

# SRBIJA OD ZEMLJE TRANZITA DO ZEMLJE DESTINACIJE

Izazovi i praksa odabralih država u procesu integracije izbeglica





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# SRBIJA OD ZEMLJE TRANZITA DO ZEMLJE DESTINACIJE

IZAZOVI I PRAKSA ODABRANIH DRŽAVA U  
PROCESU INTEGRACIJE IZBEGLICA



Beogradski centar za ljudska prava  
Beograd, 2016

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## PREDGOVOR

Beogradski centar za ljudska prava je u saradnji sa Ambasadom Kraljevine Holandije u Beogradu i Holandskim savetom za izbeglice u Amsterdamu, tokom 2015. i 2016. godine, sprovodio projekat pod nazivom „Srbija od zemlje tranzita do zemlje destinacije“.

Cilj projekta bio je unapređenje sistema azila kroz podizanje svesti svih učesnika koji se bave ovom temom, zatim razvijanje migracione politike i politike azila u Srbiji u kontekstu evropskih integracija i postavljanje ove teme među političke prioritete. Jedan od ključnih prioriteta bio je upoznavanje što šire kako stručne javnosti tako i svih građana sa sistemom azila, integracionom politikom i ulogom organizacija civilnog društva u integraciji lica koja su dobila međunarodnu zaštitu.

Beogradski centar za ljudska prava je od samog osnivanja posebnu pažnju posvećivao izdavačkoj delatnosti. Ideja i u ovom projektu bila je da na samom kraju objavimo stručni rad o integracionoj politici u Srbiji i regionu sa preporukama za dalji razvoj i usklađivanje sa evropskim standardima. Takođe, koliko je autorima ove publikacije poznato stručna literatura u Srbiji na ovu temu nedostaje, pre svega, profesionalcima koji se bave ovom temom, i ne samo njima, već svima koji podrobnije žele da se bave integracijom izbeglica.

Razlog zbog kojeg smo se odlučili da pored Srbije, ponudimo čitaocima i pregled zakonodavstva i prakse zemalja u regionu, je što se zemlje Zapadnog Balkana pre svega nalaze na tzv. „zapadnobalkanskoj izbegličkoj ruti“, politike i zakonodavstva zemalja u regionu su relativno slične i suočavaju se sa različitim izazovima i promenama u svom razvoju. Regionalni pristup ovoj temi je od izuzetnog značaja za Srbiju, jer efikasna zaštita tražilaca azila i izbeglica je u velikoj meri zavisna od sistema azila u regionu, i ukoliko se praksa u jednom od sistema unapredi, velike su šanse da će to imati pozitivan uticaj i na Srbiju.

Regionalni pristup inicirale su i međunarodne organizacije, UNHCR zajedno sa IOM koji su 2013. godine po prvi put organizovali konferenciju u Beču na temu međunarodnih migracija na Zapadnom Balkanu sa ciljem da se pomogne državama u izgradnji efikasnih sistema azila. Sve zemlje Zapad-

nog Balkana su učestvovale i jedna od glavnih preporuka bila je aktivnije angažovanje civilnog društva iz regiona i uspostavljanje saradnje u oblasti azila i migracija. Nakon toga, usledio je i regionalni sastanak organizacija civilnog društva u Skoplju koje se bave pružanjem pravne pomoći tražiocima azila u svojim zemljama kao izvršni partneri UNHCR (uključujući Grčku i Tursku). Opšti zaključak bio je da iako postoje sličnosti među nacionalnim zakonodavstvima zemalja u regiona, ipak nisu sve zemlje u istim fazama razvoja, zbog čega je veoma važno da organizacije dobiju relevantno znanje iz zemalja koje imaju napredniji i efikasniji sistem azila. Naglašeno je i da postoji negativna percepcija zemalja u regionu, jer se politički pozicioniraju, pre svega, kao „tranzitne zemlje“ na putu Zapadnog Balkana ka zemljama Evropske unije. Zajedničko zagovaranje i napor organizacija civilnog društva u regionu su više nego potrebni kako bi se ovakvo stanje promenilo, odnosno kako bi zemlje tranzita postepeno i uz efikasnu izgradnju institucija i mehanizama zaštite izbeglica postale zemlje destinacije. Stoga se i autori nadaju da će ova publikacija doprineti tom cilju.

Autori publikacije su predstavili svoje zemlje (Republiku Makedoniju, Republiku Sloveniju, Republiku Srbiju i Kraljevinu Holandiju) njihov zakonodavni okvir u oblasti azila, sa posebnim osvrtom na sistem integracije osoba koje dobiju međunarodnu zaštitu. Metodološki smo želeli da prođemo kroz najvažnija prava u sistemu integracije izbeglica, stoga svaka zemlja sadrži isti okvir: I deo – Pojam i opšti pogled na sistem azila u zemlji; II deo – Institucionalni mehanizmi za zaštitu izbeglica; III deo – Ostvarivanje prava u sistemu integracije izbeglica (1.1. Pravo na rad; 1.2. Pravo na obrazovanje; 1.3. Pravo na zdravstvenu zaštitu; 1.4. Pravo na socijalnu pomoć; 1.5. Pravo na smeštaj; 1.6. Pravo na državljanstvo; 1.7. Pravo na spajanje porodice) i IV deo – Zaključak.

I najzad, Kraljevina Holandija je zasluženo našla svoje mesto u ovoj publikaciji, s obzirom na impresivan sistem integracije izbeglica ali i na činjenicu da su pravnici Beogradskog centra imali jedinstvenu priliku da idu u studijsku posetu Holandskom savetu za izbeglice u Amsterdamu kako bi se bolje upoznali sa sistemom azila, integracionom politikom i ulogom organizacija civilnog društva u integraciji lica koja su dobila međunarodnu zaštitu.

