

Pursuant to Article IV. 4a) and III. 1. f) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, at the 24<sup>th</sup> session of the House of Representatives held on 3 February 2016 and at the 14<sup>th</sup> session of the House of Peoples held on 9 February 2016 adopted the

## LAW ON ASYLUM

### CHAPTER I - GENERAL PROVISIONS

#### Article 1 (Subject-matter)

This Law lays down the authorities responsible for its implementation, principles, conditions and procedure for granting a refugee status, the status of subsidiary protection, cessation and revocation of a refugee status and the status of subsidiary protection, temporary protection, identification documents, rights and obligations of asylum-seekers, refugees and aliens under subsidiary protection, as well as other issues related to asylum in Bosnia and Herzegovina (hereinafter: BiH).

#### Article 2 (Meaning of the phrases used in the Law)

For the purposes of this Law, the meaning of certain phrases is as follows:

- a) **Alien** is a person who is not a BiH citizen.
- b) **Stateless person** is an alien who is not considered as a national by any country, in accordance with its legislation.
- c) **Asylum-seeker** is an alien who has filed the asylum application, upon which no enforceable decision has been made in accordance with the Law.
- d) **Asylum** covers both a refugee status and a subsidiary protection status, in accordance with the Law.
- e) **Refugee** is an alien or a stateless person who is recognized as such by the BiH Ministry of Security, in accordance with the *1951 Convention relating to the Status of Refugees* and the *1967 Protocol relating to the Status of Refugees* and this Law.
- f) **Refugee status** is the status recognized in accordance with the decision of the competent authority on fulfillment of requirements mentioned in Article 19 of the Law.

- g) **Alien under subsidiary protection** is an alien whose status of subsidiary protection is recognized by the BiH Ministry of Security, in accordance with the Law.
- h) **Subsidiary protection** is the status recognized in accordance with the decision of the competent authority on fulfillment of requirements mentioned in Article 22 of the Law.
- i) **Temporary protection** is the protection of urgent and temporary character, which is granted to an alien in cases of mass influx, in accordance with this Law.
- j) **Alien under temporary protection** is a national of the third country or a stateless person to whom the protection mentioned in sub-paragraph i) above has been granted.
- k) **Mass influx** is the arrival of a large number of aliens who have left their country of origin and are unable to return there because of an armed conflict or systematic and general violation of human rights.
- l) **Minor** is an alien younger than 18 years of age.
- m) **Unaccompanied minor** is an alien younger than 18 years of age (a minor), who has entered BiH or who, after entering BiH, has remained unaccompanied by a person older than 18 years of age (an adult person) that is responsible for him/her by law or by a power of attorney, until he/she is placed under the care of such person.
- n) **Family member** of an asylum-seeker, a refugee, an alien under subsidiary or temporary protection is a marital or a common-law partner, a minor child of marital or common-law partners, a minor child of any of them, their minor adopted child, a minor adopted child of any of them, provided that they have not established their own families, parents or another legal guardian of the minor, adult children of the asylee (*azilant*), alien under subsidiary protection or alien under temporary protection who, due to their health condition, are not able to take care of their needs, a parent or another legal representative of the child, first-degree relative in a straight ascending line with whom he/she lived in a joined household, provided that it is determined that he/she depends on the care of the applicant, asylee, alien under subsidiary protection or alien under temporary protection.
- o) **Intention to apply for asylum** (hereinafter: intention) is the will, expressed orally or in writing, of a stateless person to submit the application in accordance with Article 31 of the Law.
- p) **Asylum application** is an application filed by an alien and considered a request for recognition of a refugee status or the status of subsidiary protection in BiH.
- r) **Center for reception and accommodation of asylum-seekers** is a specialized institution intended for joint reception and accommodation of asylum-seekers.
- s) **Marriage** is legally regulated cohabitation between one man and one woman.
- t) **Common-law marriage** is a cohabitation between one man and one woman, who are not married or in a common-law marriage with a third party, and which lasts at least three years or less if a common child is born in it.

- u) **Permanent residence** is the place and address in BiH where a refugee has settled permanently.
- v) **Temporary residence** is the place and address in BiH where an asylum-seeker or a person under subsidiary protection resides temporarily.
- z) **Country of origin** is the alien's country of citizenship or the stateless person's country of former habitual residence. If the alien has more than one citizenship, the country of origin is each country of his/her citizenship.
- aa) **Habitual residence** is the residence enjoyed by a stateless person in the place where he/she stays under the circumstances based on which it can be concluded that he/she does not stay there only temporarily.
- bb) **Passport** is a valid travel document or other travel identification document issued by a competent foreign authority and recognized by BiH, and a valid ID card or other identification document with a photograph that can be used for crossing the State border and is recognized by an international treaty to which BiH is a Contracting Party, as well as a travel document issued to an alien in BiH in accordance with this Law and the Law on Aliens.
- cc) **Travel document for refugees** is a travel document prescribed by the *1951 Convention relating to the Status of Refugees*.
- dd) **Race** implies in particular: skin color, origin and membership to a particular ethnic group.
- ee) **Religion** includes in particular theistic, non-theistic and atheistic beliefs, participation or non-participation in public or private, formal religious services, either alone or together with others, other religious ceremonies or practices of faith, or forms of personal or common conduct that are based on religious beliefs or are derived from them.
- ff) **Nationality** implies in particular membership to a group of people that is determined by its cultural, ethnic or linguistic identity, common geographical or political origins or its relationship with the population of another country, and can also include citizenship.
- gg) **Political opinion** includes in particular an opinion, view or belief about issues associated with potential agents of persecution and their policies or methods, regardless of whether the asylum-seeker acted upon this opinion, view or belief.
- hh) **Particular social group** is a group of persons who share a common characteristic other than their risk of being persecuted, or who are perceived as a group by society. The characteristic will often be one which is innate, unchangeable, or which is otherwise fundamental to identity, conscience or the exercise of one's human rights.
- ii) **Vulnerable groups** include persons deprived of legal capacity, children, unaccompanied children, elderly and frail people, ill persons, persons with disabilities, pregnant women, single parents with minor children, persons with mental disabilities and victims of trafficking, victims of torture, rape or other psychological, physical and sexual violence, such as victims of female genital mutilation."

**Article 3**  
**(Authorities responsible for the implementation of the Law)**

The following authorities are responsible for the implementation of this Law:

- a) Council of Ministers of Bosnia and Herzegovina (hereinafter: the BiH Council of Ministers);
- b) Ministry of Security of Bosnia and Herzegovina (hereinafter: the Ministry);
- c) Service for Foreigners' Affairs (hereinafter: the Service);
- d) Border Police of Bosnia and Herzegovina (hereinafter: the BiH Border Police);
- e) Court of Bosnia and Herzegovina (hereinafter: the BiH Court);
- f) BiH Ministry of Human Rights and Refugees;
- g) BiH Ministry of Civil Affairs;
- h) other bodies of internal affairs in BiH (hereinafter: bodies of internal affairs);
- i) other competent authorities.

**Article 4**  
**(Use of the gender)**

All terms in this Law that are given in a masculine grammatical gender also apply to women without any discrimination.

**Article 5**  
**(Application of the *Administrative Proceedings Act*)**

The *Administrative Proceedings Act* (BiH Official Gazette, nos. 29/02, 12/04, 88/07, 93/09 and 41/13) shall apply in administrative proceedings conducted by the Ministry upon asylum applications, unless the Law stipulates otherwise.

**Article 6**  
**(Principle of *non-refoulement*)**

(1) An alien shall not be forcibly removed or returned to a country where his/her life or freedom would be threatened on account of his/her race, religion, nationality, membership of a particular social group or political opinion. An alien shall not be forcibly removed or returned to a country where he/she is not protected from being sent to such a territory.

(2) By derogation from paragraph (1) above, an alien who is for justifiable reasons considered a danger for the security of BiH or who has been convicted by a final

judgment for a serious crime and constitutes a danger to BiH may be forcibly removed or returned to another country, except if he/she would thus be exposed to a real risk of being subjected to death penalty or execution, torture, inhuman or degrading treatment or punishment. An alien shall not be forcibly removed or returned to a country where he/she is not protected from being sent to such a territory.

#### **Article 7**

##### **(Protection in case of rejecting the asylum application or revoking a recognized status)**

An alien whose asylum application is rejected with a final and binding decision or whose refugee status or status of subsidiary protection is revoked, on the grounds of Articles 21 (1), 23 and 53 (1) a) of this Law, but in respect of whom it is determined during the procedure that he/she cannot be removed from BiH, on the grounds of the principle of *non-refoulement* prescribed in Article 6 (2) of the Law, shall be allowed to stay in BiH, in accordance with the law regulating the movement and stay of aliens.

#### **Article 8**

##### **(Exclusion of penalties for illegal entry into BiH)**

No penalty shall be imposed against an alien, on account of his/her illegal entry or stay in BiH, coming directly from a territory where his/her life or freedom was threatened, provided that he/she reports himself/herself without any delay to the competent authorities and expresses justified reasons for his/her illegal entry or stay in BiH.

