

LAW

ON MIGRATION MANAGEMENT

(Official Gazette of RS, No 107/2012)

I Basic provisions

Subject of the Law

Article 1

This Law shall regulate the management of migration, the principles, the competent authority for managing migration as well as the unified system for data collection and exchange in the field of migration management.

1. Definition of Terms

Article 2

For the purpose of this Law, the basic terms shall have the following meaning:

1) Migration is the voluntary or forced leaving of the country of origin or residence, for the purpose of temporary residence or permanent residence in the Republic of Serbia and the voluntary or forced leaving of the Republic of Serbia, for the purpose of temporary residence or permanent residence in another country (external migration), as well as the changing of the place of permanent residence within the territory of the Republic of Serbia, or the changing of the place of temporary residence within the territory of the Republic of Serbia if the change occurred forcibly (internal migration);

2) Immigration presents the external migration into the Republic of Serbia, which lasts or is expected to exceed 12 (twelve) months;

3) Emigration presents the external migration from the Republic of Serbia, which lasts or is expected to exceed 12 (twelve) months;

4) Migration management implies the collection, analysis, processing, organising, exchange, storage and protecting of data relevant to migration management, the determination of indicators, data relevant to migration management, the establishing of a unified system and other mechanisms for the sharing of operational data on migration, defining and proposing objectives and priorities for the migration policy, proposing and taking measures for the implementation of the migration policy and coordination of the authorities that are performing activities related to migration management, all which serves the purpose of contributing to the other mechanisms established by law in the field of migration management;

5) A unified system is a system of collecting, analysing, processing, organising, exchanging, storing and protecting data obtained from information data subsystems (database) that the authorities competent for particular areas of migration collect, process, use, protect and develop in the field of migration management, in accordance with the law;

6) A returnee under readmission agreement is a citizen of the Republic of Serbia for whom the competent authority gave its consent for his/her return on the basis of readmission agreement concluded by the Republic of Serbia.

2. Principles governing Migration Management

The principle of respect for family unity

Article 3

The proposing and implementing of measures in the field of migration management shall be conducted in conformity with the principle of preservation of family unity, in accordance with the ratified international treaties and law.

The principle of prohibition of artificial changing of the ethnic composition of the population

Article 4

Measures in the field of migration management are implemented so as to preserve the ethnic composition of the population in areas where members of national minorities have been living traditionally and in large numbers.

The principle of balanced and planned economic development through migration management

Article 5

Migration management is carried out in such a manner so as to contribute towards a balanced and planned economic development of the Republic of Serbia, taking into account the strategies and policies of economic development and economic relations with other countries, the measures of the active employment policy, population policy as well as the policies in the area of science and education, together with strengthening relations with the Diaspora, and through the integration of persons whose right to refuge has been granted and the reintegration of returnees under readmission agreements.

The principle of strengthening relations with the Diaspora and Serbs in the region

Article 6

Migration management is realised by improving the status and protection of the rights and interests of members of the Diaspora and Serbs in the region, preserving, strengthening and establishing relations of the Diaspora and Serbs in the region with the Republic of Serbia.

The principle of protection of rights

Article 7

Migration management is based on the protection of rights of persons in the migration process, while respecting, to the greatest extent possible, their specific needs and interests, in accordance to the capabilities of the Republic of Serbia.

The principle of compliance with ratified international treaties and generally accepted rules of international law in the field of migration

Article 8

Migration management is carried out with respect to the ratified international treaties and generally accepted rules of international law in the field of migration.

II Migration Management

The Commissariat for Refugees and Migration

Article 9

The Commissariat for Refugees and Migration (hereinafter: the Commissariat) carries out specialised as well as other activities related to migration management determined by this law and related administrative duties.

Competencies

Article 10

The Commissariat shall perform duties related to: recommending to the Government objectives and priorities of migration policy; recommending measures to the Government for emanating positive effects of legal migration and combating illegal migration; monitoring the implementation of the migration policy measures; providing data relevant to the development of strategic documents in the field of migration to public administration, autonomous province and local self-government units, proposing projects in the field of migration management within the scope of their work and preparing annual report to the Government on the situation in the field of migration management.

The Commissariat shall perform duties related to: defining, proposing and implementing measures for the integration of persons whose right to refuge has been granted in compliance with the Law on Asylum (“Official Gazette of RS”, No. 109/07 – hereinafter: the Law on Asylum”); defining, proposing and implementing measures for the reintegration of returnees under readmission agreements; improving the living conditions of internally displaced persons while in displacement; proposing programmes for developing a system of measures for families of foreigners residing illegally on the territory of the Republic of Serbia and proposing programmes to support the voluntary return of foreigners residing illegally on the territory of the Republic of Serbia to their country of origin.