## UVOD

Migracije su danas veoma važan ekonomski i društveni fenomen koji treba posmatrati kao složeni proces koji uključuje kretanje ljudi. Ako posmatramo migracije u kontekstu globalizacije društva videćemo da one pružaju mnoge mogućnosti kako za migrante, tako i za države u koje se migrira, ali isto tako donose i potencijalne opasnosti u vidu socijalne ugroženosti migranata i često njihove marginalizacije i diskriminacije. Upravo zbog toga, migracije se danas sve više posmatraju kroz prizmu ljudskih prava jer se pravi potencijal migracija treba posmatrati kroz doprinos koji migranti daju društvu u koje dolaze i sa kojim se povezuju. Zaštita ljudskih prava je važna i sa stanovišta socijalne inkluzije i integracije migranata, jer doprinosi da budu ekonomski produktivni i da kulturno i društveno oplemenjuju zajednice u koje se integrišu. Globalna grupa za migracije istakla je da: „*Zaštita ljudskih prava nije samo zakonska obaveza država, to je takođe i pitanje od javnog interesa i suštinski je povezana sa razvojem društva.*“ Tek kada migracije koncipiramo u smislu ljudskih prava, migracije će biti u stanju da ostvare svoj puni potencijal. Ipak, proces migracije podrazumeva kompleksne izazove u smislu upravljanja migracijama, zaštite migranata i međunarodne saradnje između države porekla, države tranzita i država destinacija.

Položaj tražilaca azila i izbeglica kao uže grupe migranata, posebno je osetljiv jer oni spadaju u tzv. ranjive grupe migranata, s obzirom na to da napuštaju svoju zemlju porekla usled osnovnog straha za sopstveni život, te su zbog svoje ranjivosti veoma česta meta diskriminacije po osnovu državljanstva. S druge strane, često i same zemlje destinacije imaju veoma rigorozne ili nepovoljne politike za „strance“ kada je reč o ostvarivanju i zaštiti socijalnih, ekonomskih i kulturnih prava, jer se propisuju posebni, najčešće otežani uslovi za integraciju ove kategorije ljudi.

Autori publikacije pokušaće kroz rad da prikažu različite sisteme integracije koji će nam pokazati da je danas zapravo suštinsko pitanje u kojоj meri se prava iz integracije ograničavaju, kako se štite međunarodnim dokumentima i koliko je svaka od izabranih država napredovala na tom polju.

Republika Srbija takođe preživljava iskustva drugih zemalja Centralne i Istočne Evrope koje su, tokom sopstvenog puta ka ulasku u Evropsku uniju, doživele povećanje priliva migranata kako su se bližile članstvu u EU.

Ipak, istraživanje Indeksa razvijenosti politika integracije migranata (MIPLEX studija) dodelila je Srbiji ocenu 41 od maksimalnih 100, koji zapravo pokazuje da je naša zemlja na donjoj skali umereno povoljnih politika za društvenu integraciju stranaca.

Srbija se poslednjih godina suočava s pojačanim mešovitim migracijskim tokovima, a razloge dolaska stranaca nije jednostavno klasifikovati. Među njima u velikom broju su potencijalne izbeglice, odnosno ljudi koji dolaze iz zemalja koje se smatraju zemljama iz kojih dolaze izbeglice (npr. Sirija, Avganistan, Eritreja, Somalija, itd.) što zahteva dodatne napore nadležnih organa prilikom utvrđivanja različitih kategorija migranata. Još uvek se ne može reći da je sistem azila u Srbiji efikasan i da je stanje u ovoj oblasti zadovoljavajuće.

Imajući u vidu stratešku opredeljenost naše zemlje da pristupi Evropskoj uniji, i da se intenzivno radi na evropskim integracijama poslednjih godina, pogotovo na otvaranju prvih poglavlja važnih za unapređivanje opšteg stanja ljudskih prava u zemlji, ali i u oblasti migracija i azila, otvaranjem Poglavlja 24 – Sloboda, bezbednost i pravda, koja spada u takozvane visoke politike jedne suverene države, otvara se veoma važan proces i za zemlju kandidata i za samu Evropsku uniju. Poglavlje 24 biće posebno zanimljivo za pristupanje naše države i drugih zemalja Zapadnog Balkana Evropskoj uniji, zbog uslovno rečeno, reputacije nestabilnosti u regionu, ali i zbog skorašnjih iskustava nakon proširenja na Bugarsku, Rumuniju i Hrvatsku. Iskustvo je pokazalo da su reforme sistema pravosuđa i unutrašnjih poslova nekada i teže od usvajanja pravnih tekovina (*acquis*) i integrisanja u ekonomski sistem EU, kao i da ranije usklađivanje i bolja pripremljenost država kandidata daje efikasnije rezultate nakon pristupanja.

Iako možemo konstatovati da je Republika Srbija unapredila svoj pravni okvir, imajući u vidu da je u decembru 2014. godine usvojen novi Zakon o zapošljavanju stranaca, koji je u velikoj meri usklađen sa svim evropskim standardima u ovoj oblasti, dok je u junu 2015. godine po prvi put usvojen podzakonski akt koji detaljno uređuje pitanje smeštaja za lica koja su dobila međunarodnu zaštitu, nedostaci još uvek postoje.

