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Effects of the migrant crisis in Montenegro

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INTRODUCTION

The Constitution of Montenegro incorporates ratified international treaties and generally accepted rules of international law into the national legal system, prescribing their direct implementation and priority over national legal provisions (Article 9). International norms and standards in the field of migrant protection are, hence, legally binding for Montenegro, and represent the main framework for establishing a system of protection of migrants. Besides relevant provisions of the Constitution and general international legal standards, each category of migrants is treated by specialised international conventions, laws, strategic documents, etc. When it comes to international legal framework, the starting point in this respect is the universal human rights system established by the United Nations.

Universal Declaration of Human Rights (UDHR), adopted in 1948, is the first international legal document containing the right to asylum, stipulating that “everyone has the right to seek and to enjoy in other countries asylum from persecution“ (Article 14). The Refugee Convention, adopted in 1951, is also legally binding and represents a basis for the establishment of the asylum system in Montenegro. The Constitution of Montenegro also contains a number of provisions pertinent to rights of migrants. In Article 44, dealing with the right to asylum, Constitution guarantees the right to apply for asylum, stating that “a foreign national reasonably fearing from persecution on the grounds of person’s race, language, religion or association with a nation or a group or due to own political beliefs may request asylum in Montenegro“. The same article prohibits returning of foreign nationals to a country where the person is threatened by capital punishment, torture, inhuman degradation, persecution or serious violation of constitutional rights, based on person's race, religion, language or national identity. When it comes to the national legal framework regarding this issue area is also covered by the Law on Asylum in Montenegro.

Refugee status in Montenegro is granted to foreign nationals in cases when it is discerned following the asylum application that he/she is reasonably threatened by persecution in the country of origin, based on race, nationality, affiliation with social groups or political beliefs. Besides the refugee status, the Law on Asylum recognises the right to special protection, which is granted to foreign nationals who do not fulfill the requirements for refugee status, but are threatened by torture, inhuman or humiliating treatment in their country of origin or another country, which could seriously endanger their life, safety or freedom. Montenegrin legislation in this issue area, and particularly the new Draft Law on Asylum, as proposed by the Ministry of Interior, aims to incorporate the EU *acquis* in the national system, hence making it completely compatible with European regulations. In this regard, specific migrant categories are recognised in line with their designations by the EU.

Migrants are people who leave from one country or region to settle in another, often in search of a better life¹. *Refugees* are people fleeing their home countries to save their lives and who have been accepted and recognised as such in the reception country². *Asylum seekers* are people who make a formal request for asylum in another country because they fear their life is at risk in their home country³.

¹ European Commission, Glossary, available at: http://ec.europa.eu/immigration/glossary_en#glosR

² European Parliament, A Welcoming Europe?, available at: http://www.europarl.europa.eu/external/html/welcomingeurope/default_en.htm (accessed on 1 July 2016)

³ *ibid.*

STATISTICAL REVIEW OF MIGRANT FLOWS

Statistical data received from the Directorate for Asylum within the Ministry of Interior of Montenegro and provided below reflect the data on total number of asylum seekers since 2007 until today, as well as a number of asylum seekers sorted by months and their nationality during 2015 and 2016. In Montenegro, there are 16 currently valid approved protections, including eight refugee statuses and eight special protections. Refugee status has been awarded to six nationals of Yemen and two nationals of Syria. Special protection has been awarded to two residents of Marrocco and Ukraine, and one from Belarus, Nigeria, Russia and Yemen respectively.

Regarding the applications for asylum, statistics for previous 10 years, valid as of 24 June 2016⁴, are shown in the following table:

Year	No. of applications	Approved protection
2007	3	1 (refugee status)
2008	7	1 (special protection)
2009	20	-
2010	9	-
2011	239	3 (special protection)
2012	1529	1 (refugee status) + 1 (special protection)
2013	3554	-
2014	2312 ⁵	2 (refugee status) + 2 (special protection)
2015	1611	14 (refugee status) + 2 (special protection)
2016	93	5 (refugee status) + 2 (special protection)
Total	9377	34