The Commissariat shall perform duties related to: the collection, integration and analysis of data and indicators for migration management; reporting on immigration and emigration; the development and regular updating of the Republic of Serbia’s migration profile; establishing a unified system for collecting, organising and exchanging data; establishing a cooperation with the members of the European Migration Network; training and qualifying persons who perform duties relevant to migration management; ensuring the availability of information relevant to migration issues, as well as other duties specified by law.

The Commissariat shall perform professional, administrative and

technical tasks for the needs of the Commission for Missing Persons, established by the Government, as well as: keeping uniform records of persons missing in armed conflicts and in connection with armed conflicts in the territory of former SFRY from 1991 to 1995 and the Autonomous Province of Kosovo and Metohija from 1998 to 2000; keeping records of exhumed, identified and unidentified human remains from individual and mass graves; issuing certificates of facts contained in the official records that it keeps; paying the costs of exhumation, identification, funeral equipment and transport of human remains of identified persons either to the burial site in the Republic of Serbia, or to the border - if the remains are to be transferred across the border, as well as the costs of services of forensic experts or teams of experts from the relevant forensic institutions hired for the purposes of the Commission for Missing Persons; paying a one-time financial assistance for funeral expenses in the amount of compensation of funeral expenses set by the law regulating pension and disability insurance; allotting funds for programmes of associations of families of missing persons in line with the regulations governing the funding of programmes of public interest implemented by associations.

The content and method of keeping the records referred to in Paragraph 4 of this Article shall be prescribed by the Commissariat.

Cooperation with public authorities, organisations and institutions

Article 11

For the purposes of performing tasks within its domain the Commissariat shall cooperate with public authorities, organisations and institutions that perform activities pertaining to social welfare, health, education and science as well as with associations.

In order to exchange data, information, experiences and practices in the field of migration management, the Commissariat may establish international cooperation with competent authorities of other countries and with international organisations dealing with migration issues, in accordance with the law.

Migration Council

Article 12

For the purpose of performing the advisory duties pertaining to migration management within the territory of an autonomous province and local self-government unit, the competent authority in the autonomous province or local self-government unit, may establish a provincial i.e., a local migration council (hereinafter: “migration council”).

A Migration Council shall perform the duties pertaining to: monitoring and reporting to the Commissariat on migration flows on the territory of the autonomous province or local self-government unit; proposing programmes, measures and plans of activities to be undertaken for the efficient migration management on their territories; undertaking other activities in the field of migration management, in accordance with the law.

The composition of the Migration Council, which is regulated through the enactment on its establishment, is generally comprised of representatives of executive bodies of the local self-government unit (Mayor or member of municipal/city council), centre for social work, police administration, employment service, the trustee as well as a representative of the municipal or city administration.

The competent authority in the autonomous province or local self-

government unit that establishes the Migration Council can decide that, apart from the representatives referred to in Paragraph 3 of this Article, other persons can be included in the work of Migration Council, such as representatives of the institution competent for health, education, a representative of associations dealing with issues pertinent to migration, as well as other persons engaged in activities significant to migration management on their territory.

The Migration Council, at the request of the Commissariat, shall submit to the Commissariat a report on undertaken measures and other issues in the field of migration management on the territory that the Migration Council has been established for.

Training

Article 13

The Commissariat shall provide persons performing duties relevant to migration management with the training to perform such duties.

The Commissariat will pass a Programme for the training referred to in Paragraph 1 of this Article, with the consent of the Government, for a period of two years.

Funds for the training referred to in Paragraph 1 of this Article are provided within the budget of the Republic of Serbia, from donor funds and other sources of financing stipulated by law and other regulations.

III Accommodation and Integration

Temporary accommodation of returnees under readmission agreements

Article 14

Returnees under readmission agreements, who are unable to provide an accommodation for themselves immediately upon their return, shall be provided with a temporary collective accommodation.

Temporary collective accommodation shall be provided within existing collective centres or in collective centres opened particularly for this purpose, taking into consideration the specificities of the local self-government unit. The Commissioner shall decide on opening and closing of collective centre.

The accommodation of the returnees within the collective centre, shall be conducted on the basis of a Referral by the Commissariat, for the period of up to 14 days, with a possibility of extension for persons who are in a special mental and physical condition (old, disabled and ill persons) until they are accommodated in a social care facility, with other providers of accommodation services or accommodated in another family.

Returnees accommodated in the collective centre shall be provided with food and necessary clothing and footwear.

Temporary accommodation within the collective centre, food and necessary clothing and footwear shall be provided by the Commissariat directly, or in cooperation with local self-government unit or the Organisation of the Red Cross or by engaging appropriate service providers.