Bitan nedostatak našeg sistema je nepostojanje institucije koja bi se bavila sveobuhvatnom integracijom lica kojima je odobreno pravo na azil, kao i nedostatak zakonskih propisa koji bi bliže uredili ovu materiju. Imajući u vidu konstantan porast broja tražilaca azila, možemo u budućnosti očekivati i povećan broj pozitivno rešenih zahteva, pa bi nepostojanje propisa koji će omogućiti njihovu integraciju moglo da dovede do velikih problema u funkcionisanju sistema. Takođe, u zemljama sa visokom stopom nezaposlenosti kao što je Srbija uvek postoji strah da će imigranti iz trećih zemalja „ući u trku“ za već oskudne mogućnosti zapošljavanja. Ipak, veliki broj tvoraca in-

tegracione politike tvrdi da imigracija može da stvori nove mogućnosti za domaće stanovništvo zajedno sa migrantima. Primer takvog slučaja je kada stranci preuzimaju poslove koji dopunjavaju tržište rada, a ne zamjenjuju domaće radnike (na primer, niskokvalifikovani poslovi), ili dolaze sa kvalifikacijama i obukom koju je teško naći u zemlji domaćinu (na primer inženjeri, IT stručnjaci – stručnjaci informacionih tehnologija, stručnjaci iz oblasti finansijskih usluga itd.). Razumno je i očekivati da je prihvatanje migranata i tražilaca azila u srpsko društvo jedan složen i sasvim nov proces, imajući u vidu da je naša zemlja, pre svega, bila zemlja iz koje se u poslednjih petnaestak godine emigriralo, ali situacija se u poslednjih nekoliko godina značajno promenila, i sada naša zemlja ima zadatak da razvije migracione politike i da na efikasan način prihvati izbeglice u društvo.



# Republika Srbija





## SAŽETAK

*Rad koji je pred vama posvećen je specifičnoj ciljnoj grupi, do skoro ne tako „popularnoj“ u našoj zemlji, tražiocima azila i migrantima koji borave i ostvaruju svoja prava u Republici Srbiji. Ostvarivanje i borba za njihova ljudska prava nije ništa drugačija od borbe za prava ostalih građana naše zemlje, pa ipak, oni su već dugo u sasvim drugom planu, pogotovo kada je reč o ostvarivanju ekonomskih, socijalnih i kulturnih prava, koja su posebno osetljiva i često ugrožena u Srbiji.*

*Iako se Republika Srbija trenutno suočava sa velikim brojem lica koja traže međunarodnu zaštitu u zemlji i migriraju kroz nju, u samoj zemlji se trenutno nalazi manji broj osoba koje su dobile međunarodnu zaštitu i koji ostaju. Ipak, evidentno je da će sve više njih, sa izgradnjom efikasnog sistema azila i integracije izbeglica, izraziti nameru da živi i radi na teritoriji cele Srbije.*

*Zahtevi približavanja Evropskoj uniji, uključuju i potrebu da se stvori transparentan pravni okvir koji bi bio kompatibilan sa evropskim standardima kada je reč o integraciji izbeglica, a koji obuhvata oblasti kao što su mehanizmi zaštite, garantovanje i ostvarivanje čitavog seta prava, regulisanje pristupa tržištu rada, obrazovnom sistemu, socijalnim uslugama, naturalizaciju izbeglica i mnoge druge. Srbija je na samom početku svog puta ka izgradnji kvalitetnog sistema integracije, i organizacije civilnog društva se nadaju da će biti aktivni i jednaki partneri u tom procesu.*

### I POJAM I OPŠTI POGLED NA SISTEM AZILA

Republika Srbija obavezana je brojnim međunarodnim ugovorima koji se tiču, posredno ili neposredno, pitanja azila. Srbiju tako, pored Konvencija UN o statusu izbeglica iz 1951. godine<sup>1</sup> i Protokol o statusu izbeglica iz 1967. godine, između ostalog, obavezuju i drugi važni međunarodni ugovori: Međunarodni pakt o građanskim i političkim pravima, Međunarodni pakt o ekonomskim, socijalnim i kulturnim pravima, Konvencija UN protiv mučenja i drugih surovih, nečovečnih ili ponižavajućih postupanja i kažnjavanja, Evropska konvencija za zaštitu ljudskih prava i osnovnih sloboda, Evropska konvencija za sprečavanje mučenja, nečovečnih ili ponižavajućih postupanja ili kažnjavanja, Konvencija UN o pravima deteta ali i mnoge druge konven-

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<sup>1</sup> Službeni glasnik FNRJ – Međunarodni ugovori i drugi sporazumi, 7/60.

cije. Srbija je kao strana ugovornica pomenutih međunarodnih dokumenata u obavezi da u svoje zakonodavstvo unese odgovarajuće odredbe i da doneše akte kako bi svoje zakonodavstvo uskladila sa međunarodnim obavezama.

Član 57 Ustava garantuje pravo na utočište,<sup>2</sup> dok je postupak za dobijanje azila i način ostvarivanja prava tražilaca azila, kao i osoba kojima je dodeljen azil u Srbiji, uređen Zakonom o azilu<sup>3</sup> iz 2008. godine.

Za sprovođenje prvostepenog postupka azila nadležne su: Kancelarija za azil u okviru jedinica Uprave granične policije Ministarstva unutrašnjih poslova. Stranac koji želi da izrazi nameru da traži azil može učiniti to prilikom ulaska na teritoriju Republike Srbije ili unutar nje pred ovlašćenim službenikom Odeljenja za strance Ministarstva unutrašnjih poslova.<sup>4</sup> Službenik će stranca evidentirati i izdati mu potvrdu o izraženoj nameri da se traži azil u Srbiji; potvrda, koja važi 72 sata, osobu o kojoj je reč upućuje da se javi u centar za azil koji joj je dodeljen.

Pošto je tražilac azila smešten u centar za azil (ili mu je odobren boravak na privatnoj adresi), Kancelarija za azil zakazaće registraciju osobe o kojoj je reč, a ta radnja podrazumeva utvrđivanje njenog identiteta i uzimanja fotografija i otisaka prstiju. Po obavljenoj registraciji, strancu se izdaje lična karta za tražioce azila.<sup>5</sup>

U roku od petnaest dana od registracije, tražilac azila dužan je, usmeno ili pismeno, u prisustvu službenika Kancelarije za azil, da podnese zahtev za azil.<sup>6</sup>

Formalnopravno gledano, postupak azila počinje tek podnošenjem zahtega za azil. Uprkos tome što Zakon o azilu ne propisuje trajanje postupka, Zakon o opštem upravnom postupku kao *lex generalis* propisuje rok od 60 dana za donošenje odluke u upravnom postupku.<sup>7</sup> Pre donošenja prvostepene odluke, Kancelarija za azil dužna je i da održi barem jedno saslušanje podnosioca zahteva kako bi utvrdila sve relevantne činjenice u pogledu zahtega za azil.<sup>8</sup>

Kancelarija za azil donosi rešenje kojim usvaja,<sup>9</sup> odbija<sup>10</sup> ili odbacuje<sup>11</sup> zahtev za azil u skladu sa okolnostima pojedinačnog zahteva; u slučaju da

2 *Službeni glasnik RS*, 98/06.