According to the data published by the Ministry of Interior⁶, during the first eight months of 2015 (1 January - 31 August), a total of 1543 applications for asylum have been submitted in Montenegro. Out of all applicants, 85% were male and 15% female, while minors made up a share of 7%. The Ministry of Labour and Social Welfare announced that 965 people, or 62% of the total number of applicants, have been placed in accommodation facilities for asylum seekers. Out of those people, 78% were male and 22% female, while minors made up 7% of that number. During the months of July and August a significant decrease in the number of applications for asylum has been noted, with four and five applications received in those two months respectively. During 2014, there were 2312 asylum seekers in Montenegro. Out of this number, 71% asylum seekers were from Syria.⁷

More detailed data regarding the number of applications for asylum in Montenegro during each month in 2015 and 2016, sorted by country of origin, is shown in the tables below.

⁴ Official data acquired from the Directorate for Asylum, a special unit within the Ministry of Interior.

⁵ According to the UNHCR Asylum Trends Report 2014, available at <http://www.unhcr.org/551128679.pdf>, this number is 2310.

⁶ Informacija o postupanju nadležnih organa i institucija u slučaju većeg priliva migranata i izbjeglica u Crnu Goru, available at: <http://www.gov.me/ResourceManager/FileDownload.aspx?rId=214878&rType=2> (accessed on 27.6.2016)

⁷ UNHCR Asylum Trends Report 2014, available at <http://www.unhcr.org/551128679.pdf> (accessed on 1 July 2016)

Number of asylum seekers sorted by months and their nationality (as denoted in their statements in 2015⁸:

Nationality/Month	1	2	3	4	5	6	7	8	9	10	11	12	Total
Syria	124	101	153	209	281	113		2	2		11		996
Eritrea	35	40	27	18	34	12							166
Somalia	21	121	14										156
Iraq	1	1		7	22	1						7	39
DR Congo	14	5	13	2						2		2	38
Sudan	6	5	1	15	9	2							36
Gambia	8	6	7	7	6								34
Nigeria	7	2		9	3							1	22
Bangladesh												15	15
Mali	2	5	6	1									14
Ukraine			1	1				2		2	2	2	10
Morocco												7	7
Armenia									4	1	1		6
Cameroon	3			2						1			6
Mauritania	1		2		2								5
Afghanistan	2	1										1	4
India								1		1	2		4
Liberia		4											4
Kosovo			1			1			1				3
Pakistan		1				1						1	3
Palestine					2	1							3
Serbia					3								3
Tunisia							3						3
Without nationality											2	1	3
Algeria			1			1							2
Comoros												2	2
Croatia				2									2
Ethiopia	1				1								2
Gabon		1		1									2
Georgia										2			2
Iran			2										2
Ivory Coast		1	1										2
Sri Lanka		1		1									2
Togo		1										1	2
Yemen		1	1										2
Cuba							1						1
Germany						1							1
Poland			1										1
Russia									1				1
Senegal			1										1
Uganda	1												1
United Kingdom												1	1
Total	226	297	232	275	363	133	4	5	8	9	18	41	1609

During 2015, the main countries of origin seeking asylum include Syria (996), Eritrea (166), Somalia (156), amongst others. However, the number of arrivals in the first half of 2016 from

⁸ Directorate for Asylum, Ministry of Interior of Montenegro (www.mup.gov.me)

these countries dropped to only one from Syria and four from Somalia, and raised the number of asylum seekers from Morocco (from 7 in 2015 to 46 in the first half of 2016).

Number of asylum seekers sorted by months and their nationality (as denoted in their statements) in 2016⁹:

Nationality/Month	1	2	3	4	5	6	7	8	9	10	11	12	Total
Morocco	45	1											46
Algeria	1	2		5		1							9
Iran			1	6									7
Yemen	1	5											6
Serbia	1	1			2								4
Somalia	4												4
Ukraine	1	2											3
Cuba					2								2
Pakistan				2									2
Palestine	2												2
Russia			1			1							2
Turkey		1	1										2
Cameroon	1												1
Egypt	1												1
Kosovo	1												1
Syria				1									1
Total	58	12	3	14	4	2	-	-	-	-	-	-	93

Despite Montenegro's lowest impact from migrant crisis compared to other Western Balkan countries, it is worth noting that, according to the UNHCR Asylum Trends 2014 report, Montenegro ranks fifth on the list of asylum seeking countries in Europe. Relative to the size of its population, Sweden was the country with the largest number of asylum seekers (24.4 asylum seekers per 1,000 inhabitants on average, during the last five years), followed by Malta, Luxembourg, Switzerland and *Montenegro*.