#### **Article 9**

##### **(Prohibition of discrimination)**

Discrimination of aliens is prohibited on any grounds prescribed in the *Law on the Prohibition of Discrimination* (BiH Official Gazette, no. 59/09).

#### **Article 10**

##### **(Freedom of movement)**

(1) Aliens who have expressed intention to apply for asylum, asylum-seekers, refugees, persons under subsidiary or temporary protection shall enjoy the right to freedom of movement within BiH and free choice of residence.

(2) The rights referred to in paragraph (1) above may be partially or fully restricted under the conditions prescribed by this or other law.

**Article 11**  
**(The best interests of the child)**

(1) The Ministry and other responsible authorities in BiH shall ensure that, in all proceedings affecting the child, the best interests of the child shall be their primary consideration, that all rights of the child are protected in accordance with the *Convention on the Rights of the Child* and regulations in BiH relating to care and protection of minors.

(2) Separated or unaccompanied children require a prompt action in regard to their early identification, protection and care as well as in regard to tracing the families of separated children, in order to connect them with their parents or other care-givers.

**Article 12**  
**(Guardianship)**

(1) A guardian shall be appointed for an unaccompanied minor and a legally incapacitated alien who has expressed the intent to apply for asylum or has filed the asylum application, under the same conditions as for BiH nationals. The request for appointing a guardian shall be submitted by the Ministry to a center for social work.

(2) A guardian shall be appointed for a minor and legally incapacitated unaccompanied refugee and a person under subsidiary protection, under the same conditions as for BiH nationals. The request for appointing a guardian shall be submitted by the BiH Ministry of Human Rights and Refugees to the center for social work.

(3) The unaccompanied minor shall be immediately notified of the appointment of a guardian. The guardian shall execute his/her duties in accordance with the principle of the best interests of the child.

(4) By derogation from paragraphs (1) and (2) above, a guardian shall not be appointed for an unaccompanied minor older than 16 years of age, who is legally married or is in a common-law marriage.

(5) In case of doubt about the age of an unaccompanied minor, appropriate medical methods and examinations may be applied in order to determine his/her age.

(6) If after the application of the methods referred to in paragraph (5) above there is still doubt about the age of the minor, the Ministry shall treat him/her as a minor until it is determined that he/she is an adult person.

**Article 13**  
**(Family reunification)**

- (1) Refugees are eligible for family reunification with their family members mentioned in Article 2 (1) (k) of the Law, who are outside the BiH territory.
- (2) A refugee shall submit his/her request for family reunification to the Ministry. The request shall be supported with the available documentation which proves his/her family relationship. If the refugee fails to submit material evidence of the family relationship, the Ministry shall, when deciding on family reunification, take into consideration the circumstances based on which it is possible to assess whether such a relationship exists.
- (3) The Ministry shall issue a decision on the request for family reunification within nine months from the date of submission.
- (4) Family members who have been granted family reunification with the refugee shall be recognized as refugees after entering BiH.
- (5) Family members of a refugee, in respect of whom there are grounds for exclusion under Article 21 of this Law, are not eligible for family reunification.

**Article 14**  
**(Maintenance of family unity of refugees and aliens under subsidiary protection)**

- (1) Refugees and aliens under subsidiary protection have the right to maintain family unity in BiH with their family members mentioned in Article 2 (1) k) of this Law.
- (2) The same status shall be approved at request of a family member of a refugee or an alien under subsidiary protection, who is in BiH, provided that the family relationship existed in the country of origin and the applicant does not fall under the exclusion clauses of Articles 21 and 23 of this Law.
- (3) The child of a refugee or an alien under subsidiary protection, who was born in BiH, shall enjoy the legal status of the parents, of which the Ministry shall render a decision.

**Article 15**  
**(Provision of information)**

(1) Aliens who express the intent to apply for asylum, asylum-seekers, refugees, aliens under subsidiary and temporary protection have the right to be informed, in a language they understand or for which it can be reasonably assumed that they can understand it, about the procedures, rights and obligations arising from their status in accordance with this Law.

(2) The information mentioned in paragraph (1) above may be submitted in writing, in the form of a leaflet, in a language the alien can understand or for which it can be reasonably assumed that he/she can understand it.

**Article 16**  
**(Cooperation with UNHCR)**

(1) The competent BiH authorities shall cooperate with the Office of the United Nations High Commissioner for Refugees (hereafter: UNHCR) in accordance with Article 35 of the *1951 Convention Relating to the Status of Refugees*.

(2) Asylum-seekers shall be given the opportunity, at all stages of the proceedings, to communicate with UNHCR or with other organizations that may be working on asylum issues on behalf of UNHCR.

(3) The Ministry shall enable a representative of UNHCR:

- a) to attend the registration process and interviews with asylum-seekers, refugees and aliens under subsidiary protection, subject to their consent;
- b) to present observations on individual asylum cases, upon completion of the registration process and interviews.

(4) The Ministry shall submit to UNHCR statistics on the number of asylum-seekers, on the number and types of decisions made upon asylum applications as well as other statistical data requested by UNHCR, which are necessary to monitor the application of the *1951 Convention relating to the Status of Refugees*.

**Article 17**  
**(Data protection)**

(1) The public is excluded from the proceedings upon asylum applications. The information collected during the proceedings is considered confidential. The information about aliens who have expressed the intent to apply for asylum, asylum-seekers,



refugees or persons under subsidiary and temporary protection shall not be shared with their country of origin or with a third party, without a prior consent by the concerned person.

(2) During the procedure, no information shall be collected from assumed agents of persecution or severe violation if, by doing so, the agents would be informed about the fact that the concerned asylum-seeker has submitted the application or has been granted asylum, which would threaten his/her physical integrity or security or of his/her family members living in the country of origin.

(3) The *Law on Protection of Personal Data* (BiH Official Gazette, nos. 49/06 and 7/11) shall apply to processing, access and use of personal information about asylum-seekers, refugees, aliens under subsidiary or temporary protection.

### **Article 18 (Checks of aliens)**

(1) The Ministry shall perform check of aliens who have applied for asylum by examining the Central Database of Aliens in terms of collecting the facts that may be relevant to the procedure and determination upon the application.

(2) Security check of an alien, with a view to determining the national security grounds, is conducted by the Intelligence and Security Agency.

(3) The *Law on Protection of Personal Data* (BiH Official Gazette, nos. 54/04 and 12/09) shall apply during a process of making a decision which is based on the information contained in the document designated as confidential by the authority mentioned in paragraph (2) above or by another competent authority.

## **CHAPTER II. REFUGEE STATUS AND SUBSIDIARY PROTECTION STATUS**

### **Subchapter A. Eligibility for a refugee status and subsidiary protection status**

### **Article 19 (Refugee status)**

Refugee status shall be granted to an alien who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his/her nationality and is unable or, owing to such fear, is unwilling to avail himself/herself of the protection of that country

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

**Article 20**  
**(Acts of persecution)**

(1) Acts that are considered persecution within the meaning of Article 19 of the Law must be:

- a) sufficiently serious by their nature or repetition to constitute a severe violation of fundamental human rights, especially the rights that cannot be restricted under Article 15 paragraph (2) of the *European Convention for the Protection of Human Rights and Fundamental Freedoms*; or
- b) set of various measures, including violation of human rights, which, seen as a whole, can affect the individual in the manner as specified in subparagraph a) above.

(2) Acts of persecution mentioned in paragraph (1) above, among others, may be as follows:

- a) physical or psychological violence, including sexual violence;
- b) legal, administrative, police and/or judicial measures which are discriminatory *per se* or are implemented in a discriminatory manner;
- c) prosecution or punishment, which is disproportionate or discriminatory;
- d) denial of the right to judicial protection, which leads to disproportionate or discriminatory punishment;
- e) prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts falling under the exclusion clauses contained in Articles 21 (1) a), b) and c) of the Law;
- f) acts which are by their nature specifically related to gender or children.

(3) Acts of persecution or lack of protection from such acts must be related to race, religion, nationality, membership of a particular social group or political opinion.

(4) There must be a connection between the reasons and acts of persecution and/or the lack of protection against such acts.

(5) When assessing if the applicant has well-founded fear of persecution, it is not relevant if he/she actually possesses racial, religious, national, social or political characteristics which cause persecution if such characteristics are attributed to him/her by the agent of persecution.

**Article 21**  
**(Exclusion from a refugee status)**

(1) By derogation from Article 19 of the Law, a refugee status shall not be granted to an alien if there are reasonable grounds for considering:

- a) that that he/she has committed or instigated or otherwise participated in the execution of a crime against peace, war crime or crime against humanity, as defined in the international treaties;
- b) that that he/she has committed or instigated or otherwise participated in the execution of a serious non-political crime, prior to his/her admission to BiH, including especially cruel acts, even if committed with an allegedly political objective;
- c) that that he/she has committed or instigated or otherwise participated in the execution of acts that are contrary to the purposes and principles of the United Nations; or
- d) that he/she constitutes a danger to national security or that he/she has been convicted with a final and binding judgment for a serious crime and constitutes a danger to the country.

