

# LAW ON ASYLUM

## I. GENERAL PROVISIONS

### *The subject matter of the Law*

#### Article 1

This Law shall prescribe the principles, conditions and procedure for the granting and cessation of asylum, as well as the status, rights and obligations of asylum seekers and persons granted the right to asylum in the Republic of Serbia.

### *Definitions of terms*

#### Article 2

The basic terms used in the text of this Law shall mean the following:

**asylum** shall be understood to mean the right to residence and protection accorded to an alien to whom, on the basis of a decision of the competent authority deciding on his/her application for asylum in the Republic of Serbia, refuge or another form of protection provided for by this Law was granted;

**the asylum procedure** shall be understood to mean a procedure, governed by this Law, for the acquisition and cessation of the right to asylum and other rights of asylum seekers;

**an alien** shall be understood to mean any person who is not a citizen of the Republic of Serbia, irrespective of whether he/she is a foreign national or a stateless person;

**a country of origin** shall be understood to mean the country of citizenship of an alien or the country where a stateless person had habitual residence, and if an alien has more than one citizenship, a country of origin shall be understood as each country where the alien has citizenship.

**an asylum seeker** shall be understood to mean an alien who has filed an application for asylum on the territory of the Republic of Serbia, on whose application a final decision has not been taken;

**a refugee** shall be understood to mean a person who, on account of well-founded fear of persecution for reasons of race, sex, language, religion, nationality, membership of a particular social group or political opinions, is not in the country of his/her origin, and is unable or unwilling, owing to such fear, to avail him/herself of the protection of that

country, as well as a stateless person who is outside the country of his/her previous habitual residence, and who is unable or unwilling, owing to such fear, to return to that country;

**refuge** shall be understood to mean the right to residence and protection granted to an refugee who is on the territory of the Republic of Serbia, with respect to whom the competent authority has determined that his/her fear of persecution is well-founded;

**subsidiary protection** shall be understood to mean a form of protection the Republic of Serbia grants to an alien who would be subjected, if returned to the country of origin, to torture, inhumane or degrading treatment, or where his/her life, safety or freedom would be threatened by generalized violence caused by external aggression or internal armed conflicts or massive violation of human rights;

**UNHCR** shall be understood to mean the Office of the United Nations High Commissioner for Refugees;

**a safe country of origin** shall be understood to mean a country from a list established by the Government whose national an asylum seeker is, and if the person concerned is stateless, a country where that person had previous habitual residence, which has ratified and applies international treaties on human rights and fundamental freedoms, where there is no danger of persecution for any reason which constitutes grounds for the recognition of the right to refuge or for granting subsidiary protection, whose citizens do not leave their country for those reasons, and which allows international bodies to monitor the observance of human rights;

**a safe third country** shall be understood to mean a country from a list established by the Government, which observes international principles pertaining to the protection of refugees contained in the 1951 Convention on the Status of Refugees and the 1967 Protocol on the Status of Refugees (hereinafter referred to as: the Geneva Convention and the Protocol), where an asylum seeker had resided, or through which he/she had passed, immediately before he/she arrived on the territory of the Republic of Serbia and where he/she had an opportunity to submit an asylum application, where he/she would not be subjected to persecution, torture, inhumane or degrading treatment, or sent back to a country where his/her life, safety or freedom would be threatened;

**a family member** shall be understood to mean a minor child, adopted child or step-child, who is not married, a spouse, provided that the marriage was contracted before the arrival in the Republic of Serbia, as well as a parent or an adoptive parent legally obliged to support him/her.

The status of a family member may also be granted to other persons in exceptional circumstances, particularly taking into account the fact that they were supported by the person who has been granted refuge or subsidiary protection;

**an unaccompanied minor** shall be understood to mean an alien under 18 years of age who was unaccompanied by parents or guardians on his/her arrival in the Republic of Serbia, or

who became unaccompanied by parents or guardians after arriving in the Republic of Serbia.

*The application of this Law in the asylum procedure*

Article 3

The provisions of this Law shall apply to the basic principles and conditions for the acquisition of the right to asylum and the reasons for its cessation, to the fundamental rights and obligations of asylum seekers, refugees and persons granted another form of protection envisaged by this Law, and also to the asylum procedure.

The regulations governing general administrative proceedings shall apply to the issues related to the asylum procedure that are not regulated by this Law.

The regulations governing the movement and residence of aliens shall apply to the issues related to the scope, content and type of the rights and obligations of asylum seekers, persons granted refuge, subsidiary protection or temporary protection not regulated by this Law.

This Law shall not apply to refugees who were granted that status under the Law on Refugees (*The Official Gazette of the Republic of Serbia*, nos. 18/92 and 45/2002).

*The right to filing an application for asylum*

Article 4

An alien who is on the territory of the Republic of Serbia shall have the right to file an application for being granted asylum in the Republic of Serbia.

If the alien referred to in paragraph 1 of this Article is not eligible for being granted the right to refuge, the competent authorities shall consider *ex officio* whether there exist conditions for granting subsidiary protection.