Accommodation of persons whose right to refuge has been recognised or subsidiary protection has been granted

Article 15

Persons whose right to refuge has been recognised or subsidiary protection has been granted, in compliance with the Law on Asylum, shall be provided with housing space for temporary accommodation, in accordance with the capabilities of the Republic of Serbia.

The housing space referred to in Paragraph 1 of this Article shall be given for utilisation by the decision of the Commissariat, for a maximum period of one year from the date of the final decision on recognising the right to refuge or granting subsidiary protection.

Against the decision of the Commissariat referred to in Paragraph 2 of this Article, the appeal can be submitted to the Refugee Housing Commission, in compliance with the Law on Refugees ("Official Gazette of RS", No. 18/92, "Official Gazette of FRY", No. 42/02 - FCS and "Official Gazette of RS", No. 30/10).

Based on the Decision of the Centre for Social Work, the Commissariat shall provide accommodation in the social care facility, with other providers of accommodation services or in another family to the persons referred to in Paragraph 1 of this Article, who are in a special mental and physical condition (old, disabled and ill persons), as well as to the minors without parental care, who can not use housing space referred to in Paragraph 1 of this Article.

The criteria for determining priorities for the accommodation of persons with a recognised right to refuge or granted subsidiary protection as well as the terms of utilisation of housing space as referred to in Paragraph 1 of this Article, shall be determined by the Government, upon the recommendation of the Commissariat.

The costs of utilisation and maintenance of housing spaces referred to in Paragraph 1 of this Article and the costs of accommodation, food and necessary clothing and footwear of persons referred to in Paragraph 4 of this Article shall be borne by the Commissariat.

Integration of persons whose right to refuge has been recognised

Article 16

Persons whose right to refuge has been recognised shall be supported regarding their inclusion into social, cultural and economic life, in accordance with the capabilities of the Republic of Serbia.

The method of inclusion of the persons referred to in Paragraph 1 of this Article into the social, cultural and economic life shall be determined by the Government, upon the recommendation of the Commissariat.

Programme of providing incentive for the implementation of measures and activities in the local self-governance

Article 17

In order to provide incentive for implementation of measures and activities necessary for achieving the identified objectives in the field of migration management in the local self-government unit, the budget of the Republic of Serbia can

provide for the financing of the plans determined by the competent authorities of the local self-government unit.

The plans referred to in the Paragraph 1 of this Article must be harmonised with the strategy in the field of migration management passed by the Government.

The Government shall determine measures and incentives, the extent of funds for providing incentive for implementation of measures and activities in the local self-government units, the criteria for its distribution as well as the criteria for the participation of the local self-government units in the programme of providing incentive, upon the recommendation of the Commissariat.

IV Unified System of data collection, organisation and exchange

Collection, organisation, exchange and protection of data

Article 18

For the purpose of an efficient collection, analysis, processing, organising, exchange, storing and protection of data necessary for migration management, a unified system of data collection, organisation and exchange shall be established (hereinafter: a Unified System).

The collection, organisation and exchange of data within the Unified System is achieved through the interconnection and networking of the appropriate portions of data subsystems (database) of public authorities, so as to form a unified inter-organisational system of data available to all public authorities that are included in this system.

The particular type of the data collected, analysed, processed, organised, exchanged, stored and protected within the Unified System, as well as the methods, dynamic and technical means applied within the Unified System shall be determined by the Government upon recommendation of the Commissariat.

The protection of data covered by the Unified System shall be accomplished in accordance with the law.

Obligations of the public authorities included in the Unified System

Article 19

The data referred to in the Article 18 of this Law represent the sum of the numerical data on migration that are relevant to migration management.

The public authorities included in the Unified System timely submit data which have been determined to be necessary for migration management to the Commissariat, and undertake measures for their protection; realise mutual cooperation and provide information regarding the data necessary for working in the field of migration within their jurisdiction; work on maintaining and enhancing the Unified System and other mechanisms for the comprehensive and consistent management of migration.

V Transitional and final provisions

Change of the title and sphere of competence of the Commissariat for Refugees

Article 20

As of the day of the entry of this Law into force, the Commissariat for Refugees established by the Law on Refugees (“Official Gazette of RS”, No. 18/92, “Official Gazette of FRY”, No. 42/02 - FCS and “Official Gazette of RS”, No. 30/10) shall continue its work, under the title of Commissariat for Refugees and Migration, within the sphere of competence determined by this law and other laws.

Due date for the adoption of bylaws

Article 21

The bylaws for the implementation of this Law shall be adopted within 12 months of its entry into force.

Entry into force

Article 22

This Law shall enter into force on the eighth day following its publication in the “Official Gazette of the Republic of Serbia“.