(2) Refugee status shall not be granted to an alien:

- a) who receives protection and assistance from UN organs or agencies other than UNHCR;
- b) who is recognized by the competent BiH authorities as having the same rights and obligations as those given to BiH citizens.

**Article 22**  
**(Subsidiary protection)**

(1) Subsidiary protection is granted to an alien who is not eligible for a refugee status under Article 19 of the Law, when there are serious grounds for believing that, if returned to his/her country of origin or habitual residence, he/she would be exposed to a real risk of severe violation of his/her human rights and fundamental freedoms.

(2) Severe violation in terms of paragraph (1) above refers to death penalty or execution, torture, inhuman or degrading treatment or punishment, serious and individual threat to the life or physical integrity of civilians due to indiscriminate violence in situations of international or internal armed conflict.

**Article 23**  
**(Exclusion from subsidiary protection)**

Notwithstanding Article 22 of the Law, a subsidiary status shall not be granted to an alien if there are reasonable grounds for considering:

- a) that that he/she has committed or instigated or otherwise participated in the execution of a crime against peace, war crime or crime against humanity, as defined in the international treaties;
- b) that that he/she has committed or instigated or otherwise participated in the execution of a serious crime;
- c) that that he/she has committed or instigated or otherwise participated in the execution of acts that are contrary to the purposes and principles of the United Nations;
- d) that he/she constitutes a danger to national security;
- e) that he/she committed a crime prior to his/her admission to BiH, if that crime is punishable in BiH with a prison sentence and if he/she left the country of origin only to avoid the penalty prescribed in that country.

**Article 24**  
**(Agents of persecution or severe violation)**

In terms of Articles 19 and 22 of the Law, the agents of persecution and severe violation may be as follows:

- a) the State authorities;
- b) parties or organizations controlling the State or a substantial part of its territory;
- c) non-State actors, if it is proved that the State or the parties and/or organizations which control the substantial part of the national territory, including international organizations, are unable or unwilling to provide protection against persecution or severe violation.

**Article 25**  
**(Agents of protection)**

(1) Protection from persecution or from severe violation, in terms of Articles 19 and 22 of the Law, can be provided in the country of origin by:

- a) the State authorities;
- b) parties or organizations, including also international organizations, controlling the State or a substantial part of the national territory.

(2) Provision of protection mentioned in paragraph (1) above means undertaking adequate measures to prevent persecution and/or severe violation, which implies the existence of an effective legal system for detecting, prosecuting and punishing acts that constitute persecution or severe violation, and the access to such protection by the asylum-seeker. Provision of protection must be effective and permanent.

**Article 26**  
**(Protection within the State)**

Protection within the State is the protection provided in a part of the country of origin in respect of which there is no well-founded fear of persecution or real risk of severe violation. During a determination process upon the application, the Ministry shall assess general circumstances in that part of the country of origin, whether the concerned part is accessible by the asylum-seeker, and whether it can be expected from the asylum-seeker, considering his/her personal circumstance, to settle down in that part of the country .

**Article 27**  
**(Principle of *sur place*)**

Well-founded fear of persecution or real risk of severe violation can be based on:

- a) events that occurred after the asylum-seeker had left the country of origin;
- b) activities of the asylum-seeker after leaving the country of origin, especially if it is established that they represent the expression and continuation of his/her convictions and orientations he/she had in the country of origin.

**Subchapter B. Procedure upon asylum application**

**Article 28**  
**(Basic principles)**

(1) The Ministry shall ensure individual, objective and impartial conduct of the procedure for granting, revoking and cancelling a refugee status and subsidiary protection as well as the procedure for extending subsidiary protection.

(2) The procedures mentioned in paragraph (1) above shall be conducted by official persons with adequate knowledge about the field of asylum.

**Article 29**  
**(Procedural safeguards)**

- (1) During the procedure the asylum-seeker shall have the opportunity:
- a) to be informed about the requirements and the procedure for granting a refugee status or the status of subsidiary protection, the rights and obligations, the consequences of non-compliance with those obligations or of refusing to cooperate with the competent authority;
  - b) to disclose the circumstances which constitute the grounds for his/her asylum application, to have access to evidence and to suggest the presentation of some evidence;
  - c) to have the proceedings conducted in a language which he/she can understand or in respect of which it could be reasonably assumed that he/she can understand it;
  - d) to have access to legal aid;
  - e) to have the procedure upon his/her asylum application conducted by an interviewer and interpreted by a translator of the same sex, if there justifiable reasons for that; and
  - f) to communicate with UNHCR.
- (2) The asylum-seeker may be denied access to evidence if it implies disclosure of the information that could jeopardize the security of BiH, safety of the information provider, and of persons to whom the information applies, or if it endangers the assessment of the asylum application.
- (3) The Ministry shall prioritize the applications of asylum-seekers whose movement is restricted and shall prioritize and treat with special attention minors, unaccompanied minors, single parents with minor children, survivors of torture, rape or other forms of physical or mental violence, pregnant women, elderly, persons with diseases and mental disorders and disabled persons.

**Article 30**  
**(Single procedure upon the asylum application)**

The Ministry shall assess whether the asylum application is well-founded in a single procedure, by first examining the conditions for granting a refugee status and, if those conditions are not fulfilled, then it shall examine the conditions for granting subsidiary protection.

**Article 31**  
**(Expression of the intent to apply for asylum)**

- (1) An alien may express the intent to apply for asylum to:
  - a) BiH Border Police at a border crossing; or
  - b) organizational units of the Service.
- (2) If an alien expresses the intent to apply for asylum at a border crossing, the BiH Border Police shall immediately notify the organizational unit with territorial jurisdiction, which shall accept the alien.
- (3) The BiH Border Police or the organizational unit of the Service to which the alien has expressed his/her intent to file the asylum application shall inform the alien about the procedure for seeking asylum and his/her rights and obligations.

**Article 32**  
**(Attestation of the expressed intent)**

- (1) The organizational unit of the Service shall issue the attestation of the expressed intent to an alien who expresses the intent to apply for asylum, which sets out the movement route and the deadline for approaching the Ministry in order to apply for asylum in person.
- (2) The attestation shall contain the information about the person who has expressed the intent to apply for asylum and about the accompanied family members. The attestation is regarded as the right to stay in BiH during the time of its duration.
- (3) The organizational unit of the Service shall immediately upon the expression of the intent send a copy of the attestation of the expressed intent to the Ministry, together with copies of personal and other documents of the alien who has expressed the intent, which are relevant to the asylum procedure. The organizational unit of the Service shall send the copy of the attestation, with the documents collected during the process of expressing the intent, to the Ministry, within three days of expressing the intent.
- (4) The attestation of the expressed intent to apply for asylum cannot be valid longer than eight days.
- (5) Notwithstanding paragraph (4) above, when a large number of intents to apply for asylum are expressed at the same time, the attestation of the expressed intent may be valid for 14 days.

**Article 33****(Proceedings with aliens in the immigration center, detention center, prison or in the institution for accommodation of victims of human trafficking)**

(1) An alien who is accommodated in the immigration center, detention, prison or in the institution for accommodation of victims of human trafficking shall express the intent to apply for asylum through the organizational unit of the Service with territorial jurisdiction, which shall proceed as stipulated in Article 32 of the Law.

(2) In the cases mentioned in paragraph (1) above, the Ministry shall receive the asylum application and register the alien in the institution where the alien is accommodated, within the deadline set out in the attestation of the expressed intent to apply for asylum.

**Article 34****(Accommodation in the center)**

(1) The center for reception and accommodation of asylum-seekers, established within the Ministry, is a specialized facility designed for the reception and accommodation of asylum-seekers in BiH.

(2) An alien who has expressed the intent to apply for asylum is entitled to accommodation in the center mentioned in paragraph (1) above. Exceptionally, in situations of the increased number of asylum applications, asylum-seekers may be received and accommodated in private homes, apartments, hotels or other premises adapted for this purpose.

(3) If the alien who has expressed the intent to apply for asylum in BiH needs accommodation, the organizational unit of the Service shall notify the Ministry, which shall provide for his/her reception and accommodation. The organizational unit of the Service to which the intent has been expressed shall, if assessed as necessary, transport the person who has expressed the intent to the center for reception and accommodation of asylum-seekers.

(4) The Ministry shall ensure protection of family life of persons provided with accommodation, the opportunity for them to communicate with their relatives, legal counsellors, representatives of UNHCR and NGOs.

(5) The Ministry shall pay special attention to prevention of violent behavior in the facilities for reception and accommodation of aliens seeking asylum.



(6) Managers and staff employed in the center shall be adequately trained for the work in specific and exceptional working conditions with aliens and vulnerable groups mentioned in Article 29 (3) of the Law.

