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and Minister of the Interior

Detecting and preventing illegal migration and organisers of human smuggling on the territory of the Republic of Serbia

Report by **Mr Dragan Markovic, State Secretary, Ministry of the Interior of Serbia**, delivered on 17th OSCE Economic and Environmental Forum – Part 1 on “Migration management and its linkages with economic, social and environmental policies to the benefit of stability and security in the OSCE region”, 19 – 20 January 2009, Vienna.

By adopting a number of laws and strategies and signing international treaties and memorandums, the Republic of Serbia has expressed its readiness to suppress illegal migration. The Ministry of the Interior of the Republic of Serbia has reformed the way it operates and accomplishes its tasks not only regarding domestic security but also regarding international obligations that Serbia has taken over in the fight against transnational organised crime (Palermo Convention). One of the priority tasks of the Serbian Ministry of the Interior is to conduct activities in detecting and preventing illegal migration and organisers of human smuggling in the territory of the Republic of Serbia.

The new Criminal Code, which entered into force on 1 January 2006, has separated the criminal offence of *trafficking in people* (Art 388) from ***illegal crossing of the state border and smuggling of people*** (Art 350).

The Government of the Republic of Serbia has adopted the Strategy for Integrated Border Management and Strategy for Combating Trafficking in People; the Draft Strategy for Suppression of Illegal Migration has been drawn up, as well as the Draft Instructions on the Procedure regarding Smuggled Persons (which is rendered by the Minister of the Interior).

In 2006 the Law on Juvenile Perpetrators of Criminal Offences and Their Criminal Legal Protection and the Law on Police were adopted, on the basis of which the Minister of the Interior has rendered the Guidelines on the Conduct of Police Officers towards Juveniles and Young Adults, which defines the way of conduct of police officers towards foreign citizens (children and juveniles).

The Law on Protection of the State Border entered into force in November 2008 while the Law on Foreigners shall become applicable on 1 April 2009. The latter is fully harmonised with EU *acquis* and is an important step forward towards the “white” Schengen list. A working group has been established to draw up Guidelines for the Implementation of the Law on Foreigners, and the rules envisaged by the Law are being developed, in order to implement the Law as effectively as possible from the day it becomes applicable.

The Law on Asylum of the Republic of Serbia came into force on 28 November 2007 (The Official Gazette of the Republic of Serbia, no. 109/2007), and became applicable on 1 April 2008. The Law prescribes principles, conditions and procedures for the acquisition and termination of asylum as well the status, rights and obligations of asylum seekers and persons who have been recognised the right to asylum in the Republic of Serbia.

Regarding the issues of the asylum procedure not covered by this Law, the provisions regulating general administrative procedure shall apply.

Regarding the issues of the scope, content and types of rights and obligations of asylum seekers, persons who have been granted refuge, subsidiary protection or temporary protection not covered by this Law, the provisions regulating movement and stay of foreigners shall apply.

The Law on Asylum of the Republic of Serbia envisages establishing the Asylum Office which shall conduct the asylum procedure and pass first instance decisions. Until the adoption of a new job classification in MoI and its establishment, the Section for Asylum within the Border Police Directorate of MoI conducts the procedure and passes decisions.

A foreigner who has expressed his/her intent to seek asylum is entered into the records and told to report to the Asylum Office and/or Asylum Centre. Next, the foreigner is registered by the authorised police officer. The procedure is initiated by submission of the request for asylum.

The asylum seeker is heard by the authorised officer of the Asylum Office as soon as possible.

After the procedure has been conducted, a first instance decision is passed in the form of a resolution by which the request is approved or rejected.

In case the asylum procedure is discontinued, the relevant conclusion shall be made.

The issues not covered by this Law are governed by the regulations related to the general administrative procedure.

The timeframe for issuing the decision is prescribed in Article 208 of the Law on General Administrative Procedure, which says that in case of initiating the procedure upon request of the citizen, the competent authority is obliged to pass a decision and serve it to the citizen within two months.

For the duration of the procedure, asylum seekers have the right to accommodation in the Asylum Centre, where they are provided with basic living conditions (clothes, food, and financial assistance). They are also provided with health care, free primary and secondary education, and social services. All these rights are also guaranteed by the law to the persons who have been granted asylum in the Republic of Serbia.

In respect of some rights, persons granted refugee status in the Republic of Serbia enjoy the same status as the citizens of the Republic of Serbia (protection of intellectual property, free access to courts, legal assistance, freedom of religion), while in respect of other rights they enjoy the same status as foreign residents in Serbia (right to employment and rights deriving from employment, rights to permanent residence and freedom of movement, right to movable and immovable property and right to association).

Authorised officers who conduct the asylum procedure at the Asylum Office are specifically trained to perform pertinent tasks.

The requirements and criteria for the officers of this Office are defined by an official document rendered by the Minister of the Interior. In addition to general requirements, the police officers deciding about the status of the asylum seekers have to meet specific requirements concerning:

- knowledge of legal matters and legislation;
- absence of prejudice in respect of sex, race, national origin and religion;
- communication skills.

The officers also need to be provided with professional training in that field.

The following regulations have been adopted since the Law became applicable:

- The regulation on social benefit for asylum seekers and persons granted asylum
- The regulation on house rules in the Asylum Centre
- The regulation on the manner of keeping records and the content thereof on the persons accommodated in the Asylum Centre
- The regulation on the content and appearance of the asylum application forms and documents that may be issued to asylum seekers and persons granted asylum or temporary protection
- The regulation on health examinations of the asylum seekers on the occasion of reception to the Asylum Centre

In order to implement the Law in a consistent manner, an Asylum Committee has been established comprised of nine members who, at second instance, decide on the appeals of asylum seekers.