*Cooperation with UNHCR*

Article 5

The competent authorities shall cooperate with UNHCR in the conduct of its activities, in conformity with its mandate.

## **II. BASIC PRINCIPLES**

### *Non-refoulement*

#### Article 6

No person shall be expelled or returned against his/her will to a territory where his/her life or freedom would be threatened on account of his/her race, sex, language, religion, nationality, membership of a particular social group or political opinions.

The provisions of paragraph 1 of this Article shall not apply to a person with respect to whom there are reasonable grounds to believe that he/she constitutes a threat to national security, or who has been convicted of a serious crime by a final court judgment, for which reason he/she constitutes a danger to the public order.

Notwithstanding the provisions of paragraph 2 of this Article, no person shall be expelled or returned against his/her will to a territory where there is a risk of his/her being subjected to torture, inhumane or degrading treatment or punishment.

### *The principle of non-discrimination*

#### Article 7

In the asylum procedure in the Republic of Serbia, any discrimination on any grounds shall be prohibited, and in particular on the grounds of race, colour, sex, nationality, social origin or a similar status, birth, religion, political or other beliefs, financial standing, culture, language, age, mental, sensory or physical disability.

### *The principle of non-punishment for unlawful entry or stay*

#### Article 8

An asylum seeker shall not be punished for unlawful entry or stay in the Republic of Serbia, provided that he/she submits an application for asylum without delay and offers a reasonable explanation for his/her unlawful entry or stay.

### *The principle of family unity*

#### Article 9

The competent authorities shall take all the available measures for the purpose of maintaining family unity during the asylum procedure and after the granting of the right to asylum.

Persons granted asylum shall be entitled to family reunion, in accordance with the provisions of this Law.

*The principle of providing information and legal aid*

Article 10

An alien who has expressed his/her intention to seek asylum in the Republic of Serbia shall be entitled to being informed about his/her rights and obligations in the course of the entire asylum procedure.

An asylum seeker shall have the right to free legal aid and representation by UNHCR and NGOs whose objectives and activities are aimed at providing legal aid to refugees.

*The principle of providing free translation services*

Article 11

An asylum seeker who does not understand the official language of the procedure shall be provided with free services for the purpose of translation into the language of the country of origin or a language he/she can communicate in.

An asylum seeker may engage an interpreter of his/her own choice and at his/her expense.

The obligation of providing free translation services referred to in paragraph 1 of this Article shall apply to the use of sign language and the availability of materials in the Braille alphabet and other accessible formats.

*The principle of free access to UNHCR*

Article 12

An asylum seeker shall have the right to contact authorized UNHCR staff at any stage of the asylum procedure.

*The principle of personal delivery*

Article 13

Any written official communication in the procedure shall be delivered to an asylum seeker or his/her legal representative in person. A written official communication shall be considered delivered when either of the above-mentioned persons has received it.

*The principle of gender equality*

Article 14

It shall be ensured that an asylum seeker is interviewed by a person of the same sex or provided with a translator or an interpreter of the same sex, unless it is not possible or is associated with disproportionate difficulties for the body conducting the asylum procedure.

The principle referred to in paragraph 1 of this Article shall always be applied in the cases of conducting a search, body checks and other actions in the procedure presupposing physical contact with an asylum seeker.

*The principle of providing care for persons with special needs*

Article 15

Care shall be taken in the asylum procedure of the specific situation of persons with special needs who seek asylum, such as minors, or persons completely or partially deprived of legal capacity, children separated from parents or guardians, handicapped persons, elderly people, pregnant women, single parents with minor children and persons who were subjected to torture, rape or other serious forms of psychological, physical or sexual violence.

*The principle of representation of unaccompanied minors  
and persons without legal capacity*

Article 16

A guardian shall be appointed by the guardianship authority before the submission of an asylum application, in conformity with the law, for an unaccompanied minor or a person without legal capacity who does not have a legal representative.

The guardian shall be present in the course of an interview with an unaccompanied minor or a person without legal capacity referred to in paragraph 1 of this Article.

*The principle of directness*

Article 17

Any alien who has filed an asylum application shall have the right to a verbal and direct interview, carried out by an authorized officer of the organisational unit of the Ministry of the Interior in charge, regarding all the facts relevant to the recognition of the right to refuge or to the granting of subsidiary protection.

## *The principle of confidentiality*

### Article 18

The data on an asylum seeker obtained in the course of the asylum procedure shall constitute an official secret and access to it shall be allowed only to persons authorized by law.

The data referred to in paragraph 1 of this Article shall not be disclosed to the country of origin of an asylum seeker, unless he/she has to be forcibly returned to the country of origin upon the completion of the procedure, his/her asylum application having been rejected. In that case, the following data may be provided:

- identification data;
- data on family members;
- data on documents issued by the country of origin;
- address of his/her permanent residence;
- fingerprints, and
- photographs.