**Article 35**  
**(Applying for asylum)**

(1) An alien is obliged to file the asylum application to the Ministry within a deadline set out in the attestation. Adult aliens shall file the asylum application in person, while a legal representative and/or a guardian shall file the application on behalf of a minor alien. The asylum application may also be filed by a minor older than 16 years of age, if legally married or in a common-law marriage.

(2) Exceptionally, if an alien fails to file the asylum application within a set deadline without a justifiable reason, it will be considered that he/she has abandoned the expressed intention, of which the Ministry shall notify the Service. In further proceedings, provisions of the law which regulates movement and stay of aliens shall be applied in respect to him/her.

**Article 36**  
**(Registration of asylum-seekers)**

(1) After receiving the asylum application, the alien shall be registered. The registration procedure includes the following actions:

- a) filling in the registration form;
- b) fingerprinting of ten fingers and taking signatures;
- c) taking a photo; and
- d) copying of personal and other documents relevant to the proceedings.

(2) The registration form is filled in for all adult asylum-seekers and for minor asylum-seekers older than 16 years of age if they are legally married or in a common-law marriage. For unaccompanied minors older than 14 years of age, the registration form is filled out with the consent of their guardian.

(3) The Ministry shall take a statement from minor unaccompanied asylum-seekers, younger than 14 years of age, on the reasons for leaving the country of origin, which shall be adapted to their age and mental maturity.

(4) Adult asylum-seekers as well as minor asylum-seekers older than 14 years of age are fingerprinted. All asylum-seekers are photographed, regardless of their age.

(5) In addition to asylum-seekers and an official person from the Ministry, the registration process may also be attended by:

- a) legal representative and/or a guardian;
- b) authorized person;
- c) translator and/or interpreter, if necessary;
- d) representative of UNHCR.

**Article 37**  
**(Confiscation of travel documents)**

(1) After registration of the asylum-seeker, the Ministry shall confiscate his/her travel documents that can be used for crossing the border, and issue the attestation of the confiscated travel document.

(2) The confiscated travel documents shall be kept at the Ministry and returned to the asylum-seeker when the decision mentioned in Article 41 (1) a), e) and f) of the Law becomes final or when the decision mentioned in Article 41 (1) b) and c) of the Law becomes final and binding.

(3) In cases where the asylum application is resolved with a final and binding decision mentioned in Article 41 (1) d) of the Law, the Ministry shall submit the confiscated travel document to the Service.

**Article 38**  
**(Registration of temporary residence, permanent residence and change of address)**

(1) Temporary residence of aliens who have expressed the intent to apply for asylum, and who are accommodated in the center for reception and accommodation of asylum-seekers, shall be registered by an official person of the center with the competent organizational unit of the Service or the Police Administration/Unit, within three days of their reception and accommodation.

(2) Aliens who have expressed the intent to apply for asylum and who are accommodated privately shall register their temporary residence with the competent organizational unit of the Service or the Police Administration/Unit, within three days of the expressed intent.

(3) A refugee is obliged to register his/her permanent residence with the competent organizational unit of the Service or the Police Administration/Unit within eight days

from the date of granting. In the event of a change of the address, a refugee shall report that change to the competent organizational unit of the Service or the Police Administration/Unit within eight days of the change of address.

(4) Asylum-seekers and persons under subsidiary protection are required to report any change of their address to the competent organizational unit of the Service or the Police Administration/Unit, within three days of the change of the address.

### **Article 39 (Interview)**

(1) After the registration, the Ministry shall interview all adult asylum-seekers one or more times.

(2) By derogation from paragraph (1) above, a minor older than 16 years of age, if legally married or in a common-law marriage, as well as an unaccompanied minor, may also be interviewed. During the interview with a minor, the Ministry shall take into account his/her age, level of intellectual development and his/her capacity to understand the importance of the procedure.

(3) In addition to the asylum-seeker and the Ministry official, the interview may also be attended by:

- a) legal representative and/or guardian;
- b) authorized person;
- c) translator and/or interpreter, if necessary;
- d) representative of UNHCR.

(4) Asylum-seekers shall be given the opportunity to present all the facts and circumstances relevant to determination upon their asylum application.

(5) The official person of the Ministry shall inform the asylum-seeker of his/her obligation to tell the truth, to present all the circumstances and facts which constitute the grounds for his/her application, and to submit all the available evidence.

(6) The asylum-seeker and his/her authorized person shall have access to the minutes of the interview.

**Article 40**  
**(Assessment of facts and circumstances)**

(1) When making a decision upon the asylum application, the following shall be taken into account:

- a) the facts pertaining to the country of origin at the time of determination upon the application, including laws and regulations of that country and the manner of their application;
- b) the relevant statements and evidence presented by the asylum-seeker, including the information on whether the applicant was or may be exposed to persecution or severe violation;
- c) the situation and personal circumstances of the asylum-seeker, including his/her gender and age, in order to assess, on the basis of personal circumstances of the asylum-seeker, if the treatment and the actions to which he/she was or could be exposed constitute persecution or severe violation;
- d) whether the asylum-seeker can benefit from the protection in another part of the country of origin, where he/she would not have well-founded fear of persecution or would not be exposed to a real risk of suffering severe violation;
- e) whether the asylum-seeker can benefit from the protection of the country where he/she could prove his/her citizenship;
- f) any other facts that may be relevant to the decision.

(2) When establishing the facts and circumstances mentioned in paragraph (1) above, the Ministry shall take into consideration:

- a) the information and the statement provided in the application and the registration form;
- b) the statement of the asylum-seeker, given at the interview;
- c) evidence and documents submitted by the asylum-seeker;
- d) evidence obtained from other competent authorities;
- e) general and specific information on the country of origin, obtained from different and reliable sources.

(3) The Ministry's decision shall not depend on submission of any documentary evidence by the asylum-seeker if, during the proceedings, the asylum-seeker submits all the available evidence and gives an acceptable explanation for the absence of other evidence, if his/her statements are consistent and acceptable and if they are not contrary to the available general and specific information about the country of origin relevant to his/her case, and if the general credibility of the application is established.

**Article 41**  
**(Decisions on the asylum application)**

- (1) The Ministry shall make a decision on the asylum application:
- a) to approve the application and recognize a refugee status;
  - b) to approve the application and recognize the status of subsidiary protection;
  - c) to reject the application and set a deadline for voluntary departure from BiH;
  - d) to reject the application and determine that the applicant cannot be removed from BiH on the grounds prescribed by the principle of *non-refoulement* under Article 6 (2) of the Law;
  - e) to terminate the procedure upon the asylum application and set a deadline for voluntary departure from BiH; or
  - f) to dismiss the asylum application and set a deadline for voluntarily departure from BiH.
- (2) The Ministry shall make a decision referred to in paragraph (1) a), b), c) and d) above in the form of a written decision and decision referred to in paragraph (1) e) above in the form of a conclusion.

**Article 42**  
**(Deadlines for making a decision)**

- (1) The Ministry shall decide on the asylum application in a regular procedure, within six months from the date of application.
- (2) By derogation from paragraph (1) above, the Ministry shall decide on the asylum application within 18 months if:
- a) the establishment of facts which constitute the grounds for the application is difficult;
  - b) a large number of aliens has applied for asylum in a given period;
  - c) the delay can be attributed to a failure of the asylum-seekers to fulfill the obligations under Article 40 (3) of this Law, as well as to other objective reasons.
- (3) The Ministry shall decide on the asylum application within 30 days if there are grounds for rejecting the application in the accelerated procedure referred to in Article 45 of this Law.

- (4) If the asylum application is not decided within the period referred to in paragraph (1) above, the Ministry shall notify the asylum-seeker thereof.

### **Article 43**

#### **(Recognition of refugee status and of subsidiary protection status)**

- (1) The Ministry shall recognize an asylum-seeker as a refugee when it determines in the asylum procedure that the asylum-seeker meets the requirements of Article 19 of this Law.
- (2) The Ministry shall recognize the status of subsidiary protection to an alien when it determines in the asylum procedure that the asylum-seeker does not meet the requirements of Article 19 of this Law, but meets the requirements of Article 22 of the Law. Subsidiary protection in BiH is granted for a period of one year, and may be extended at request by the alien during the duration of the conditions which constitute the grounds for granting subsidiary protection. Subsidiary protection is extendable for two years.
- (3) The alien under subsidiary protection shall file the application for its extension to the Ministry not later than 60 days before the expiration of the previous approval. During the procedure for extending subsidiary protection, the Ministry may interview the alien who has been granted subsidiary protection. Subsidiary protection shall expire after the expiration of the period for which it is granted unless the alien applies for its extension.
- (4) The Ministry may issue a decision upon the application for extension of subsidiary protection, which extends subsidiary protection or rejects the application.
- (5) The decision of the Ministry to extend the status of subsidiary protection is final and enforceable. The alien, whose subsidiary protection has been extended, shall exercise the rights under Article 78 of the Law by virtue of the decision on extension.
- (6) The decision of the Ministry to reject the application for extension of subsidiary protection is final. This decision may be appealed with a lawsuit brought before the BiH Court within 15 days of the receipt of the decision. The lawsuit stays the execution of the decision.