3 *Službeni glasnik RS*, 109/07.

4 Zakon o azilu, član 22.

5 *Ibid.*, član 24.

6 *Ibid.*, član 25.

7 *Službeni glasnik SRJ*, 33/97 i 31/01 i *Službeni glasnik RS*, 30/10, član 208.

8 Zakon o azilu, član 26.

9 *Ibid.*, član 28.

10 *Ibid.*, član 29.

11 *Ibid.*, član 33.

podnositac zahteva nije zadovoljan odlukom, žalba protiv prvostepene odluke može se podneti žalba Komisiji za azil<sup>12</sup> u roku od 15 dana od prijema odluke<sup>13</sup> i koja ima rok od 60 dana da odluci po žalbi.

Protiv odluke Komisije za azil može se pokrenuti upravni spor pred Upravnim sudom kao trećom instancom u postupku azila.

Pored Ministarstva unutrašnjih poslova, koje je nadležno za sprovođenje postupka azila, ključnu ulogu u sistemu azila igra Komesarijat za izbeglice i migracije, telo nadležno za obezbeđivanje smeštaja tražilaca azila i osoba kojima je dodeljen azil, kao i za integraciju potonjih, o čemu će više reći biti kasnije. Važnu ulogu u sistemu azila igraju različite institucije kao što su Ministarstvo za rad, zapošljavanje, boračka i socijalna pitanja, Ministarstvo zdravlja, Ministarstvo obrazovanja, Nacionalna služba za zapošljavanje, centri za socijalni rad, itd.

U toku postupka azila, tražioci azila imaju *inter alia* pravo na boravak u Republici Srbiji i smeštaj u centru za azil,<sup>14</sup> zdravstvenu zaštitu,<sup>15</sup> besplatno osnovno i srednje obrazovanje i socijalnu pomoć.<sup>16</sup> Po dolasku u centar za azil, tražioci azila podležu lekarskom pregledu; smeštaj je besplatan, a tražioci azila dobijaju tri obroka dnevno.

## II INSTITUCIONALNI MEHANIZMI ZA ZAŠITU IZBEGLICA

Efikasni mehanizmi za integraciju izbeglica klučni su u tom procesu, jer im pomažu da se snađu u novoj zemlji, a takođe pomažu i zemlji koja vrši prihvata, njenim zajednicama i državljanima da se prilagode životu sa pridošlicima. Institucije koje pružaju usluge na nacionalnom nivou imaju mogućnost da izbeglicama olakšaju put ka dugoročnoj integraciji.<sup>17</sup>

Prava tražilaca azila i lica koja dobiju izbegličku zaštitu, regulisana su glavom VI Zakona o azilu Republike Srbije. U njoj se nalazi odredbe koje se

12 Komisija za azil je nezavisno telo čijih osam članova i predsednika imenuje Vlada na period od četiri godine, a koje odlučuje po žalbi na odluke Kancelarije za azil; za predsednika i člana Komisije može biti izabran državljanin Republike Srbije, diplomirani pravnik, sa najmanje pet godina radnog iskustva u struci i poznavanjem propisa iz oblasti ljudskih prava.

13 Zakon o azilu, član 35.

14 *Ibid.*, član 39.

15 *Ibid.*, član 40.

16 *Ibid.*, član 41.

17 Ruti Sinai, Adi Binhas, Yael Rockoff, *Alatke za rad za integraciju imigranata u Srbiji*, Međunarodna organizacija za migracije – Misija u Srbiji, Projekat „Jačanje kapaciteta institucija Republike Srbije za upravljanje migracijom i reintegraciju povratnika“ (CBMM) Beograd, 2012, str. 13.

odnose na pravo na boravak, smeštaj, osnovne životne uslove, zdravstvenu zaštitu, obrazovanje, socijalnu pomoć, kao i druga prava koja se izjednačavaju sa pravima stalno nastanjenih stranaca u Republici Srbiji kao i prava koja su jednaka pravima državljanima Republike Srbije.<sup>18</sup>

Iako se, u načelu, Zakon o strancima<sup>19</sup> ne primenjuje na strance koji su podneli zahtev za dobijanje azila ili kojima je u Republici Srbiji dodeljen azil, odredbe ovog zakona se primenjuju na uslove za spajanje porodice lica kojima je dodeljeno utočište ili supsidijarna zaštita i na udaljenje stranaca sa teritorije Srbije. Lica kojima je priznato pravo na utočište u Republici Srbiji imaju jednaka prava kao stalno nastanjeni stranci u pogledu prava na rad i prava po osnovu rada, preduzetništva, prava na stalno nastanjenje i slobodu kretanja, prava na pokretnu i nepokretnu imovinu, kao i prava na udruživanje, te se na njih u pogledu pomenutih prava primenjuje Zakon o strancima.<sup>20</sup>