## **III. THE COMPETENT AUTHORITIES**

### *The Asylum Office*

#### Article 19

With respect to asylum applications and the cessation of the right to asylum, the competent organisational unit of the Ministry of the Interior (hereinafter: the Asylum Office) shall conduct the procedure and take all decisions in the first instance.

Authorized officers conducting the asylum procedure in the Asylum Office shall be specially trained for the performance of these tasks.

The Minister of the Interior (hereinafter referred to as: the Minister), shall more specifically define the terms and criteria pertaining to officers performing tasks in the Asylum Office through an act passed by him/her.

## *The Asylum Commission*

### Article 20

The Asylum Commission shall be comprised of the Chairman and eight members appointed by the Government for a four-year term, and shall decide in the second instance on complaints lodged against the decisions taken by the Asylum Office.

In the budget of the Republic of Serbia, an appropriation shall be made for the work of the Asylum Commission.

A person may be appointed the Chairman or a member of the Asylum Commission if he/she is a citizen of the Republic of Serbia, has a university degree in law and a minimum of five years of working experience as a practicing lawyer, and is familiar with regulations in the field of human rights.

The Government shall set the amount of remuneration due to the members of the Asylum Commission for their work by passing an act on it.

The Asylum Commission shall be independent in its work and shall pass decisions by a majority vote of the overall number of its members.

The Ministry of the Interior shall perform administrative tasks for the Asylum Commission.

Within 30 days of the date of the appointment of its members, the Asylum Commission shall pass its Rules of Procedure. The Rules of Procedure shall more specifically regulate the decision-making method of the Asylum Commission, the calling of its meetings and other issues of relevance to the work of the Asylum Commission.

## *The Asylum Centre*

### Article 21

Pending the adoption of the final decision on asylum applications, asylum seekers shall be provided with accommodation and basic living conditions at the Asylum Centre, which is part of the Commissariat for Refugees as a special organisation, in accordance with the Law on State Administration and the Law on Civil Servants. The Government shall pass an act establishing one or more asylum centres.

The operation of the Asylum Centre shall be managed by the official in charge of the Commissariat for Refugees, who shall regulate the internal organisation and job classification at the Asylum Centre by passing an act on it.

The official in charge of the Commissariat for Refugees shall pass regulations pertaining to the housing conditions, House Rules and providing the basic living conditions at the Asylum Centre.



The funds for the operation of the Asylum Centre shall be provided from the budget of the Republic of Serbia.

#### **IV. THE ASYLUM PROCEDURE**

##### *Intention to seek asylum*

##### Article 22

An alien may, verbally or in writing, express his/her intention to seek asylum to an authorized police officer of the Ministry of the Interior, during a border check in the course of entering the Republic of Serbia, or inside its territory.

An alien who has expressed an intention to seek asylum shall be entered into records and referred to the Asylum Office, i.e., the Asylum Centre. An alien shall be under an obligation to report within 72 hours to an authorized officer of the Asylum Office, i.e., the Asylum Centre.

If an authorized officer of the Ministry of the Interior, in the case referred to in paragraph 1 of this Article, suspects that one of the reasons for the restriction of movement referred to in Article 51 of this Law applies to the case in hand, he/she shall escort the alien to the Asylum Office or the Asylum Centre.

##### *Keeping records*

##### Article 23

An authorized officer of the Ministry of the Interior, to whom an alien has expressed an intention to seek asylum, shall make a record of it.

The entry into records shall include the issuance of a prescribed certificate containing the personal data that the alien has provided about him/herself or that can be established on the basis of the identification papers and documents available on his/her person.

The certificate referred to in paragraph 2 shall serve as proof that the alien in question has expressed an intention to seek asylum and that he/she has the residence right for 72 hours.

An authorized police officer shall have the right to search an alien and his/her personal belongings for the purpose of finding identification papers and documents required for the issuance of the certificate referred to in paragraph 2 of this Article. All identification papers and documents which have been found shall be recorded in the certificate.

The manner of making a record of aliens who have expressed an intention to seek asylum shall be regulated in more detail by an act passed by the Minister.

## *Registration*

### Article 24

An authorized officer of the Asylum Office shall register an alien and his/her family members.

The registration shall include:

- 1) establishing identity;
- 2) taking a photograph;
- 3) taking fingerprints, and
- 4) temporary seizure of all identification papers and documents which can be of relevance in the asylum procedure, of which a certificate shall be issued to an alien.

An alien who possesses a passport, an identity card or some other identification document, a residence permit, a visa, a birth certificate, a travel ticket and/or another document or some official communication of relevance to the asylum procedure, shall be obliged to submit them upon registration or when filing an asylum application, but prior to his/her interview at the latest.

Upon the completion of his/her registration, an alien shall be issued an identity card for asylum seekers.

An alien who deliberately obstructs, avoids or does not agree to the registration referred to in paragraph 1 of this Article shall not be allowed to submit an asylum application.