**Article 44****(Rejection of the asylum application in the regular procedure)**

- (1) The Ministry shall reject the asylum application when it determines in the asylum procedure, within the deadlines set out in Article 42 (1) and (2) of the Law, that the asylum-seeker does not meet the requirements of Articles 19 and 22 of the Law.
- (2) When making a determination upon the asylum application, the Ministry may, in a regular procedure, found its decision on the grounds specified in Article 45 (1) of the Law.

**Article 45****(Rejection of the asylum application in the accelerated procedure)**

- (1) The Ministry shall reject the asylum application in the accelerated procedure within the deadline set out in Article 42 (3) of the Law if:
- a) the asylum-seeker has presented information that is not relevant or is minimally relevant for recognizing a refugee status or the status of subsidiary protection;
  - b) the asylum-seeker has misled the Ministry by submitting inaccurate information or unreliable documents or concealed the important information or destroyed, alienated and/or hidden the documents used for establishing his/her identity and/or nationality;
  - c) the asylum-seeker has given explicitly inconsistent and contradictory, impossible or less probable statements, which are contrary to the information on the country of origin;
  - d) the asylum-seeker has filed the asylum application to suspend or prevent the enforcement of the decision on expulsion or extradition;
  - e) the asylum-seeker has entered BiH illegally or prolonged his/her stay in BiH, but has not reported himself/herself, without any delay, to the competent authorities and applied for asylum;
  - f) there are reasonable grounds to consider that the asylum-seeker may pose a danger to national security or public order, or if the asylum-seeker has been forcibly expelled on the grounds of national security or public order;
  - g) the asylum-seeker comes from a safe country of origin and has not proved that the country is not safe for him/her.

- (2) Accelerated procedure is not applicable in the case of unaccompanied minors. Exceptionally, paragraph (1) f) and g) is applicable to an unaccompanied minor, if he/she is represented by an authorized person.

(3) Notwithstanding circumstances under paragraph (1), the asylum-seeker shall be given an opportunity to prove that he/she meets the requirements of Articles 19 and 22 of the Law.

#### **Article 46**

##### **(Prohibition of return in case of rejecting the application and revoking the status)**

(1) The Ministry shall submit to the Service the recommendation to prohibit the return of the alien for the reasons specified in Article 6 (2) of the Law, when decisions mentioned in Articles 41 (1) d) and 54 (2) of the Law become final and binding.

(2) The Service for Foreigners' Affairs referred to in paragraph (1) above shall issue a certificate of stay in BiH for a period of up to one year, which is extendable. A certificate of stay is extended at request of the alien, and upon the recommendation of the Ministry. The alien shall file the request for extension to the Service not later than two months before the expiration of the period for which he/she has been allowed to stay in BiH.

(3) Upon the request of the Service, the Ministry shall submit a recommendation to extend the certificate of stay for as long as there are grounds based on which the decision was issued under Articles 41 (1) d) and 54 (2) of the Law.

(4) When the Ministry finds that the grounds for issuing the decision under Articles 41 (1) d) and 54 (2) of the Law no longer exist, it shall issue a decision determining the cessation of the grounds for the prohibition of return and setting out the deadline for voluntary departure from BiH.

(5) The decision referred to in paragraph (4) above is final. It may be subject to an administrative dispute initiated before the BiH Court within eight days from the receipt of the decision. The lawsuit stays the execution of the decision. The BiH Court shall take a decision upon the lawsuit within 30 days of the receipt of the lawsuit.

#### **Article 47**

##### **(Termination of the procedure)**

In addition to cases foreseen by the *Administrative Proceedings Act*, the procedure upon the asylum application shall be terminated with a conclusion if:

- a) it is determined in the procedure that the asylum-seeker is a BiH citizen;
- b) during the procedure, the asylum-seeker does not cooperate with the Ministry;
- c) the asylum-seeker leaves BiH during the procedure;



- d) the asylum-seeker does not respond to a call for an interview without justifying his/her absence;
- e) the asylum-seeker does not live on the last registered address and has not informed the competent authority about the change of the address within the deadline set out in Article 38 (4) of the Law.

**Article 48**  
**(Dismissal of the asylum application)**

The Ministry shall dismiss the asylum application with the conclusion if:

- a) the previous asylum application in BiH was rejected and the asylum-seeker has failed to provide evidence that the circumstances which constituted the grounds for his/her previous application have substantially changed;
- b) the asylum-seeker comes from a safe third country;
- c) the asylum-seeker can enjoy protection by another country and is able to return to that country and avail himself/herself of the protection of that country in accordance with Article 50 of the Law.

**Article 49**  
**(Safe country of origin / safe third country)**

(1) Safe country of origin is the country where the asylum-seeker stayed as a citizen of that country or where he/she had his/her last habitual residence as a stateless person, if he/she is safe there from persecution in terms of Article 20 of the Law and from severe violation in terms of Article 22 of the Law. When assessing whether a country can be considered a safe country of origin, one should take into consideration the legislation of the country, the manner of its application, respect for the rights and freedoms under the *European Convention on the Protection of Human Rights and Fundamental Freedoms*, respect for the principle of *non-refoulement* and the availability of efficient legal remedies against the violation of those rights and freedoms.

(2) Safe third country is the country where the applicant resided before coming to BiH, provided that the country is free from persecution in terms of Article 20 of the Law and from severe violation in terms of Article 22 of the Law; that it respects the principle of *non-refoulement*; that he/she can return legally to that country; and that he/she has access to the asylum procedure in that country, which shall be considered in accordance with the valid regulations.

(3) The decision on which countries are considered safe countries of origin and safe third countries is made by the BiH Council of Ministers, at proposal by the Ministry,

after having obtained the opinion from the BiH Ministry of Foreign Affairs (hereinafter: MFA) and the BiH Ministry of Justice.

(4) The Ministry shall monitor the situation in safe countries of origin and safe third countries and propose revision of the decision on safe countries of origin and safe third countries.

#### **Article 50** **(The first country of asylum)**

The first country of asylum is considered to be the country where:

- a) the asylum-seeker has his/her refugee status recognized and can still enjoy that protection; or
- b) the asylum-seeker enjoys another form of protection that includes protection against forcible removal or return (*non-refoulement*) and can still enjoy that protection.

#### **Article 51** **(Legal remedy)**

(1) The decision mentioned in Article 41 (1) a) of the Law, which has recognized a refugee status, is final. An administrative dispute may be initiated against it before the BiH Court, within 15 days of the receipt of the decision. The lawsuit does not stay the execution of the decision. The BiH Court shall make a decision on the lawsuit within 45 days of the receipt of the lawsuit.

(2) The decision mentioned in Article 41 (1) b) of the Law, which has granted subsidiary protection, is final. An administrative dispute may be initiated against it before the BiH Court, within 15 days of the receipt of the decision. The lawsuit stays the execution of the decision. The BiH Court shall make a decision on the lawsuit within 45 days of the receipt of the lawsuit.

(3) The decision which has rejected the asylum application in accordance with Article 41 (1) c), in conjunction with Article 44 of the Law, is final. An administrative dispute may be initiated against it before the BiH Court, within 15 days of the receipt of the decision. The lawsuit stays the execution of the decision. The BiH Court shall make a decision on the lawsuit within 45 days of the receipt of the lawsuit.

(4) The decision which has rejected the asylum application in accordance with Article 41 (1) c), in conjunction with Article 45 of the Law, is final. An administrative dispute may be initiated against it before the BiH Court, within eight days of the receipt of the

decision. The lawsuit stays the execution of the decision. The BiH Court shall make a decision upon the lawsuit within 30 days of the receipt of the lawsuit.

(5) The decision which has rejected the asylum application in accordance with Article 41 (1) d) is final. An administrative dispute may be initiated against it before the BiH Court, within 15 days of the receipt of the decision. The lawsuit stays the execution of the decision. The BiH Court shall make a decision upon the lawsuit within 45 days of the receipt of the lawsuit.

(6) The conclusion which has terminated the asylum procedure in accordance with Article 41 (1) e) of the Law is final. An administrative dispute may be initiated against it before the BiH Court, within eight days of the service date of the conclusion. The lawsuit does not stay the execution of the conclusion. The BiH Court shall make a decision upon the lawsuit within 30 days of the receipt of the lawsuit.

(7) The conclusion which has dismissed the asylum application in accordance with Article 41 (1) f) of the Law is final. An administrative dispute may be initiated against the conclusion before the BiH Court, within eight days of the service date of the conclusion. The lawsuit does not stay the execution of the conclusion. The BiH Court shall make a decision upon the lawsuit within 30 days of the receipt of the lawsuit.