U skladu sa Zakonom o upravljanju migracijama, Komesarijat za izbeglice i migracije nadležan je za integraciju osoba kojima je dodeljeno utočište u Srbiji.<sup>21</sup> Zakonom o upravljanju migracijama,<sup>22</sup> uređuje se pitanje nadležnosti za smeštaj i integraciju lica kojima je priznato pravo na utočište ili supsidijarna zaštita, koja je konačno dodeljena Komesarijatu za izbeglice. Komesarijat za izbeglice ustanovljen je kao institucija Zakonom o izbeglicama RS, a nastavio je rad pod nazivom Komesarijat za izbeglice i migracije, u skladu s novim Zakonom o upravljanju migracijama iz 2012. godine.<sup>23</sup> Komesarijat obavlja poslove koji se odnose na: utvrđivanje, predlaganje i preduzimanje mera za integraciju lica kojima je, u skladu sa Zakonom o azilu priznato pravo na utočište.<sup>24</sup>

Način integracije, odnosno uključivanja u društveni, kulturni i privredni život lica kojima je priznato pravo na utočište uređuje Vlada, na predlog Komesarijata.<sup>25</sup> Komesarijat je, takođe, nadležan za predlaganje programa za razvijanje sistema mera prema porodicama stranaca koji ilegalno borave na teritoriji Republike Srbije i predlaganje programa za podršku dobrovoljnog povratka stranaca koji ilegalno borave na teritoriji Republike Srbije u zemlju njihovog porekla.

18 Članovi 22–27 Zakona o azilu.

19 *Službeni glasnik RS*, 97/08.

20 Član 46 Zakona o azilu.

21 *Službeni glasnik RS*, 107/12, član 10.

22 *Službeni glasnik RS*, 107/12.

23 *Ibid.*

24 Članovi 10–16 Zakona o upravljanju migracijama RS.

25 Član 16 Zakona o upravljanju migracijama RS.

Nacionalna strategija za upravljanje migracijama Republike Srbije iz 2009. godine<sup>26</sup> predviđa da će Srbija upravljati migracijama na jedan sveobuhvatan način, uz poštovanje evropskih standarda u oblasti migracija i uz uvažavanje sopstvenih specifičnosti. Strategija je između ostalog utemeljena na vrednostima koje treba da obezbede poštovanje ljudskih prava svih kategorija migranata, da olakša integraciju u društvo, zabrani diskriminaciju, olakša spajanje porodice i uvaži potreba svih zainteresovanih strana.

Institucionalni okvir čine i druge relevantne institucije koje su uključene u migracioni sistem Republike Srbije na osnovu zakona i odgovarajućih normativnih akata i strategija. Tu spadaju i različita ministarstva zadužena za pojedina prava, kao što su Ministarstvo za rad, zapošljavanje, boračka i socijalna pitanja, Ministarstvo prosvete, nauke i tehnološkog razvoja, Ministarstvo zdravlja, Ministarstvo unutrašnjih poslova i druga.

Akcioni plan za Poglavlje 24 pregovora o pristupanju Evropskoj uniji predviđa izradu plana za integraciju osoba kojima je dodeljena međunarodna zaštita od strane Komesarijata.<sup>27</sup> U nedostatku sveobuhvatnog plana, integracija osoba kojima je dodeljena međunarodna zaštita moguća je samo u veoma ograničenoj meri. Jedan od problema normativne prirode predstavlja činjenica da domaće zakonodavstvo priznaje pravo na integraciju osobama kojima je dodeljeno utočište, odnosno kojima je priznat izbeglički status, ali ne i osobama kojima je dodeljena supsidijarna zaštita.

Zakon o azilu ne definiše samu prirodu integrativnog procesa na koji osobe kojima je dodeljeno utočište imaju pravo, ali s obzirom na to da je reč o kompleksnom fenomenu koji se tiče ostvarivanja više različitih prava, moguće je razložiti norme domaćeg prava, kao i njihovu praktičnu implementaciju kako bismo utvrdili postojeće stanje u ovoj oblasti.

### III OSTVARIVANJE PRAVA U SISTEMU INTEGRACIJE IZBEGLICA

#### 1.1. Pravo na rad

U smislu člana 43 Zakona o azilu, oblast zapošljavanja tražioca azila, kao i lica koja dobiju međunarodnu zaštitu, regulisana je kroz propise koji se odnose na zapošljavanje stranih lica i lica bez državljanstva.

26 Službeni glasnik RS, 59/09.

27 Akcioni plan za Poglavlje 24 pregovora o pristupanju Evropskoj uniji, dostupno na: [http://www.bezbednost.org/upload/document/nacrt\\_treće\\_verzije\\_aktionog\\_plana\\_za\\_poglavlje\\_24.pdf](http://www.bezbednost.org/upload/document/nacrt_treće_verzije_aktionog_plana_za_poglavlje_24.pdf), tačka 2.1.5.1.

Jedna od najbitnijih razlika u odnosu na sisteme država članica Evropske unije je da tražiocima azila u Republici Srbiji do decembra 2014. godine nije bilo dozvoljeno da rade. Pravo na rad imala su samo lica kojima je odobreno utočište (odnosno izbeglički status) na osnovu Zakona o azilu, dok za druge oblike međunarodne zaštite ovo pravo nije bilo predviđeno. Međutim donošenjem novog Zakona o zapošljavanju stranaca<sup>28</sup> u decembru 2014. godine, položaj lica koja traže međunarodnu zaštitu i kojima je zaštita odobrena značajno je unapredjen. Novi Zakon oblast rada stranaca generalno reguliše na znatno savremeniji način, te predviđa obavezu pribavljanja dozvole za rad za znatno širi krug stranaca. Po prvi put, Zakon izričito pominje u članu 2, stav 8 „izbeglicu kao stranca kome je priznato pravo na utočište u skladu sa propisima o azilu, osim lica sa teritorije bivše SFRJ kojima je status izbeglice priznat u skladu sa propisima o izbeglicama, na koja se ovaj zakon ne primenjuje“; i u stavu 9 „lice iz posebne kategorije stranaca, kao lice koje traži azil, lice kome je odobrena privremena zaštita, žrtva trgovine ljudima, odnosno lice kome je odobrena supsidijarna zaštita, u skladu sa zakonom“.