The manner of conducting the registration referred to in paragraph 1 of this Article shall be prescribed by the Minister.

## *Initiating the procedure for granting asylum*

### Article 25

The procedure for granting asylum shall be initiated by submitting an asylum application to an authorized officer of the Asylum Office on a prescribed form, within 15 days of the day of registration, and in justified cases, the Asylum Office may extend this time limit at the request of an alien.

Before the submission of an asylum application, an alien shall be informed of his/her rights and obligations, especially of the rights to residence, a free interpreter, legal aid and access to UNHCR.

An alien shall lose the right to reside in the Republic of Serbia if he/she unjustifiably fails to abide by the time limit referred to in paragraph 1 of this Article.

The content and the format of the asylum application form shall be prescribed by the Minister.

## *Interview*

### Article 26

An authorized officer of the Asylum Office shall interview an asylum seeker in person as soon as possible. An asylum seeker may be interviewed more than once.

An audio recording of an interview may be made provided the asylum seeker in question is informed of this.

A legal representative of an asylum seeker and a UNHCR representative may be present at an interview, provided that the asylum seeker does not object to that.

An authorized officer of the Asylum Office shall endeavour during the interview to establish all the facts of relevance to making a decision on an asylum application, and in particular:

- 1) the identity of the asylum seeker in question,
- 2) the grounds on which his/her asylum application is based,
- 3) the asylum seeker's movement after leaving his/her country of origin, and
- 4) whether the asylum seeker has previously sought asylum in any other country.

An asylum seeker shall be obliged to fully cooperate with the Asylum Office and to accurately present all the facts of relevance to decision-making.

## *First-instance decisions of the Asylum Office*

### Article 27

After conducting the procedure, the Asylum Office shall pass a decision on:

- 1) granting an asylum application and recognizing the right to refuge or extending subsidiary protection to an alien;
- 2) refusing an asylum application and ordering an alien to leave the territory of the Republic of Serbia within a set time limit, unless he/she has some other grounds for residence.

The decision referred to in paragraph 1 of this Article shall also apply to a refugee's family members who have not submitted asylum applications.

In legally defined cases, the Asylum Office shall decide to suspend the asylum procedure.

### *Granting an asylum application*

#### Article 28

The Asylum Office shall issue a decision by virtue of which the right to refuge is recognised or subsidiary protection granted to an alien once it has established that the person who has filed an asylum application meets the requirements for being granted the right to refuge or subsidiary protection, if no reasons to deny the right to refuge exist.

### *Rejecting an asylum application*

#### Article 29

The Asylum Office shall issue a decision rejecting the asylum application of an alien if it has established that the claim is unfounded or that there are statutory reasons for denying the right to asylum.

The decision referred to in paragraph 1 of this Article shall include a justification.

### *Unfounded asylum applications*

#### Article 30

An asylum application shall be considered unfounded if it has been established that a person who filed the application does not meet the requirements prescribed for granting the right to refuge or subsidiary protection, and in particular:

- 1) if the asylum application is based on untruthful reasons, fraudulent data, forged identification papers or documents, unless the applicant can provide valid reasons for that;
- 2) if the statements given in the asylum application regarding facts of relevance to the decision on asylum contradict the statements made in an interview with the asylum seeker in question or other evidence gathered in the course of the procedure (if, contrary to the statements given in the application, it has been established in the course of the procedure that the asylum application was submitted for the purpose of postponing deportation, that the asylum seeker has come for purely economic reasons and the like);
- 3) if the asylum seeker refuses to make a statement regarding the reasons for seeking asylum or if his/her statement is unclear or does not contain information indicating persecution.

### *Reasons for denying the right to asylum*

#### Article 31

The right to asylum shall not be recognised to a person with respect to whom there are serious reasons to believe that:

1. he/she has committed a crime against peace, a war crime, or a crime against humanity, according to the provisions of international conventions adopted with a view to preventing such crimes;
2. he/she has committed a serious non-political crime outside the Republic of Serbia prior to entering its territory;
3. he/she is responsible for acts contrary to the purposes and principles of the United Nations.

The right to asylum shall not be recognised to a person who enjoys protection or assistance from some of the institutions or agencies of the United Nations, other than UNHCR.

The right to asylum shall not be recognised to a person to whom the competent authorities of the Republic of Serbia recognise the same rights and obligations as to the citizens of the Republic of Serbia.

#### *Submission of a new asylum application*

##### Article 32

An alien whose asylum application was previously refused in the Republic of Serbia may file a new application if he/she provides evidence that the circumstances relevant for the recognition of the right to refuge or for granting subsidiary protection have substantially changed in the meantime. If he/she fails to do so, the application shall be rejected.