### **Subchapter C. Cessation and revocation of asylum**

#### **Article 52**

##### **(Cessation of refugee status or of the status of subsidiary protection)**

(1) The Ministry shall issue a decision on cessation of refugee status or the status of subsidiary protection in BiH in the following cases:

- a) if the refugee or alien under subsidiary protection has voluntarily re-availed himself/herself of the protection of the country of his/her nationality;
- b) if the refugee or alien under subsidiary protection, having lost the nationality of another country, has voluntarily re-acquired it;
- c) if the refugee or alien under subsidiary protection has acquired a new nationality and enjoys the protection of the country of his/her new nationality;
- d) if the refugee or alien under subsidiary protection has voluntarily returned to re-establish himself/herself in the country which he/she left or outside which he/she lived owing to fear of persecution or severe violation;
- e) if the refugee or alien under subsidiary protection can no longer, because the circumstances in connection with which he/she was granted protection

- in BiH have ceased to exist, continue to refuse to avail himself/herself of the protection of the country of his/her nationality or habitual residence;
- f) when the circumstances which were conducive to recognition of the status have ceased to exist or have changed to such extent that protection is no longer needed;
  - g) if the refugee or alien under subsidiary protection has obtained the BiH nationality;
  - h) if the refugee or alien under subsidiary protection has expressly renounced his/her status;
  - i) if the refugee or alien under subsidiary protection has continually stayed outside BiH for more than six months, without notifying the Ministry;
  - j) if the alien has died.

(2) When assessing the requirements of paragraph (1) subparagraphs d), e) and f) above, the Ministry shall consider whether the change of circumstances on the basis of which the protection has been granted is substantial and permanent.

#### **Article 53**

##### **(Revocation of refugee status or the status of subsidiary protection)**

The Ministry shall make a decision to revoke a refugee status or the status of subsidiary protection when it is established:

- a) that there are grounds for exclusion under Articles 21 and 23 of the Law;
- b) that misrepresentation or omission of the facts, including the use of forged documents, led to recognition of the status.

#### **Article 54**

##### **(Procedure for cessation and revocation of refugee status and the status of subsidiary protection)**

(1) A decision on cessation or revocation of a refugee status or the status of subsidiary protection is issued by the Ministry *ex officio* or at request by the party.

(2) If the decision mentioned in paragraph (1) above is issued in accordance with Article 53 (1) a), and if it is determined in the procedure that the alien may not be returned for reasons specified in Article 6 (2) of the Law, the Ministry shall, when the decision becomes final and binding, submit a recommendation to the Service to ban the return of the alien.

(3) The decision referred to in paragraph (1) is final. An administrative dispute may be initiated against the decision before the BiH Court within 15 days of receipt of the

decision. The lawsuit stays the execution of the decision. The BiH Court shall make a decision on the lawsuit within 45 days of receipt of the lawsuit.

(4) An alien may not be forcibly removed from BiH before the decision mentioned in paragraph (1) above becomes final and binding.

(5) In the course of the proceedings on cessation or revocation of the status, the refugee or the person under subsidiary protection shall be given the opportunity to explain reasons, in writing or verbally, why his/her status should not cease and/or be revoked. When making a decision on cessation or revocation of a refugee status or subsidiary protection, the Ministry shall take into account general and specific information about the country of origin obtained from different and reliable sources.

(6) Notwithstanding paragraph (4) above, if there are grounds under Article 52 (1) g), h) i) and j) of this Law, the Ministry may issue a decision on cessation of the status without provision of the statement by the refugee or person under subsidiary protection.

(7) In the course of the proceedings on the cessation or revocation of a refugee status and the status of subsidiary protection, the refugee and the alien under subsidiary protection shall have access to legal aid.

#### **Article 55** **(Serving of decisions)**

(1) Decisions mentioned in Articles 41, 43 (5) and (6) and 54 (1) of the Law shall be served to an authorized person or an alien himself/herself.

(2) An alien who is not represented by an authorized person and does not reside at the registered address, and who has not informed the competent authority about the change of his/her address, shall be served with the decision on the bulletin board.

(3) When the decision mentioned in Articles 41 (1) a) and 43 (5) of the Law becomes final and when the decisions mentioned in Articles 41 (1) b) and 43 (6) and 54 (1) of the Law becomes final and binding, the Ministry shall notify the BiH Ministry of Human Rights of the decisions taken.

(4) When the decisions mentioned in Articles 41 (1) a), e) and f) and 43 (5) becomes final and when the decisions mentioned in Articles 41 (1) b), c) and d) and 43 (6) of the Law becomes final and binding, the Ministry shall notify the Service of the decisions taken.

(5) When the decisions mentioned in Articles 41 (1) d) and 54 (2) becomes final and binding, the Ministry shall submit a recommendation to the Service to ban the return of the alien, for the reasons specified in Article 6 (2) of the Law.

#### **Article 56**

##### **(Application of the law regulating movement and stay of aliens)**

In case when the Ministry issues a final decision mentioned in Article 41 (1) e) and f) or a final and binding decision mentioned in Articles 41 (1) c) and d), 43 (6) and 54 (1), the law regulating the movement and stay of aliens shall apply to aliens who do not leave BiH within the deadline set out in the decision.

### **CHAPTER III. TEMPORARY PROTECTION**

#### **Article 57**

##### **(Temporary protection)**

(1) In cases of mass influx of aliens in need of protection, the BiH Council of Ministers may, at proposal by the Ministry, issue a decision providing temporary protection of these persons. During a drafting process of the decision which provides temporary protection, the Ministry shall consult with UNHCR and other relevant international organizations in BiH.

(2) With the decision referred to in paragraph (1) of this Article, the BiH Council of Ministers shall determine the institutions that will be responsible to ensure access to rights set out in Article 62 (1) of the Law for aliens under temporary protection in BiH.

(3) Taking into account economic and other capacities of BiH, and the reasons related to legal system, public order and peace or security of BiH, the BiH Council of Ministers shall determine the number of persons who shall be granted temporary protection and the reasons why this number may be exceeded pending the amendment to the decision.

#### **Article 58**

##### **(Granting of temporary protection)**

Temporary protection shall be granted to:

- a) aliens arriving *en masse* to BiH, who have left their country of origin and are unable to return there due to the armed conflict or systematic and generalized violence of human rights;
- b) aliens who were visiting BiH at the time when the circumstances referred to in subparagraph a) above arose, and who are temporarily unable to return to their country of origin because of those circumstances.

#### **Article 59**

##### **(The responsibility for granting and duration of temporary protection)**

- (1) On the basis of the decision of the BiH Council of Ministers referred to in Article 57 of the Law, the Ministry shall grant temporary protection for the period of one year, which may be automatically extended twice for the period of up to six months,
- (2) After the expiry of the period referred to in paragraph (1) above, the BiH Council of Ministers may issue a decision to extend temporary protection for one more year, if there are still grounds based on which temporary protection was granted.

#### **Article 60**

##### **(Grounds for non-granting temporary protection)**

Temporary protection shall not be granted to an alien if:

- a) there are grounds for exclusion under Article 21 of the Law;
- b) the alien enjoys a refugee status or the status of subsidiary protection or has been granted temporary or permanent residence in BiH;
- c) the alien enjoys protection, has the nationality or a lawful residence in a third country.

#### **Article 61**

##### **(Cessation of temporary protection)**

- (1) Temporary protection granted to an alien shall cease upon the expiry of the period for which it is granted.
- (2) Notwithstanding paragraph (1) above, the BiH Council of Ministers may, during the period for which the temporary protection is granted, make a decision on cessation of temporary protection if circumstances under which it was granted have ceased to exist.

(3) Cessation of temporary protection does not affect the right of an alien to apply for asylum.

#### **Article 62**

##### **(Rights and obligations of aliens under temporary protection)**

(1) Aliens under temporary protection in BiH are entitled to:

- a) residence;
- b) basic living conditions and accommodation;
- c) identification documents;
- d) primary health care;
- e) primary and secondary education;
- f) free legal aid;
- g) access to labour market;
- h) family reunification;
- i) a guardian if the alien under temporary protection is an unaccompanied minor or legally incapacitated person.

(2) The obligations stipulated in Article 79 of the Law shall also apply, in an appropriate manner, to aliens under temporary protection.

#### **Article 63**

##### **(Family reunification of aliens under temporary protection)**

(1) Aliens under temporary protection are eligible for reunification with their family members mentioned in Article 2 (1) k) of the Law, who are outside the territory of BiH.

(2) Family members who are eligible for reunification with the alien under temporary protection shall be granted the status of temporary protection, provided that the family relationship existed in the country of origin and that they do not fall under the exclusion clauses of Article 21 of the Law.

(3) The child of an alien under temporary protection, who was born in BiH, shall be awarded the legal status of his/her legal representative.



**Article 64**  
**(Exercise of the rights under temporary protection)**

- (1) An alien under temporary protection may apply for asylum. During the asylum procedure, the alien shall exercise the rights arising from temporary protection.
- (2) If, following the asylum procedure, neither a refugee status nor the status of subsidiary protection is granted, an alien who is eligible for temporary protection or who is already under the temporary protection shall be provided with temporary protection for the remainder period during the duration of the protection.

**Article 65**  
**(Bylaw on technical issues relating to temporary protection)**

If necessary, the Ministry shall further regulate the matters governed by this Chapter, by way of a bylaw, after obtaining the opinion of the BiH Ministry of Human Rights and Refugees and BiH Ministry of Civil Affairs.