In the last six months, the intersectoral Working Group for the coordination of fulfilment of the framework criteria for visa liberalisation has proceeded with the relevant activities. They are focused on the faster issuing of biometric passports for the citizens of the Republic of Serbia, importing digital fingerprints into passports, providing financial resources for the implementation of the visa information system, establishing the coordinating body for migration management and drawing up the Strategy for Migration Management.

Regarding the visa information system, the Ministry of the Interior has developed the project, logframe matrix, and had consultations with the representatives of the Ministry of Foreign Affairs, Ministry of Finance and EU expert consultants, so that the project can apply for IPA 2009 funds.

The implementation of the said project would enable full linkage between all government authorities involved in the visa issuing procedure (Ministry of Foreign Affairs, Diplomatic missions and consular offices, Ministry of the Interior) and ensure a more efficient and reliable procedure, as well as the control of movement and stay of foreign citizens in Serbia. Having in mind the fact that the implementation may take place only in the second half of 2009, the Government of the Republic of Serbia has taken all the necessary measures and activities to provide funds for the project from the Serbian budget, as well as from IPA funds.

On 25 November 2008, the first meeting of the intersectoral Working Group for drafting Migration Management Strategy was held. Present at the meeting were the representatives of the Cabinet of the Deputy Prime Minister, relevant Ministries and other government bodies (Ministry of the Interior, Ministry of Foreign Affairs, Ministry of Economy and Regional Development, Ministry of Justice, Ministry of Labour and Social Policy, Ministry for Human and Minority Rights, Ministry for the Diaspora, Ministry for Kosovo and Metohija, Ministry for Public Administration and Self Government, Commissariat for Refugees, Statistical Office), as well as IOM representatives. The meeting identified the main goals, tasks, and challenges concerning the said matter.

The Minister of the Interior appointed the national coordinators for IBM and trafficking in human being respectively in November 2008.

In October 2008, within the AENEAS Project, the representatives of the Border Police Directorate developed national guidelines in the fields of asylum, migration and visa matters in collaboration with the representatives of the Swedish Migration Board and ICMPD. The Guidelines have been assessed as very good ones and they should serve as a basis for the development of regional guidelines in the said areas.

The Strategy for the Suppression of Illegal Migration in the Republic of Serbia 2009-2014 has been drafted. Its adoption by the Government is expected, after which the National Action Plan for suppression of illegal migration will be drawn up.

The Memorandum of Understanding on establishing a system of statistical information exchange on illegal migration and the participation in a regional early warning system was signed between Albania, Bosnia and Herzegovina, Montenegro, Croatia, Macedonia, and Serbia. The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX) will be responsible for the implementation of the Memorandum.

In 2008, **945,745** foreign citizens **reported** their **stay** in the Republic of Serbia. At the moment, there are **5,620** foreigners who are **permanent residents** in Serbia, while **16,886** foreign citizens have been **approved temporary residence** under the following reasons:

- education – 361
- specialisation studies and practical training – 34
- occupation – 212
- marriage – 5,176
- kinship – 3,258
- employment – 6,322
- engagement – 141
- private visit – 148
- other reasons – 1,214.

One of the priority tasks of the Serbian Ministry of the Interior is to conduct activities in detecting and preventing illegal migration and organisers of smuggling of people on the territory of the Republic of Serbia.

From the year 2000 to 30 November 2008, on the territory of the Republic of Serbia there were **11,802** foreign citizens detected who had irregularly entered the territory of Serbia. All of them were pronounced the measure of revocation of residence and prohibition of re-entry for minimum one year, pursuant to the Law on Movement and Stay of Aliens.

The majority of measures were taken against the nationals of the countries with high migration risk who, for economic reasons, set out towards EU countries using illegal channels of movement.

From January 2006 to 30 November 2008, there were **236** criminal charges of illegal crossing of state border and smuggling of people brought against **394** perpetrators who smuggled **1018** persons. In the majority of cases the perpetrators were nationals of Serbia (**331**), while most of the smuggled persons were **Albanian** nationals (**509** of them, or 57% of the total number of smuggled persons).

Since 2006, the Ministry of the Interior has carried out a number of international, regional, and national operations related to the suppression of organised smuggling of people over the territory of the Republic of Serbia and other countries (operations Ali Baba, Joker, Count, Road, Danube, Dora, Pegasus). The said operations involved participation of several countries, namely: Macedonia, Bosnia-Herzegovina, Croatia, Slovenia, Albania, Austria and Italy. As a part of the operations, the respective Prosecutor's Offices established cooperation, and exchange of evidence in the criminal procedure was conducted within the framework of the Convention on International Legal Cooperation.

So as to combat illegal migration more effectively, the competent authorities of the Republic of Serbia have established close cooperation with INTERPOL member states and SECI Centre in Romania. Also, Serbia has taken part in a number of joint police actions against human smuggling at regional level, in which a number of Serbian citizens – members of organised criminal groups engaged in smuggling people – were arrested.

In the period January-November 2008, a total of **633** persons were prevented from illegally crossing the state border within the zone of competence of the border police stations in charge of state border surveillance, namely: on the border with Hungary – 404, Bosnia-Herzegovina – 68, Macedonia – 63, Montenegro – 55, Romania – 21, Bulgaria – 13, Croatia – 9. On the border crossing points themselves, 71 persons were prevented from illegally crossing the border.

In the same period, Border Police officers detected **539** foreign forged travel documents and visas, **201** national forged travel documents and visas, as well as **746** other identification documents.