#### *Rejection of asylum applications*

##### Article 33

The Asylum Office shall reject an asylum application without examining the eligibility of an asylum seeker for the recognition of asylum if it has established:

- 1) that the asylum seeker could have received effective protection in another part of the country of origin, unless he/she cannot be reasonably expected to do so in view of all the circumstances,
- 2) that the asylum seeker enjoys the protection of, or receives assistance from, an agency or a body of the United Nations Organisation, other than UNHCR, or has been granted asylum in some other country;
- 3) that the asylum seeker has the citizenship of a third country;
- 4) that the asylum seeker can receive protection from a safe country of origin, unless he/she can prove that it is not safe for him/her;
- 5) that an asylum application, which the asylum seeker has submitted in another country that complies with the Geneva Convention was refused, and the circumstances upon which the

- application was based have not changed in the meantime, or if he/she has already filed an asylum application in another country observing the Geneva Convention;
- 6) that the asylum seeker has come from a safe third country, unless he/she can prove that it is not safe for him/her;
  - 7) that the asylum seeker has deliberately destroyed a travel document, an identification paper or some other written official communication, which could have been of relevance to the decision on asylum, unless he/she can quote valid reasons for that.

Before issuing a decision on rejecting an asylum application, the Asylum Office shall question the asylum seeker with respect to all the circumstances which exclude the reasons for rejecting an asylum application referred to in paragraph 1 of this Article.

### *Suspension of the procedure and restitutio in integrum*

#### Article 34

The procedure for granting asylum shall be suspended *ex officio* if an asylum seeker:

- 1) withdraws his/her asylum application;
- 2) despite having received a duly served summons, fails to appear for an interview or declines to make a statement, without providing a valid reason for doing so;
- 3) without a valid reason, fails to notify the Asylum Office of a change of address at which he/she resides within three days of the said change, or if he/she prevents the service of a summons or another written official communication in some other way;
- 4) leaves the Republic of Serbia without the approval of the Asylum Office.

In its decision to suspend the procedure, the Asylum Office shall set a time limit within which an alien who has no other grounds for residing in the Republic of Serbia must leave its territory, and if he/she fails to do so, he/she shall be forcibly expelled, in accordance with the law governing the stay of aliens.

An asylum seeker may, within three days of the date when the reasons for his/her failure to respond to the summons for an interview or to report a change of address in a timely manner ceased to apply, submit a proposal for restoration to the original condition (*restitutio in integrum*).

A decision on the proposal for restoration to the original condition shall be taken by the Asylum Office.

### *Time limit for lodging an appeal*

#### Article 35

An appeal against first-instance decisions issued in the asylum procedure shall be lodged within fifteen days of the date of receipt of the first-instance decision.

## **V. TEMPORARY PROTECTION**

### *Temporary protection*

#### Article 36

In the case of a massive influx of persons from a country where their life, safety or freedom is threatened by generalised violence, external aggression, internal armed conflicts, massive violation of human rights or other circumstances that have seriously affected public order, when it is not possible to carry out an individual procedure for granting the right to asylum due to the massive influx, temporary protection shall be accorded in line with the social, economic and other capacities of the Republic of Serbia. A decision on the provision of temporary protection shall be taken by the Government.

Temporary protection may also be accorded to those persons who lawfully resided in the Republic of Serbia at the time when the decision referred to in paragraph 1 of this Article was issued, but their residence right expired before the reasons for the provision of temporary protection ceased to apply, if other statutory requirements have been met.

The Asylum Office shall carry out the registration of persons enjoying temporary protection by applying measures referred to in Article 24, paragraph 1, items 1), 2) and 3) of this Law.

The Asylum Office shall issue individual decisions on granting temporary protection, in accordance with the decision referred to in paragraph 1 of this Article.

Temporary protection is an extraordinary measure and may last for up to one year, and if the reasons for providing temporary protection continue to apply, it may be extended.

Aliens to whom temporary protection has been granted shall have the right to submit an asylum application.

### *The cessation of temporary protection*

#### Article 37

Temporary protection shall cease upon the expiry of the period for which it was granted, or when the reasons for which it was granted have ceased to exist, which shall be decided by the Government.

Notwithstanding paragraph 1 of this Article, temporary protection may cease to apply to an alien on the basis of a decision taken by the Asylum Office, if it has been established that in his/her case reasons exist for which the right to refuge may be denied.

*The rights and obligations of aliens granted temporary protection*

Article 38

An alien who has been granted temporary protection shall have the right:

- 1) to residence during the period of the validity of temporary protection;
- 2) to a personal document confirming his/her status and residence right;
- 3) to health care, in accordance with the regulations governing health care for aliens;
- 4) to free primary and secondary education in public schools, in accordance with a special regulation;
- 5) to legal aid, under the conditions prescribed for asylum seekers;
- 6) to freedom of religion, under the same conditions that apply to the citizens of the Republic of Serbia;
- 7) to accommodation, in accordance with a special regulation;
- 8) to affordable accommodation, in the case of handicapped persons.

An alien who has been granted temporary protection shall be equal in terms of obligations with persons whose right to refuge has been recognised.