**CHAPTER IV. RESTRICTION ON FREEDOM OF MOVEMENT**

**Article 66**  
**(Grounds and the manner for temporary restriction on freedom of movement)**

- (1) Freedom of movement of an asylum-seeker may be temporarily restricted:
- a) to the immigration center, which is established in accordance with the law regulating the movement and stay of aliens;
  - b) to a specified place.
- (2) Freedom of movement of an asylum-seeker shall be restricted to the immigration center if he/she receives the expulsion order and constitutes a danger to national security.
- (3) Freedom of movement of the asylum-seeker may be restricted to the immigration center or a specified place if:
- a) he/she receives the expulsion order and his/her identity has not been established;
  - b) he/she receives the expulsion order and there are substantial grounds for believing that the submitted application falls under Article 45 (1) of the Law;
  - c) he/she receives the expulsion order.

(4) Freedom of movement of the asylum-seeker may be restricted to a specified place if:

- a) the identity of the asylum-seeker has not been established;
- b) there are substantial grounds for believing that the submitted application falls under Article 45 (1) of the Law.

(5) When making a decision to restrict the freedom of movement, the Ministry shall assess individual circumstances of each case and take into account the necessity and proportionality of the imposed measure and the grounds for the restriction.

(6) If the movement of the asylum-seeker is temporarily restricted, the Ministry shall notify the Service thereof. The asylum-seeker whose movement is restricted to a specified place shall report himself/herself to the relevant organizational unit of the Service or to the Police Administration/Unit, for the duration of the measure, in a manner determined by the Ministry.

(7) Freedom of movement of minor asylum-seekers shall be restricted to the immigration center only as a last resort and after the Ministry establishes that other measures cannot be applied. Such restriction shall last as short as possible and the Ministry shall accommodate the minor in an adequate manner within the shortest period.

#### **Article 67**

##### **(Decision to temporarily restrict freedom of movement)**

(1) A decision to temporarily restrict freedom of movement of an asylum-seeker is issued by the Ministry. The decision shall specify the grounds, the manner and the duration of the restriction on freedom of movement.

(2) The movement of an asylum-seeker may be temporarily restricted for a period of up to 90 days. If the circumstances which constituted the grounds for the restriction are still valid, the restriction measure may be extended for a period up to 90 days. The movement of an asylum-seeker may be restricted for a total period of 180 days.

(3) The decision to temporarily restrict the movement is executed by serving it to the asylum-seeker.

(4) The asylum-seeker may instigate an administrative dispute against the decision on temporary restriction of his/her freedom of movement with a lawsuit brought before the BiH Court. The lawsuit is brought within eight days of the receipt of the decision. The lawsuit does not stay the execution of the decision.

(5) The BiH Court shall consider these cases urgent and issue a decision on the lawsuit within eight days of the receipt of the lawsuit. When the freedom of movement of an asylum-seeker is restricted to the immigration centre, the BiH Court shall hear the asylum-seeker in an administrative dispute process.

(6) If the measure of supervision is imposed against an alien, in accordance with regulations on movement and stay of aliens, before he/she expresses the intent to apply for asylum, the expression of intent shall not affect the execution and duration of the supervision measure.

#### **Article 68**

##### **(Collection of evidence in the procedure of restriction on freedom of movement)**

(1) A decision to temporarily restrict freedom of movement of an asylum-seeker on security grounds is issued by the Ministry on the basis of evidence submitted by the competent authority mentioned in Article 18 (2) of the Law.

(2) The Ministry shall determine the existence of the grounds for temporary restriction on freedom of movement of asylum-seekers, on the grounds stipulated in Article 66 (3) and (4) of the Law.

### **CHAPTER V. IDENTIFICATION DOCUMENTS**

#### **Article 69**

##### **(Asylum-seeker cards)**

(1) The Ministry shall issue asylum-seeker cards to asylum-seekers and their accompanied members, who are included in the asylum application, not later than three days from the completion of the procedure under Articles 35 and 36 of the Law.

(2) The asylum-seeker card does not necessarily verify the identity of the asylum-seeker.

(3) Asylum-seekers use their cards to prove the right of residence in BiH pending a final decision upon their application under Article 41 (1) a), e) and f) or a final and binding decision under Article 41 (1) b) c) and d) of the Law and to exercise the rights prescribed in Article 76 of the Law.

(4) The asylum-seeker card is issued for the period of up to three months with the possibility of extension. If the asylum-seeker is not accommodated in the center for

reception and accommodation of asylum-seekers, the card shall be extended by the organizational unit of the Service, subject to consent by the Ministry. The application for extension of the card shall be filed by the asylum-seeker to the Service, not later than 15 days before the expiry of the previous term of validity.

(5) If freedom of movement of the asylum-seeker is restricted in accordance with Article 67 of the Law, that fact shall be recorded on his/her asylum-seeker card.

(6) The asylum-seeker card cannot be used for crossing the border.

(7) The Ministry shall not issue the card to an asylum-seeker if he/she is in the immigration center, detention, prison, or in the center for the reception of victims of human trafficking.

#### **Article 70**

##### **(Filled in and lost asylum-seeker cards)**

(1) If all the columns provided for the extension of the card are filled in, the Ministry shall issue a new card to the asylum-seeker.

(2) If the card is lost, the asylum-seeker shall report the loss of the card to the organizational unit of the Service on the territory of which he/she has registered residence, or to the nearest Police Administration/Unit on the territory of which he/she has noticed that the card has been lost, not later than three days after having discovered the above mentioned fact. The organizational unit of the Service or the Police Administration/Unit shall issue the attestation of the loss of the card to the asylum-seeker, which shall be submitted, together with the application, to the Ministry for the purpose of issuing a new card.

#### **Article 71**

##### **(Refugee cards and the cards of subsidiary protection)**

(1) The Ministry shall issue refugee cards to persons who are recognized as refugees by a final decision under Article 41 (1) a) of the Law.

(2) The Ministry shall issue the cards of subsidiary protection to persons granted subsidiary protection by a final and binding decision under Article 41 (1) b) or by a final decision under Article 43 (5) of the Law.

**Article 72****(Determination and cancellation of unique personal identification numbers)**

(1) In accordance with the *Law on Unique Personal Identification Number* (BiH Official Gazette, nos. 32/01, 63/08, 103/11 and 87/13), the BiH Ministry of Civil Affairs shall determine and assign unique personal identification numbers (hereinafter: JMB) to recognized refugees. The Ministry shall submit, to the BiH Ministry of Civil Affairs, the application for determining and assigning JMB to recognized refugees in BiH, within 30 days of the decision on recognition of a refugee status.

(2) The BiH Ministry of Civil Affairs shall proceed upon the application mentioned in paragraph (1) above and determine and assign the JMB to recognized refugees, within 15 days of submission of the application, and shall notify the Ministry thereof. The Ministry shall notify the refugee on a determined and assigned JMB.

(3) When a decision on cessation or revocation of a refugee status under Article 54 (1) of the Law becomes final and binding, the Ministry shall submit the application to the BiH Ministry of Civil Affairs for cancellation of the assigned JMB to the refugee.

**Article 73****(Issuance of refugee cards and the cards of subsidiary protection)**

(1) The decision referred to in Article 41 (1) a) and b) shall be enforced by issuing a refugee card or a card of subsidiary protection.

(2) The application for issuance of a refugee card and the card of subsidiary protection is submitted to the Ministry in person by an alien and/or by a guardian, authorised person, legal representative of the alien to whom the card is to be issued. The application shall be supported with a permanent residence registration certificate of the refugee or a temporary residence registration certificate of the alien under subsidiary protection, in accordance with Article 38 of the Law.

(3) A refugee card is issued to a recognized refugee. The refugee card is valid for three years.

(4) The card of subsidiary protection is issued to aliens under subsidiary protection, for the period for which the subsidiary protection has been granted.

(5) When exercising the rights prescribed in the present Law, recognized refugees and aliens under subsidiary protection shall prove their status with their refugee cards and/or with the cards of subsidiary protection.

(6) Refugee cards and the cards of subsidiary protection cannot be used for crossing the border.

#### **Article 74**

##### **(Replacement of refugee cards and the cards of subsidiary protection)**

(1) Refugee cards and the cards of subsidiary protection are replaced by the Ministry.

(2) The application for replacement of a refugee card or the card of subsidiary protection is filed by the alien whose status has been recognized and/or by a guardian, legal representative or an authorized person of the alien whose status has been recognized, due to expiry of its validity, loss of the card, damage of the card or substantial facial changes of the card holder.

(3) The application for replacement of a refugee card and the card of subsidiary protection is filed 30 days before the expiry of its validity or immediately upon occurrence of the changes mentioned in paragraph (2) above.

(4) In case of the change of a residence address, an alien whose status has been recognized and/or a guardian, legal representative or an authorized person of the alien whose status has been recognized shall notify the Ministry of the change of the residence address for recording purpose in the issued card.