Zakon takođe predviđa i da se lična radna dozvola izdaje i posebnoj kategoriji stranaca, i to tražiocima azila, osobama sa privremenom zaštitom, žrtvama trgovine ljudima, osobama sa supsidijarnom zaštitom, kao i izbeglicama.<sup>29</sup> Dužina trajanja ove vrste dozvole zavisi od dužine trajanja statusa samog lica, a situacija na tržištu rada može biti uzeta u obzir prilikom izдавanja ove dozvole, ukoliko se donese odluka o kvoti. Ovakav način regulisanja rezultat je usklađivanja našeg radnog zakonodavstva sa standardima EU, odnosno predstavlja preuzimanje rešenja iz direktiva Evropske unije kojima se uređuju pitanja vezana za rad lica pod međunarodnom zaštitom, i to: izbeglice, lica koja su podnela zahtev za azil, lica sa privremenom zaštitom, odnosno supsidijarnom zaštitom i žrtve trgovine ljudima (Direktive EU 2013/33, 2001/55, 2004/81 i 2011/95). Nacionalna služba za zapošljavanje je telo koje je zaduženo za izdavanje radnih dozvola, kao i za sprovođenje različitih programa vezanih za aktivne politike zapošljavanja.

U skladu sa standardima Evropske unije<sup>30</sup> potrebno je dodatno uvesti posebne programe strukovnog obrazovanja, programe za usavršavanje, sticanje praktičnog radnog iskustva, kao i pružanje usluga savetovanja na tržištu rada pod istim uslovima kao i za državljane Srbije. Trenutno, ovakve vrste usluga već pruža Nacionalna služba za zapošljavanje, ali samo za državljane Republi-

28 Službeni glasnik RS, 128/14.

29 Član 13 Zakona o zapošljavanju stranaca.

30 Ovde se, pre svega, misli na standarde u oblasti integracije koje proposuje Klasifikacijska direktiva, u članu 26, Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection. Official Journal L 180/60.

ke Srbije, dok ova posebna kategorija stranaca još uvek nije prepoznata kao ciljna grupa kojoj je potrebno pružiti podršku za uključivanje u tržište rada.

Nacionalna strategija zapošljavanja za period 2011–2020. godine<sup>31</sup> prepoznaje da se Republika Srbija suočava sa svim vrstama migracija: spoljašnjim i unutrašnjim, prinudnim i dobrovoljnim, legalnim i ilegalnim migracijama, visokokvalifikovanim i nekvalifikovanim radnika, imigracijom i emigracijom.<sup>32</sup> Migraciona politika Republike Srbije poslednjih decenija bila je uslovljena potrebom da se obezbedi humanitarna pomoć za hiljade prisilnih migranta, proteranih etničkim nasiljem i vojnim aktivnostima. Strategija predviđa i uspostavljanje i širenje mreže migracionih servisnih centara pri Nacionalnoj službi za zapošljavanje koji treba da obezbedi informacije, savete i uputstva migrantima i potencijalnim migrantima.<sup>33</sup>

## 1.2. Pravo na obrazovanje

Lice koje traži azil, kao i lice kojem je odobren azil ima pravo na besplatno osnovno i srednje obrazovanje.<sup>34</sup> Pravo na obrazovanje je u Republici Srbiji regulisano čitavim setom zakona, pre svega Zakonom o osnovama sistema obrazovanja i vaspitanja, dok su određeni nivoi obrazovanja regulisani Zakonom o osnovnoj školi,<sup>35</sup> Zakonom o srednjoj školi<sup>36</sup> i Zakonom o visokom obrazovanju.<sup>37</sup> Ovi zakoni ujedno regulišu i pitanje obrazovanja stranih državljana i lica bez državljanstva u Republici Srbiji, kao i pitanje priznavanja stranih školskih isprava.<sup>38</sup> Zakon o osnovama sistema obrazovanja i vaspitanja predviđa da se strani državljeni i lica bez državljanstva upisuju u škole osnovnog obrazovanja i škole srednjeg obrazovanja, i ostvaruju pravo na obrazovanje pod istim uslovima i na način koji su propisani za državljane Republike Srbije.<sup>39</sup>

31 Službeni glasnik RS, 55/05, 71/05 – ispravka, 101/07, 65/08 i 16/11.

32 Ibid., str. 18.

33 Ibid., str. 29.

34 Član 41 Zakona o azilu.

35 Službeni glasnik RS, 50/92, 53/93, 67/93, 48/94, 66/94 – Odluka RS, 22/02, 62/09 – dr. zakon, 101/05 – dr. i 72/09 – dr. zakon.

36 Službeni glasnik RS, 50/92, 53/93, 67/93, 48/94, 24/96, 23/02, 25/02 – ispr., 62/03 – dr. zakon, 64/03 – ispr. dr. zakona, 101/05 – dr. zakon, 72/09 – dr. zakon i 55/13 – dr. zakon, 50/92, 53/93, 67/93, 48/94, 24/96, 23/02, 25/02 – ispr., 62/03 – dr. zakon, 64/03 – ispr. dr. zakon, 101/05 – dr. zakon, 72/09 – dr. zakon i 55/13 – dr. zakon.

37 Službeni glasnik RS, 76/05, 100/07 – autentično tumačenje, 97/08, 44/10, 93/12 i 89/13.

38 „Osnovi upravljanja migracijama u Republici Srbiji“, Međunarodna organizacija za migracije – Misija u Srbiji, Beograd, 2012, str. 62.