UNHCR Asylum Trends 2014 report

⁹ *ibid.*

LEGISLATIVE ADJUSTMENTS CAUSED BY THE MIGRANT CRISIS

Montenegro experienced a limited impact from migrant crisis and no new legislation has been adopted in order to mitigate its effects at the national level. However, a number of strategic documents have been adopted in order to facilitate preparations for potential intensification of effects of the crisis. The Government of Montenegro created a national strategic framework for managing and confronting the migrant crisis, in order to participate in cooperative efforts undertaken in this respect by the European countries.

In November 2015, the Government of Montenegro adopted the Action Plan of competent state bodies and institutions in the case of major influx of migrants and refugees. The aim of adopting such documents was to guarantee the respect for human rights of migrants and refugees in Montenegro, as well as to undertake all necessary measures to establish close cooperation with neighbouring countries, possible destination countries and countries of origin. The Government also formed the Coordination Committee, chaired by the Deputy Prime Minister and Minister of Interior, as well as the Operational team for implementation of the Plan, chaired by the deputy director in charge of border police, while all activities have been supported by relevant international organisations, most notably by International Organization for Migration (IOM) and United Nations High Commissioner for Refugees (UNHCR)¹⁰.

The Ministry of Interior has also prepared a Draft Law on Asylum¹¹, which should replace the existing legislation in the subject area, and is completely harmonised with the European Union acquis. However, this proposal has not entered the parliamentary procedure yet; it was prepared by the Ministry in March 2015 and subject to public discussion in June 2015. The Draft Law on Asylum is intended to normatively implement the Common European Asylum System (CEAS) and establish an efficient and coherent asylum system which guarantees asylum seekers equal chances in the asylum procedure, as well as equal treatment, in the same manner as in the EU member states. It is also supposed to prescribe a faster, more efficient and economical asylum process, while also providing a possibility of preventing and sanctioning any violations of the procedure. It applies the standards of international humanitarian law and standards of human rights protection in regard to development and implementation of reception policy and the need to create a safe environment for asylum seekers, discouraging any sort of abuse of the asylum system.

¹⁰ Speech made by the Secretary of Ministry of Interior Dragan Pejanović at the Ministerial Conference of Brdo Process, available at: <http://www.gov.me/ResourceManager/FileDownload.aspx?rId=235480&rType=2> (accessed on 24 June 2016)

¹¹ Draft Law on Asylum, available in Montenegrin at: <http://www.mup.gov.me/vijesti/147555/Poziv-za-javnu-raspravu-o-Nacrtu-zakona-o-azilu.html> (accessed on 29 June 2016)

SPECIFIC POLICIES FOR TACKLING THE MIGRANT CRISIS

At its 128th session¹², held on 24 September 2015, the Government of Montenegro considered and adopted the Information on actions of competent state bodies and institutions in the case of major influx of migrants and refugees¹³, and put forward the following recommendations for a number of state institutions regarding this issue area:

- Operational team for coordination of actions of state bodies included in the asylum system shall continue its activities related to preparations for the reception of a massive influx of migrants and refugees;
- Operational team for coordination of actions of state bodies included in the asylum system shall draft the aforementioned Plan of actions of competent state bodies and institutions in the case of major influx of migrants and refugees into Montenegro, with expert support from IOM and other UN agencies and propose it to the Government for adoption;
- Ministry of Internal Affairs shall conduct activities to reinforce administrative and technical capacities of the Sector of Border Police and the Directorate for Asylum for establishing conditions for reception of migrants and refugees;
- Directorate of Public Works shall conduct activities on adaptation of objects “Kremza” and “Zoganje” for establishing minimal conditions for reception of migrants and refugees;
- Ministry of Defence and Ministry of Health shall provide support to other state bodies in conducting activities for reception of migrants and refugees, according to their respective capacities;
- Ministry of Labour and Social Welfare shall provide temporary accommodation at the expected entrance and exit points of migrants and refugees, in cooperation with the Red Cross of Montenegro and municipal authorities;
- Ministry of Labour and Social Welfare shall provide accommodation for vulnerable categories of migrants and refugees within the existing objects – Centre for Asylum Seekers and Public Institution “Ljubović”;
- Ministry of Labour and Social Welfare shall provide food and water for migrants and refugees, in cooperation with the Red Cross of Montenegro;
- Ministry of Transport shall provide support to other state bodies in conducting activities for reception of migrants and refugees, in cooperation with registered carriers;
- Ministry for Information Society and Telecommunications shall, if necessary, ensure the provision of money transfer services for needs of migrants and refugees, in cooperation with the Montenegro Post;
- Ministry for Information Society and Telecommunications shall provide internet signal at the entrance and exit points of migrants and refugees;
- Municipal authorities shall carry out municipal and infrastructure works at the entrance and exit points of migrants and refugees, in order to create adequate conditions for their reception;
- Ministry of Finance shall, if necessary, provide financial resources for the implementation of activities of reception of migrants and refugees.