**VI. THE EXERCISE OF RIGHTS AND THE FULFILMENT OF  
OBLIGATIONS BY ASYLUM SEEKERS, REFUGEES AND PERSONS  
GRANTED SUBSIDIARY PROTECTION**

*The right to reside in the Republic of Serbia, accommodation and basic living conditions*

Article 39

For the duration of the procedure, an asylum seeker shall have the right to reside in the Republic of Serbia and during that period, if necessary, he/she shall be entitled to accommodation at the Asylum Centre.

Upon admission to the Asylum Centre, all asylum seekers shall undergo a medical examination in accordance with a regulation passed by the Minister in charge of public health.

At the Asylum Centre, in addition to accommodation, the basic living conditions shall be provided to asylum seekers: clothes, food, financial assistance and other conditions, in conformity with special regulations and the principles of the asylum procedure.

If an asylum seeker possesses his/her own financial assets or if they have been provided to him/her in some other manner, he/she shall be obliged to co-finance the costs of accommodation at the Asylum Centre, and at his/her request, if there are no reasons for restriction of movement as defined in Article 47 of this Law, the Asylum Office shall allow him/her to reside outside the Asylum Centre.



### *Health care*

#### Article 40

An asylum seeker and a person who has been granted asylum in the Republic of Serbia shall have equal rights to health care, in accordance with the regulations governing health care for aliens.

### *The right to free primary and secondary education and the right to welfare benefits*

#### Article 41

An asylum seeker and a person who has been granted asylum shall have the right to free primary and secondary education and the right to welfare benefits, in accordance with a special regulation.

The regulations pertaining to welfare benefits for asylum seekers and persons who have been granted asylum shall be passed by the Minister in charge of welfare.

### *The rights of refugees equal to those of the citizens of the Republic of Serbia*

#### Article 42

Persons whose right to refuge in the Republic of Serbia has been recognised shall have rights equal to those of the citizens of the Republic of Serbia with respect to intellectual property protection rights, free access to courts of law, legal aid, exemption from the payment of court fees and other fees payable to state organs, and the right to freedom of religion.

### *The rights of refugees equal to those of permanently residing aliens*

#### Article 43

Persons whose right to refuge in the Republic of Serbia has been recognised shall have rights equal to those of permanently residing aliens with respect to the right to work and rights arising from employment, entrepreneurship, the right to permanent residence and freedom of movement, the right to movable and immovable property, and the right of association.

### *The right of refugees to accommodation*

#### Article 44

To persons whose right to refuge or subsidiary protection has been recognised, accommodation shall be provided commensurately with the capacities of the Republic of Serbia, but not for longer than one year from the final decision on status recognition.

For the purposes of paragraph 1 of this Article, accommodation shall imply the provision of a certain habitable space for use, or of financial assistance necessary for housing.

*Exemption from reciprocity*

Article 45

After residing in the Republic of Serbia for three years from the date of the recognition of the right to refuge, a refugee shall be exempt from possible reciprocity measures in respect of the rights due to him/her according to the law.

*The integration of refugees*

Article 46

The Republic of Serbia shall, commensurately with its capacities, create conditions for the inclusion of refugees in its social, cultural and economic life, and enable the naturalization of refugees.

*Special obligations of asylum seekers*

Article 47

An asylum seeker shall be obliged:

- 1) to adhere to the measures for restriction of movement referred to in Article 52 of this Law, if they have been imposed;
- 2) to inform the Asylum Office in writing of any change of address within three days of such a change of address;
- 3) to abide by the House Rules, if he/she is accommodated at the Asylum Centre;
- 4) to respond to summons and cooperate with the Asylum Office and other competent authorities at all the stages of the asylum procedure;
- 5) to hand over to an authorized officer his/her identification papers, travel document and other documents, which can be of relevance for his/her identification;
- 6) to cooperate with authorized staff during his/her registration and medical examination;
- 7) to stay on the territory of the Republic of Serbia pending the completion of the procedure for granting asylum.
- 8) to leave the Asylum Centre after the final decision on asylum application has been taken.

In the case of non-compliance with the obligations referred to in paragraph 1 items 3) and 8) of this Article, the authorised officer of the Asylum Centre shall inform the Asylum Office so that it can undertake measures from its sphere of jurisdiction.

## VII FAMILY REUNION

*The right to family reunion of a person whose right to refuge has been recognised*

### Article 48

A person whose right to refuge has been recognised shall have the right to reunite with his/her family members.

At the request of the person referred to in paragraph 1 of this Article, the Asylum Office shall also grant the right to refuge to his/her family members who are outside the territory of the Republic of Serbia, unless there are statutory reasons to deny them that status.

*The right to family reunion of a person granted subsidiary protection*

### Article 49

A person who has been granted subsidiary protection shall have the right to family reunion in accordance with the regulations governing the movement and stay of aliens.

*The family reunion of a person granted temporary protection*

### Article 50

The competent authorities may, in justifiable cases, allow family reunion and also grant temporary protection to family members of a person enjoying temporary protection in the Republic of Serbia.