39 Tražioci azila kao i lica koja dobiju azil u RS izjednačavaju se sa kategorijom lica bez državljanstva odnosno u nekim pravima se izjednačavaju sa stranim državljanima. Tako

Za decu i učenike strane državljanje i lica bez državljanstva i za prognana i raseljena lica koja ne poznaju jezik na kojem se izvodi obrazovno-nastavni rad ili pojedine programske sadržaje značajne za nastavak obrazovanja, škola organizuje učenje jezika, odnosno pripremu za nastavu i dopunsku nastavu, po posebnom uputstvu koji donosi ministar prosветe.<sup>40</sup> Iako postoji zakonski okvir koji reguliše procedure za upis i zadovoljenje specifičnih obrazovnih potreba maloletnih tražilaca azila, u Republici Srbiji maloletni tražiocici azila nisu imali efikasan pristup obrazovanju.<sup>41</sup> Od početka primene Zakona o azilu 2008. godine, prvi put u drugom polugodištu školske 2012/13. godine dvoje tražilaca azila počelo je da pohađa redovnu nastavu u osnovnoj školi u Bogovađi. Ovo dvoje đaka upisano je zahvaljujući organizaciji Centar za pomoć i podršku tražiocima azila, koja je pružala pravnu pomoć njihovim porodicama.<sup>42</sup> S druge strane, pored maloletnih tražilaca azila, srednje stručno obrazovanje ili makar učenje jezika tokom boravka u centrima za azil trebalo bi da se organizuje i za punoletna lica. Iako je u pojedinim centrima organizovana nastava za učenje srpskog jezika od strane međunarodnih organizacija UNHCR i Danskog instituta za izbeglice, državni organi nadležni za obrazovanje ne učestvuju u organizaciji ovih aktivnosti.<sup>43</sup>

Takođe, kada je reč o proceduri nostrifikacije diploma stečenih u inostranstvu za izbeglice trenutno u Srbiji nije predviđena olakšana procedura, imajući u vidu da oni često nisu u mogućnosti da dostave traženu dokumentaciju zbog situacija u zemljama porekla. Kada je reč o finansijskoj podršci, ukoliko lice nema dovoljno novčanih sredstava za plaćanje taksi neophodnih za procedure nostrifikacije, trenutno ne postoji podrška državnih institucija, već izbeglice moraju same da snose troškove ukoliko žele da nostrifikuju diplomu. Ukoliko, iz opravdanih razloga nisu u mogućnosti da dostave traženu dokumentaciju, nije predviđena nijedna druga procedura, kao npr. provera ranije stečenih kompetencija, što bi bilo poželjno predvideti, jer se na taj način olakšava njihova integracija u različite sfere društva.

je i u slučaju obrazovanja, jer podzakonski akti koji bi detaljnije regulisali ovu oblast do sada nisu doneti.

- 40 Član 100 Zakona o osnovama obrazovanja i vaspitanja, *Službeni glasnik RS*, 72/09 i 52/11.
- 41 Vidi više u periodičnim i godišnjim izveštajima o sistemu azila u Srbiji (odeljci pravo na obrazovanje) Beogradskog centra za ljudska prava, na internet adresi: <http://azil.rs/documents/category/izvestaji>.
- 42 Prema saznanjima Beogradskog centra, porodica sa dvoje maloletne dece upisane u školu u Bogovađi napustila je Srbiju u jesen 2013. godine.
- 43 U centrima u Banji Koviljači i Bogovađi organizovani su kursevi jezika za decu i odrasle, finansijski podržani od strane UNHCR kancelarije u Beogradu i Danskog saveta za izbeglice.

### 1.3. Pravo na zdravstvenu zaštitu

Zakon o azilu predviđa da tražioci azila i osobe kojima je odobren azil u Republici Srbiji imaju jednako pravo na zdravstvenu zaštitu, u skladu sa propisima kojima je uređena zdravstvena zaštita stranaca.<sup>44</sup>

U skladu sa Pravilnikom o zdravstvenim pregledima lica koja traže azil prilikom prijema u centar za azil,<sup>45</sup> tražioci azila podležu lekarskom pregledu već po prijemu u centar za azil, a pregled vrši lekar iz doma zdravlja nadležnog za opštinu na kojoj tražilac azila boravi. Zdravstveni nadzor vrše zavodi za javno zdravlje, a troškove zdravstvene zaštite pružene tražiocima azila i osobama kojima je dodeljen azil snosi Ministarstvo zdravlja, dok UNHCR pokriva troškove lekova i terapije za osobe sa hroničnim oboljenjima.

### 1.4. Pravo na socijalnu pomoć

Zakon o azilu garantuje i pravo na socijalnu pomoć licima koje traži azil i licima kojima je odobren azil. Novim Zakonom o socijalnoj zaštiti Republike Srbije,<sup>46</sup> socijalna zaštita definiše se kao organizovana društvena delatnost od javnog interesa čiji je cilj pružanje pomoći i osnaživanje pojedinca i porodica za samostalan i produktivan život u društvu, kao i sprečavanje nastajanja i otklanjanje posledica socijalne isključenosti (čl. 2). Zakon takođe precizira da su korisnici socijalne zaštite državljeni RS, ali to mogu biti i strani državljeni i lica bez državljanstva u skladu sa zakonom i međunarodnim ugovorima. Propise o socijalnoj pomoći za lica koja traže, odnosno kojima je odobren azil donosi ministar nadležan za socijalnu politiku. Donet je podzakonski akt o socijalnoj pomoći licima koja traže, odnosno kojima je odobren azil,<sup>47</sup> ali ono što treba napomenuti kod ovog akta jeste da on garantuje pravo na socijalnu pomoć samo licima koja su u privatnom smeštaju, a ne u centrima za azil, što je kontradiktorno samo po sebi, jer lica koja mogu sebi da priuštite privatan smeštaj, sigurno nisu materijlno ugrožena, za razliku od lica koja odlaze u kolektivne centre i ne mogu da ostvare ovo pravo. Prema saznanjima Beogradskog centra za ljudska prava, od početka 2012. godine do kraja 2014. godine nijedno od navedenih lica nije bilo korisnik socijalne pomoći.<sup>48</sup>

44 Zakon o azilu, član 40.

45 Pravilnik o zdravstvenim pregledima lica koja traže azil prilikom prijema u centar za azil, *Službeni glasnik RS*, 93/08.