¹² Press report from 128th Government session, Government of Montenegro, Government of Montenegro, available at: <http://www.gov.me/vijesti/152663/Saopstenje-sa-128-sjednice-Vlade-Crne-Gore.html> (accessed on 27 June 2016)

¹³ *Informacija o postupanju nadležnih organa i institucija u slučaju većeg priliva migranata i izbjeglica u Crnu Goru*, Government of Montenegro, available at: <http://www.gov.me/ResourceManager/FileDownload.aspx?rId=214878&rType=2> (accessed on 27 June 2016)

Based on predictions given and regional experiences and migratory flows¹⁴, Montenegro has been preparing capacities for reception of an average of 2000 people per day. Existing capacities for the reception of migrants and refugees include the Centre for Asylum Seekers (80 beds), Shelter for Foreigners (50 beds), and PI “Ljubović” (25 beds), adding up to available individual capacity of 155 available accommodation places. Adaptation of police-owned objects “Krenza” (Podgorica) and “Zoganje” (Ulcinj) should provide additional approx.500 individual places. Also, in accordance with estimates of the situation, tent settlements with estimated capacity of 1000 spots would be set up at a number of locations.

¹⁴ *ibid.*

INTERNATIONAL COOPERATION

In the light of recent migrant crisis and its effect on the region, Montenegro has intensified its police and judicial cooperation at regional and international levels, particularly in the context of fight against irregular migrations and related manifestations of organised crime, such as exploitation and trafficking of people along the migration routes. A cooperation in the context of the preparatory activities for possible influx of migrants and refugees was established also with a number of UN agencies active in Montenegro, *i.e.* with IOM, UNHCR and UNICEF.

As the presiding country of the Migration, Asylum, Refugees Regional Initiative (MARRI), Montenegro has taken actions in regard to creating preconditions for strengthening of operational capacities of law enforcement agencies and promoting regional cooperation with key partners in this field, including the European Commission and Frontex, in order to achieve the highest possible level of synchronisation of future actions.

Montenegro took over MARRI presidency from Macedonia in June 2015, at the Tenth Forum of this organisation which was held in Skopje.¹⁵ Montenegrin delegation at the forum, led by the Minister of Interior, declared that special emphasis during the presidency period should be put on further strengthening of the initiative, as well as on creating conditions for intensified activities in regard to migration management, raising efficiency of the asylum system, readmission procedures and resolving the status of displaced people in MARRI member states. Besides that, it was announced that particular attention shall be paid to strengthening cooperation with other regional stakeholders and organisations, and strengthening partnerships with the European Commission and other donors, in order to help Western Balkan countries achieve progress in this issue area. During the Forum in Skoplje, a bilateral meeting at the ministerial level was held with Macedonian government, reaffirming good bilateral relations between the relevant ministries and agreeing future cooperation of law enforcement agencies and intensifying bilateral cooperation.

In December 2015, Montenegro hosted the Third annual meeting in Budva¹⁶, which brought together commanders of border police forces and commanders of international airports of countries of Southeastern Europe. During this meeting, the continuation of the JIE-BOARDAIRPOL II project has been announced. This project, financed by Switzerland and MARRI, has the goal of coordinating the existing mechanisms of member states with the EU legislation, standards and best practices, as well as strengthening administrative and operational capacities of border police forces in order to suppress illegal migrations and fight against organised crime and terrorism.