## **VIII. RESTRICTION OF MOVEMENT**

*Reasons for restriction of movement*

### Article 51

The movement of asylum seekers may be restricted by a decision of the Asylum Office, when it is necessary for the purpose of:

- 1) establishing identity,
- 2) ensuring the presence of an alien in the course of the asylum procedure, if there are reasonable grounds to believe that an asylum application was filed with a view to avoiding deportation, or if it is not possible to establish other essential facts on which the asylum application is based without the presence of the alien in question;
- 3) protecting national security and public order in accordance with the law.

### *Measures for restriction of movement*

#### Article 52

Restriction of movement shall be implemented by:

- 1) ordering accommodation at the Reception Center for Aliens under intensified police surveillance;
- 2) imposing a ban on leaving the Asylum Centre, a particular address and/or a designated area.

Restriction of movement shall last for as long as the reasons referred to in Article 51 of this Law apply, but not for longer than three months.

Notwithstanding the above, when restriction of movement was imposed for the reasons referred to in Article 51, items 2) and 3) of this Law, restriction of movement may be extended for another three months.

An appeal against a decision on imposing or extending the measure referred to in paragraph 1 item 1) of this Article shall be decided upon by the competent district court.

The provisions of Article 53 of the Law on Police (*The Official Gazette of the Republic of Serbia* no. 101/05) shall apply accordingly to the procedure of passing decisions on appeals referred to in paragraph 4 of this Article.

An appeal against a decision on restriction of movement shall not have suspensive effect.

### *Non-compliance with restriction of movement*

#### Article 53

An asylum seeker who has violated the ban referred to in Article 52, paragraph 1, item 2), of this Law, may be ordered to stay at the Reception Center for Aliens.

## **IX. THE CESSATION OF ASYLUM AND THE EXPULSION OF AN ALIEN**

### *The cessation of the right to refuge*

#### Article 54

The right to refuge shall cease for the following reasons:

1. if a person has voluntarily re-availed him/herself of the protection of his/her country of origin;
2. if, having lost his/her citizenship, a person has voluntarily re-acquired it;
3. if a person has acquired a new citizenship, and thus enjoys the protection of the country of his/her new citizenship;
4. if a person has voluntarily returned to the country he/she left or outside which he/she has remained owing to fear of persecution or ill-treatment; or
5. if a person can no longer, because the circumstances that led to his/her being granted protection have ceased to exist, continue to refuse to avail him/herself of the protection of his/her country of origin.

The cessation of protection in accordance with the provisions of paragraph 1 item 5) of this Article shall not apply to a person who is able to give compelling reasons, arising out of past persecution or ill-treatment, for refusing to avail him/herself of the protection of his/her country of origin.

### *Revoking a decision on granting asylum*

#### Article 55

The Asylum Office shall *ex officio* revoke a decision on granting asylum if it is established that the reasons referred to in Article 54 of this Law apply, as well as in other cases defined by law.

### *The cessation of asylum due to cancelling a decision on granting asylum*

#### Article 56

The Asylum Office shall *ex officio* cancel a decision on granting asylum if it is subsequently established:

- 1) that a decision on granting asylum was taken on the basis of falsely presented facts or of concealment of facts by an asylum seeker and that, due to the above reason, at the time of the submission of the asylum application he/she was not eligible for being granted of asylum, and

- 2) that there exist reasons for which, on the basis of the law, he/she would have been denied the right to refuge, had these reasons been known at the time of the submission of the asylum application.

### *The expulsion of an alien*

#### Article 57

An alien whose asylum application has been refused or rejected, or whose asylum procedure has been suspended, and who does not reside in the country on some other grounds, shall be obliged to leave the Republic of Serbia within the time limit specified in that decision.

The time limit within which an alien shall be obliged to leave the Republic of Serbia shall not be longer than within 15 days of the receipt of the final decision referred to in paragraph 1 of this Article.

If an alien fails to voluntarily leave the Republic of Serbia within the time limit specified, and also in the case referred to in Article 25 paragraph 3, of this Law, he/she shall be forcibly expelled in accordance with the provisions of the law governing the movement and stay of aliens.

Pending his/her expulsion from the Republic of Serbia, an alien referred to in paragraph 3 of this Article may be placed at the Reception Center for Aliens.

## **X. PERSONAL DOCUMENTS**

### *Types of personal documents*

#### Article 58

To a person who has expressed an intention to seek asylum, or filed an asylum application, and to a person who has been granted asylum, the Ministry of the Interior shall issue the following personal documents:

- 1) a certificate for a person who has expressed an intention to seek asylum;
- 2) an identity card for an asylum seeker,
- 3) an identity card for a person granted asylum, and
- 4) a travel document for refugees.

A person who was issued a document referred to in paragraph 1, items 1), 2) and 3) of this Article, shall be obliged to carry it with him/her and produce it at the request of an authorized public officer.

The form and the content of the documents referred to in paragraph 1 of this Article shall be prescribed by the Minister.

