



# ACT ON ASYLUM AND TEMPORARY PROTECTION

Prepared by Local Democracy Agency, Subotica [www.lda-subotica.org](http://www.lda-subotica.org)

Case study of Serbia

Townlab project, March 2019

The Serbian Act on Asylum and Temporary Protection (ATPA) was adopted on 22 March 2018. The Act brings about wide-ranging modifications to the Serbian asylum system as part of EU accession negotiations commitments, mirroring the structure and procedures laid down in the EU asylum acquis.

Relevant articles: 39

The Asylum Office is required to decide on asylum applications within 3 months

Asylum centres in  
Serbia  
2018 :  
some 4500  
migrants  
24 asylum seekers



The 3-month deadline may be extended by a further 3 months in case of complex cases or a large number of applications, while the Office may postpone the examination of the application in case of an uncertain situation in the country of origin. In any event, the processing of asylum applications can never exceed 12 months, in contrast with 21 months under the recast Asylum Procedures Directive.

### Special procedures

The introduction of special procedures constitutes one of the main novelties of ATPA. These include the accelerated procedure, the border procedure, and inadmissibility grounds.

Article 42: The law formally establishes grounds for inadmissibility of asylum applications. These include: (a) first country of asylum; and (b) safe third country. Negative decisions under the accelerated procedure are appealed within 8 days.

According to the ATPA, an asylum seeker may be subject to different restrictions on freedom of movement, or even detention, under the same set of grounds.

Article 77: The ATPA sets out “grounds for limiting movement” (Razlozi za ograničenje kretanja) which correspond to the grounds for detention laid down in the recast Reception Conditions Directive: (a) verification of identity or nationality; (b) determination of the main elements of the claim which cannot be done without such a restriction, in particular where there is a risk of absconding;

According to the law, the risk of absconding is assessed taking into account inter alia previous attempts of the applicant to irregularly leave Serbia, refusal to establish his or her identity and provision of false information on identity or nationality.

Article 78 raises concerns: This provision lists the following measures: (a) prohibition on leaving the Asylum Centre; (b) regular reporting to the police; (c) assigned residence in the Asylum Centre under strict police supervision; (d) assigned residence in a social protection institution for children under strict control; (e) temporary confiscation of travel documents.

Article 79 adds that detention in the Shelter for Foreigners in Padinska skela may be ordered if the asylum seeker does not comply with a prohibition on leaving the Asylum Centre or regular reporting obligations.

“Restrictions on freedom of movement” cannot exceed 3 months, subject to the possibility of a prolongation for another 3 months in the case of restrictions related to the determination of main elements of the claim or the protection of national security or public order. The asylum seeker can appeal the order of restriction on freedom of movement within 8 days.



Total number 8,436 - 100%

Men 7,507 - 88%

Women 929 - 12%

Children 2,475 - 29%

Unaccompanied children 700 8%

Breakdown of the total number of persons intending to apply  
for asylum in Serbia: 2018

Protection was granted to citizens of the following countries in 2018: Iran, Afganistan, Nigeria

Total number of grants of asylum : 24

Granted refugee status: 11,

Granted subsidiary protection: 13

Breakdown of the total number of persons intending to apply for asylum in Serbia: 2018

Reception conditions are mostly satisfactory in the Asylum Centres due to a significant drop in arrivals, as well as the drop of people who are genuinely interested in staying in Serbia.

Living conditions in the Reception Centres vary. The most disturbing situation has been detected in Adasevci, Šid and Principovci Reception Centres located close to the border with Croatia.

In general, the conditions in the Reception Centres are not designed for long-term stays

Conditions in reception facilities

## Asylum Centre Capacity

Banja Koviljača 120

Bogovađa 200

Tutin 200

Sjenica 250

Krnjača 1,000

Total 1,770

Temporary reception centres - 14



In reality: Asylum centres : All of the enumerated Asylum centres are overcrowded, with a lack of privacy and poor hygienic conditions.

Persons entering the asylum procedure in Serbia do not have an *ipso facto* right to access the labour market.

Persons who seek asylum while possessing a work permit on other grounds may continue working on the basis of that permit.

Asylum seekers whose asylum applications have not been decided upon through no fault of their own within 9 months of being lodged have the right to be issued a work permit valid for 6 months with the possibility of extension for as long as they remain in the asylum procedure

### **Employment and education**

Foreign nationals and stateless persons may enroll in primary and secondary schools and exercise the right to education under the same conditions and in the same manner as Serbian nationals.

Schools are obliged to organise language, preparatory and additional classes for foreign pupils, including stateless persons and refugees, who do not speak the language used in the schools or are in need of specific instructions in order to continue their education

**Access to education for children shall be secured immediately and, at the latest, within three months from the date of their asylum application.**

In practice, asylum seekers and persons granted asylum have an access to the national health care system in an equal manner to Serbian nationals. The costs of health care for asylum seekers and persons granted asylum are always covered by the Ministry of Health.

Health care

In practice, persons granted asylum generally stay at an asylum centre;

These persons were not required to leave the asylum centre following the expiry of the one-year deadline. There are people who have been living in Asylum Centres for years.

Temporary stay in Serbia – one year



The new Asylum Act (2018) introduced equality in the rights and obligations of persons who were granted refugee status with those who were granted subsidiary protection,  
The Employment of Foreigners Act explicitly states that persons who were granted subsidiary protection are to be issued personal work permits for the duration of that status

Ways towards integration?

Additionally, the new Decree on the Integration of Foreigners Granted Asylum in the Social, Cultural and Economic Life of the Republic of Serbia”, (Integration Decree), entered into force on 26 July 2018.

The Integration Decree foresees assistance in accessing the labour market as an integral part of integration process.

**Ways towards integration?**

Asylum Information Database – Country report Serbia 2018

Thank you for your attention!

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Border  
Line  
Serbia-  
Hungary