(5) In case of the loss of a refugee card or the card of subsidiary protection, the alien shall, not later than three days after discovering the above mentioned fact, report the loss to the nearest organizational unit of the Service or the Police Administration/Unit, on the territory of which the loss of the card has been noticed. The organizational unit of the Service or the Police Administration/Unit shall issue an attestation of the lost card to the alien, which the alien shall submit to the Ministry, together with the application for the issuance of a new card.

(6) The cards issued to refugees and aliens under subsidiary protection by the BiH Ministry of Human Rights and Refugees are valid until the expiry of the period for which they are issued.

#### **Article 75**

##### **(Travel document for refugees)**

At personal request and/or at request by a guardian, authorized person or legal representative of an alien who has his/her refugee status in BiH recognized with a final

decision under Article 41 (1) a) of the Law, the Ministry may issue a travel document, prescribed in the *1951 Convention relating to the Status of Refugees* and the *BiH Travel Documents Act* (BiH Official Gazette, nos. 4/97, 1/99, 9/99, 27/00, 32/00, 19/01, 47/04, 53/07, 15/08 and 33/08), which shall be valid for up to two years.

## CHAPTER VI. RIGHTS AND OBLIGATIONS

### Subchapter A. Rights and obligations of asylum-seekers

#### Article 76 (Rights of asylum-seekers)

- (1) Asylum-seekers have the right to:
- a) residence in BiH;
  - b) information in accordance with Article 15 of the Law;
  - c) accommodation in the center for asylum-seekers;
  - d) primary health care;
  - e) access to primary and secondary education;
  - f) access to the labor market;
  - g) access to legal aid;
  - h) follow the procedure in a language they can understand or for which it is reasonably assumed they can understand it;
  - i) psycho-social aid.
- (2) Asylum-seekers shall exercise the aforementioned rights on the basis of their asylum-seeker cards. The funds for the expenses incurred thereby shall be provided by the Ministry from the budget of the BiH institutions, which has been approved for this purpose, or through donations for asylum in BiH.
- (3) Minor asylum-seekers shall be granted access to the right mentioned in paragraph (1) e) above not later than three months from applying for asylum. A minor asylum-seeker shall not be denied the right to secondary education if he/she comes of age during the duration of the procedure upon the asylum application.
- (4) An asylum-seeker shall be granted access to the right mentioned in paragraph (1) f) above, if the Ministry fails to take a decision upon his/her asylum application within nine months of filing the asylum application, and the burden of the reasons why the decision has not been taken cannot be put on the asylum-seeker.

(5) If a decision is made under Article 41 (1) b), c), d) of this Law after the asylum-seeker acquires the right to work, the asylum-seeker shall continue to enjoy the right to work until the decision becomes final and binding.

**Article 77**  
**(Obligations of asylum-seekers)**

Asylum-seekers are obliged:

- a) to respect the BiH legal system, laws and other regulations in BiH and to comply with decisions of the competent authorities in BiH;
- b) to cooperate with the competent authorities in order to have their identity established;
- c) to cooperate with the authorities throughout the proceedings upon the asylum application;
- d) to submit all available documents, which are necessary for assessing the application;
- e) to file the application for extension of their asylum-seeker cards, in accordance with Article 69 (4) of the Law;
- f) to report the loss of the card in the manner as prescribed in Article 70 (2) of the Law;
- g) to report their temporary residence and the change of the address in accordance with Article 38 (4) of the Law; and
- h) to comply with the house rules of the center for reception and accommodation of asylum-seekers.

**Subchapter B. Rights and obligations of refugees and persons under subsidiary protection**

**Article 78**  
**(Rights of refugees and persons under subsidiary protection)**

(1) Refugees and persons under subsidiary protection have the right to:

- a) identification documents;
- b) information in accordance with Article 15 of the Law;
- c) accommodation;
- d) work;
- e) education;
- f) healthcare;
- g) social welfare;



h) integration assistance into the BiH society.

(2) In addition to the rights mentioned in paragraph (1) above, refugees have the right to a family reunification in accordance with Article 13 of the Law and to a travel document in accordance with Article 75 of the Law. An alien under subsidiary protection has the right to maintain his/her family unity in accordance with Article 14 of this Law.

(3) Access to rights under paragraphs (1) a) and (2) above shall be ensured by the Ministry.

(4) Access to rights under paragraph (1) b), c), d), e), f), g) and h) above shall be ensured by the BiH Ministry of Human Rights and Refugees.

#### **Article 79**

##### **(Obligations of refugees and persons under subsidiary protection)**

Refugees and aliens under subsidiary protection are obliged to:

- a) respect the BiH legal system, laws and other regulations in BiH and to comply with decisions of the competent authorities in BiH;
- b) apply for replacement of a refugee card or a card of subsidiary protection in accordance with Article 74 (2) and (3) of this Law;
- c) report the loss of the card in the manner prescribed in Article 74 (5) of the Law;
- d) report any change of their address in accordance with Article 38 (3) and (4) of this Law;
- e) report any changes that may affect the exercise and the scope of rights stipulated in Article 78 of this Law;
- f) inform the Ministry, in accordance with Article 52 (1) i) of this Law, if they will stay outside BiH more than six months continuously.

### **CHAPTER VII. OFFICIAL RECORDS**

#### **Article 80**

##### **(Official records)**

(1) Under this Law, the Ministry shall keep official records on:

- a) asylum-seekers;
- b) recognized refugees, persons under subsidiary protection, and persons under temporary protection;
- c) travel documents for refugees;
- d) identification documents.

(2) In addition to official records mentioned in paragraph (1) above, the Ministry may keep other records for the purpose of efficiency or data processing, if official records do not include personal details.

(3) Data from the official records mentioned in paragraph (1) a) above shall also contain the biometric data on asylum-seekers under Article 36 (1) b) and c) of this Law. Data mentioned in paragraph (1) a) above are contained in the Central Database on Aliens, which is established in accordance with the law governing the field of movement and stay of aliens.

(4) The Ministry shall enter the data referred to in paragraph (1) a) above into a Central Database on Aliens immediately after the change, and not later than the next working day.

#### **Article 81 (Bylaws)**

(1) The Ministry shall, by way of a bylaw, further specify the manner for expressing the intent and for submitting the asylum application, layout and content of the forms to be used in the procedure, procedures and conditions for granting asylum in BiH, layout, content and manner for issuing identification documents, and other related issues, within six months of the effective date of the Law.

(2) The BiH Ministry of Civil Affairs shall, after consultations with the Ministry, issue a bylaw on the shape, content, necessary documents to be submitted with the application for issuance of a travel document for refugees, issuance procedure, and other technical issues related to travel documents for refugees mentioned in Article 75 of the Law, within six months of the effective date of the Law.

(3) After consultations with the BiH Ministry of Civil Affairs, the Ministry shall issue a bylaw on the layout and content of the application for issuance of a travel document for refugees, documents to be submitted with the application for issuance of a travel document for refugees, and other issues, within six months of the effective date of the Law.

(4) At proposal by the Ministry, the BiH Council of Ministers shall issue a bylaw on the management method, funding conditions, operational standards, the method for

ensuring special conditions for beneficiaries of the center for reception and accommodation of asylum-seekers as well as other issues related to the work of this specialized institution, within six months of the effective date of the Law.

(5) The Ministry shall, by way of a bylaw, prescribe the content and the manner of keeping and using official records referred to in Article 80 paragraph (1) of this Law, within six months of the effective date of the Law.

(6) The BiH Ministry of Human Rights and Refugees shall, after consultations with the Ministry and the BiH Ministry of Civil Affairs, issue bylaws on the way of access to and exercise of the rights under Article 78 (1) b), c) d), e) f), g) and h) of the Law by refugees and persons under subsidiary protection in BiH, within six months of the effective date of the Law.

## **CHAPTER VIII. TRANSITIONAL AND FINAL PROVISIONS**

### **Article 82**

#### **(Cessation of previous regulations)**

(1) Chapter VII on International and Temporary Protection in the *Law on Movement and Stay of Aliens and Asylum* (BiH Official Gazette, nos. 36/08 and 87/12) shall cease to be applied as of the effective date of this Law.

(2) Bylaws issued under the *Law on Movement and Stay of Aliens and Asylum* shall apply during a transitional period pending the issuance of new bylaws under Article 81 of the Law, provided that they are not contrary to this Law.

(3) All cases which are not completed with a final and binding decision before the entry into force of this Law, shall be completed in accordance with provisions of the *Law on Movement and Stay of Aliens and Asylum*. In cases where the first-instance decision is not made before the entry into force of this Law, the procedure shall continue in accordance with this Law.

### **Article 83**

#### **(Entry into force)**

This Law shall enter into force eight days after its publication in the BiH Official Gazette.

Number 01,02-02-1-12/15

9 February 2016

Sarajevo

Chairperson

House of Representatives

BiH Parliamentary Assembly

**Borjana Krišto**

Chairperson

House of Peoples

BiH Parliamentary Assembly

**Ognjen Tadić**