*Certificate for a person who has expressed an intention to seek asylum*

Article 59

A certificate shall be issued to a person who has expressed an intention to seek asylum, on a prescribed form, which may not serve as an identification document.

A certificate shall also be issued to the family members accompanying a person who has expressed an intention to seek asylum.

*Identity card for an asylum seeker*

Article 60

After registration, the Asylum Office shall issue to an alien an identity card for asylum seekers on a prescribed form, which shall serve as an identification document and as a residence permit in the Republic of Serbia pending the completion of the asylum procedure.

It shall be specifically indicated in the identity card for an asylum seeker whether the alien has submitted an asylum application or not.

The identity card referred to in paragraph 1 of this Article shall also be issued to family members accompanying an asylum seeker.

*Identity card for a person granted asylum*

Article 61

The Asylum Office shall issue identity cards on a prescribed form to persons over 15 years of age who have been granted asylum in the Republic of Serbia.

An identity card issued to a person who has been granted the right to refuge shall be valid for a period of 5 years, and in the case of persons granted subsidiary or temporary protection, for a period of 1 year.

*Travel document for refugees*

Article 62

At the request of a person over 18 years of age who has been granted the right to refuge in the Republic of Serbia, the Asylum Office shall issue a travel document on a prescribed form, valid for a period of 2 years, in accordance with the law.

In exceptional cases of a humanitarian nature, the travel document referred to in paragraph 1 of this Article shall also be issued to persons enjoying subsidiary protection who do not possess a national travel document, with a validity period of up to 1 year.

### *Return of personal documents*

#### *Article 63*

The personal documents referred to in Article 58, paragraph 1, items 2), 3) and 4) shall be returned to the Asylum Office upon the completion of the procedure, the revocation of status, or in the case of replacement due to their worn-out or damaged condition.

## **XI. KEEPING RECORDS**

#### Article 64

The Ministry of the Interior shall keep records on:

- 1) registered persons;
- 2) persons seeking asylum in the Republic of Serbia;
- 3) persons who have been granted the right to refuge or persons granted subsidiary protection;
- 4) persons granted temporary protection;
- 5) persons whose movement has been restricted in accordance with the provisions of Articles 51 and 52 of this Law;
- 6) temporarily seized foreign identification papers, and
- 7) identification papers issued in accordance with this Law.

The Commissariat for Refugees shall keep records on persons accommodated at the Asylum Centre.

The manner of keeping and the content of the records referred to in paragraph 1 of this Article shall be prescribed by the Minister, and the manner of keeping and the content of the records referred to in paragraph 2 of this Article shall be prescribed by the state official in charge of the Commissariat for Refugees.

The data on the persons referred to in paragraph 1 of this Article shall be collected, used and kept in accordance with the regulations governing personal data protection.



## **XII. TRANSITIONAL AND FINAL PROVISIONS**

### Article 65

The provisions of this Law shall be interpreted in accordance with the Geneva Convention, Protocol and the generally accepted rules of international law.

### Article 66

Within 60 days of the coming into effect of this Law, the Government shall appoint the Chairman and members of the Asylum Commission referred to in Article 20 of this Law.

Within 60 days of the coming into effect of this Law, the Government shall establish a list of safe countries referred to in Article 2 of this Law.

### Article 67

Within 60 days of the coming into effect of this Law:

- 1) the Minister in charge of internal affairs shall issue regulations on the content and format of the asylum application and personal documents forms referred to in Article 58 of this Law, on the method of keeping records of and registering asylum seekers referred to in Articles 23 and 24 of this Law, and on the method of keeping and the content of records referred to in Article 64 of this Law;
- 2) the state official in charge of the Commissariat for Refugees shall issue an act on the internal organisation and job classification at the Asylum Centre, as well as regulations governing the conditions of accommodation, the House Rules, the provision of basic living conditions and keeping records of persons accommodated at the Asylum Centre;
- 3) the Minister in charge of social policy shall issue regulations on welfare benefits for asylum seekers and/or persons granted asylum;
- 4) the Minister in charge of health care shall issue a regulation on medical examinations referred to in Article 39 paragraph 2 of this Law, performed upon admission to the Asylum Centre.

### Article 68

On the day of the commencement of the implementation of this Law, the provisions of the Law on Asylum (*The Official Gazette of the Serbia and Montenegro* no. 12/05) and the provisions of Articles 44 through 60 of the Law on the Movement and Stay of Aliens (*The Official Gazette of the Socialist Federal Republic of Yugoslavia* nos. 56/80, 53/85, 30/89, 26/90, 53/91 and *The Official Gazette of the Federal Republic of Yugoslavia* no. 68/2002) shall cease to have effect.

Article 69

Asylum procedures initiated before the commencement of the implementation of this Law shall be completed pursuant to the provisions of this Law.

Article 70

This Law shall enter into force on the eighth day from the day of its publication in the *Official Gazette of the Republic of Serbia*, and shall be implemented as of April 1, 2008.