta/lzvestaji_Uprave/CEDAW_-_Prvi_ciklus.pdf

³⁶ *Report on the First Interval (from 25 July 2013 to 25 March 2014) of Monitoring of the Application of Recommendations of the UN Committe for the Elimination of Discrimination against Women (CEDAW)*, p. 3 dostupno available at http://www.gendernet.rs/files/dokumenta/lzvestaji_Uprave/CEDAW_-_Prvi_ciklus.pdf.

8. RECOMMENDATIONS OF THE BELGRADE CENTRE FOR HUMAN RIGHTS

Based on the experience in provision of legal aid to asylum seekers and based on the findings published in previous reports of the Belgrade Centre for Human Rights on the asylum system³⁷ in 2012, 2013 and 2014, the Belgrade Centre has defined a set of recommendations for different decision bearers in the asylum system.

1. Recommendations to the MIA:

- 1.1. Establish, without delay, an Asylum Office, as an independent body at the MIA, which will decide upon asylum requests pursuant to the Asylum Act.
- 1.2. Enable for certificates on the expressed intention for seeking asylum to be issued at all police departments in Serbia.
- 1.3. Enable the registration of all recorded asylum seekers, who, due to the lack of accommodation capacity, reside outside the accommodation centres for asylum seekers.
- 1.4. Translate the Instructions on the treatment of brought in and detained persons into Arabic, Farsi and Urdu languages.
- 1.5. Carry out all official operations which precede asylum request submission in a timely manner and without delay, pursuant to the Asylum Act.
- 1.6. Enable the asylum seekers to submit requests within 15 days from the day of registration
- 1.7. Respect the deadline of 60 days for reaching a first-instance decision on the asylum request.
- 1.8. Put a stop to the practice of immediate application of the safe third country concept, i.e. apply this concept only when there are guarantees that the third country will accept to decide on a specifies asylum request in merits.
- 1.9. Provide consistent respect of gender equality principles in the asylum procedure.
- 1.10. Ensure a consistent application of prohibition of forceful deportation/removal (non-refoulement) in compliance with the international standards of human rights protection.
- 1.11. Enable issuance of travelling documents for refugees in compliance with the Asylum Act and the UN Refugee Convention.
- 1.12. Enable an independent monitoring approach in the asylum procedure on border crossings in cooperation with the MIA, the UNHCR and the non-government organisations who engaged in the protection of human rights.
- 1.13. Provide the access to the asylum procedure to all foreign citizens who express an intention to seek asylum during police arrest or police detainment.
- 1.14. Upon reaching the decision to approve international protection, immediately issue a record number for foreign citizens, that is necessary for the realisation of other personal and status rights.
- 1.15. Establish training programmes for police officers on the right to asylum and on the treatment of asylum seekers as a vulnerable group.

³⁷ Reports available at: <http://azil.rs/documents/category/izvestaji>.

- 1.16. Establish a more efficient coordination and communication between the Commiserate for Refugees and the Ministry for Internal Affairs with the aim of efficient implementation of asylum procedure at all accommodation centres for asylum seekers.

2. *Recommendations to the Government of the Republic of Serbia:*

- 2.1. Provide for the independence of the Asylum Commission, and name the members who have become distinguished in present professional work in the field of human rights protection.
- 2.2. Establish appropriate criteria for updating the list of safe countries of origin and safe third countries, and revise the existing list.
- 2.3. Regulate by law in detail the forced removal of foreign citizens with provision of procedural boundaries in compliance with the international standards of human rights.
- 2.4. In the amendment of the Law on Mutual Legal Assistance in Criminal Matters, proscribe a fact that the foreign citizen was approved the refugee status due to the reasonable fear for prosecution in the country which requires the extradition as a criterion for the rejection of the extradition request.
- 2.5. Adopt a plan for integration of persons who enjoy international protection in Serbia, pursuant to the Law on Migration Management and allocate funds for its implementation.
- 2.6. Provide substantial material and technical support to local institutions which are facing a larger influx of asylum seekers.
- 2.7. Provide means from the budget for the interpretation expenses in the asylum procedure.

3. *Recommendations to the Ministry of Justice:*

- 3.1. Provide appropriate training to the judges of higher courts and courts of appeal in the field of refugee law, and especially in reference to the application in extradition procedures.
- 3.2. Provide adequate instruction to the judges of the Administrative Court on international standards in the field of the refugee law, particularly on the prohibition of forced deportation/removal (*non-refoulement*).
- 3.3. Provide instruction for the judges of offence courts with the programmes which include the right to asylum, so that they would be able to recognise the intention of persons seeking asylum, so that they could react in an appropriate manner when they recognise such intention and ensure consistent respect of the principles of impunity of asylum seekers from the Asylum Act and the UN Refugee Convention.
- 3.4. Enable all asylum seekers to follow the offence procedures against them in their mother tongue or a language they understand, so that they could take an equal part in the procedure and so that their intention to asylum could be recognised.

4. *Recommendations to the Commiserate for Refugees and Migrations:*

- 4.1. Provide adequate accommodation for all asylum seekers which fulfil minimal standards for a dignified life – appropriate place to live, hygiene maintenance, food, satisfaction of cultural and religious needs.

- 4.2. Take into account, when reaching a decision on the opening of temporary or permanent accommodation centres for asylum seekers that the accommodation must be in function of the asylum procedure, i.e. close to the head offices of all authority institutions in the field of asylum, so that efficient, timely and economical asylum procedure can be conducted.
- 4.3. Establish a more efficient coordination and communication between the Commiserate for Refugees and the Ministry for Internal Affairs with the aim of efficient implementation of asylum procedure at all accommodation centres for asylum seekers
- 4.4. Improve the cooperation of the Commissariat for Refugees and Migration and the Centre for Social Work so that each child would be provided full access to education.
- 4.5. Urgently suggest to the Government that relevant subordinate acts are adopted in order to create a normative framework necessary for the integration of persons who enjoy international protection, pursuant to the Law on Migration Management and ensure the implementation of such measures.

5. *Recommendations to the Centre for Social Work:*

- 5.1. Improve the cooperation of the Commissariat for Refugees and Migration and the Centre for Social Work so that each child would be provided full access to education.
- 5.2. Establish instruction programmes for legal guardians in treatment of juvenile asylum seekers.