Montenegrin delegation participated in the Eastern Mediterranean – Western Balkans route conference¹⁷, held in October 2015 in Luxembourg. The conference was organised by Jean Asselborn, minister for Foreign and European Affairs, minister for Immigration and Asylum, and Federica Mogherini, High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the Commission, in order to discuss with all relevant partners the

¹⁵ *Ministar Konjević u Skoplju: Crna Gora preuzela predsjedavanje MARRI-jem*, Ministry of Interior, 10 June 2015, available at: <http://www.mup.gov.me/vijesti/149847/Ministar-Konjevic-u-Skoplju-Crna-Gora-preuzela-predsjedavanje-MARRI-jem.html> (accessed on 23 June 2016)

¹⁶ *Jačanje saradnje graničnih policija zemalja Jugoistočne Evrope u oblasti upravljanja migracionim tokovima*, Ministry of Interior, 16 December 2015, available at: <http://www.mup.gov.me/vijesti/156122/Jacanje-saradnje-granicnih-policija-zemalja-Jugoistocne-Evrope-u-oblasti-upravljanja-migracionim-tokovima.html> (accessed on 22 June 2016)

¹⁷ *Konferencija o migracijama u Luksemburgu: Pomoći državama pogođenim izbjegličkom krizom*, Ministry of Interior, 9 October 2015, available at: <http://www.gov.me/vijesti/153194/Konferencija-o-migracijama-u-Luksemburgu-Pomoci-drzavama-pogodenim-izbjeglickom-krizom.html> (accessed on 22 June 2016)

importance of this route in the increased migratory flows coming from the Middle East. The conference was concluded by the adoption of a Declaration, which recognised the determination of EU and its member states to provide humanitarian aid, as well as assistance in building reception and accommodation facilities to the Western Balkan states who have been influenced by the migrant and refugee crisis. Participants also agreed on the guidelines for action in regard to providing additional assistance to Turkey, Lybia and Jordan, states which have received the greatest number of refugees. The significance of the MARRI initiative has also been recognised at the conference as one of the factors to be utilised in reaching the agreed goals of more coordinated regional cooperation, comprehensive common approach in issues related to asylum, migration, border control and visa regime.

Montenegrin presidency over MARRI was concluded with the Annual Forum¹⁸ held in Podgorica on 21 June 2016. The forum was attended by representatives from Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro and Serbia, as well as representatives of a number of international organisations – IOM, OSCE, Geneva Centre for the Democratic Control of Armed Forces (DCAF), International Centre for Migration Policy Development (ICMPD) and Swiss State Secretariat for Migration. This Forum was used to summarise the results of Montenegrin presidency, adopt the MARRI Podgorica Declaration, and transfer the one-year presidency to Serbia. A number of strategic documents were also adopted: Decision on yearly contributions for 2016, Annual report on MARRI activities in the period from June 2015 to July 2016, Financial report for 2015, and Priorities of Serbian presidency for the next year.

Secretary of the Ministry of Interior noted that the year of Montenegrin presidency has been defined by challenges caused by the Migrant crisis, and the establishment of the Balkan route reaffirmed the importance of MARRI in regard to drafting a common regional response to the crisis. Secretary underlined that progress made during the Montenegrin presidency was evident, as witnessed by succesful projects implemented in cooperation with a number of regional and international partners. MARRI member states have assessed the Montenegrin presidency as successful, and commended the implementation of Presidency's priorities and activities. The need for better mutual cooperation and continued activity, with the goal of more efficient functioning of MARRI and its regional Center, was reaffirmed by all participants.

Due to the limited impact of the crisis on Montenegro, and continuous good cooperation with neighbouring countries and the EU regarding this issue, there have been no problems in the field of international relations stemming from the migrant crisis.

¹⁸ *Završen MARRI Regionalni forum; Crna Gora završila jednogodišnje predsjedavanje inicijativom*, Government of Montenegro, 22 June 2016, available at: <http://www.gov.me/naslovna/vijesti-iz-ministarstava/162365/Završen-MARRI-Regionalni-forum-Crna-Gora-završila-jednogodisnje-predsjedavanje-inicijativom.html> (accessed on 22 June 2016)