46 *Službeni glasnik RS*, 24/11.

47 *Službeni glasnik RS*, 44/08.

48 *Pravo na utočište 2014*, Beogradski centar za ljudska prava, str. 52.

## 1.5. Pravo na smeštaj

Zakon o azilu predviđa da već osobe koje su u postupku azila imaju pravo na smeštaj u centru za azil, gde im se obezbeđuju i osnovni životni uslovi, odnosno odeća, hrana i novčana pomoć.<sup>49</sup> Ukoliko lice koje je smešteno u centru za azil raspolaže adekvatnim finansijskim sredstvima, dužno je da učestvuje u snošenju troškova smeštaja u centru, ali u praksi se to do sada nije tražilo. Ukoliko tražilac azila boravi na privatnoj adresi, a ne postoje razlozi za ograničenje njegovog kretanja, Kancelarija za azil može odobriti boravak van centra za azil, ali u tom slučaju dužan je da sam snosi troškove smeštaja.

Osobe kojima je priznato pravo na utočište ili im je dodeljena supsidijarna zaštita imaju pravo da im se obezbedi smeštaj u skladu sa mogućnostima države u trajanju do godinu dana od konačnog rešenja kojim im je priznat status.<sup>50</sup> To podrazumeva davanje određenog stambenog prostora na korišćenje ili davanje novčane pomoći za stambeno zbrinjavanje.

Vlada Republike Srbije usvojila je jula 2015. godine Uredbu o merilima za utvrđivanje prioriteta za smeštaj lica kojima je priznato pravo na utočište ili dodeljena supsidijarna zaštita i uslovima korišćenja stambenog prostora za privremeni smeštaj.<sup>51</sup> Uredbom se bliže utvrđuje način dodeljivanja smeštaja osobama kojima je dodeljen azil, uključujući uslove koji moraju biti ispunjeni kako bi se dodelio smeštaj, prioriteti pod kojima se to čini, kao i uslovi smeštaja.

Smeštaj se obezbeđuje osobama kojima je priznato pravo na utočište ili dodeljena supsidijarna zaštita zajedno sa članovima njihove porodice kada imaju konačno rešenje o priznanju prava na utočište ili dodeli supsidijarne zaštite koje nije starije od godinu dana, a nemaju prihode kojima bi mogli da reše pitanje svog smeštaja.<sup>52</sup> Ukoliko postoje raspoloživi objekti i uslovi, smeštaj se može obezbediti i osobama koje imaju prihode kojima bi mogli da reše to pitanje, uzimajući u obzir njihove okolnosti.<sup>53</sup> Stambeni prostor u objektima i delovima objekata koji su u svojini Republike Srbije, a na kojima Komesarijat za izbeglice i migracije ima pravo korišćenja i koje su za ovu namenu određene odlukom Komesara, ili u drugim objektima i delovima objekata u svojini Republike Srbije ili lokalne samouprave a na osnovu odluka nadležnog organa.<sup>54</sup>

<sup>49</sup> Zakon o azilu, član 39.

<sup>50</sup> Zakon o azilu, član 44.

<sup>51</sup> Uredba o merilima za utvrđivanje prioriteta za smeštaj lica kojima je priznato pravo na utočište ili dodeljena supsidijarna zaštita i uslovima korišćenja stambenog prostora za privremeni smeštaj, *Službeni glasnik RS*, 63/15.

<sup>52</sup> Uredba, član 3.

<sup>53</sup> *Ibid.*, član 4.

<sup>54</sup> *Ibid.*, član 5.

Stambeni prostor mora posedovati prostoriju za pripremanje hrane i upotrebu toaleta, ležaj sa posteljinom, struju i vodu, sanitarni čvor, grejanje i sredstva za održavanje lične higijene i higijene u objektu.<sup>55</sup> Ako ne postoji raspoloživi objekti, odnosno uslovi za privremeni smeštaj, smeštaj se može obezbediti davanjem novčane pomoći.<sup>56</sup>

U skladu sa Zakonom o azilu i Uredbom, smeštaj se daje najduže za period od jedne godine od dana konačnosti rešenja o priznavanju prava na utočište ili dodeli supsidijarne zaštite.<sup>57</sup>

### 1.6. Pravo na državljanstvo

Zakon o državljanstvu,<sup>58</sup> kao ni Zakon o azilu, ne omogućavaju olakšanu naturalizaciju osoba kojima je dodeljen azil, uprkos zahtevu člana 34 Konvencije o statusu izbeglica da države ugovornice omoguće olakšanu naturalizaciju izbeglica. Zakon o državljanstvu omogućava olakšanu integraciju izbeglica iz republika bivše Jugoslavije,<sup>59</sup> ali ne i osoba kojima je dodeljen azil u skladu sa Zakonom o azilu, što bi svakako u skorijoj budućnosti trebalo promeniti.

U praksi se pojavio problem u vezi sa ispunjenošću uslova u vezi sa trogodišnjim boravkom u Srbiji osoba kojima je dodeljen azil, a koje podnose zahtev za prijem u srpsko državljanstvo. Naime, uprkos tome što Zakon o azilu predviđa da osobe kojima je priznato pravo na utočište imaju status kao stalno nastanjeni stranci u Srbiji,<sup>60</sup> nadležni organi trenutno ne smatraju da izbeglice zapravo imaju stalni boravak, jer *de facto* ne ispunjavaju uslove koje Zakon o strancima predviđa za ovu kategoriju boravka, već se njihov boravak definiše kao privremeni, dok traje i njihov status. Do trenutka pisanja ove publikacije, nijedna izbeglica nije ušla u postupak za dobijanje državljanstva Republike Srbije, niti je *de facto* u mogućnosti to da uradi, dok se zakonski propisi ne izmene i ne omoguće ostvarivanje ovog prava.

### 1.7. Pravo na spajanje porodice

Zakon o azilu priznaje osobama kojima je priznato pravo na utočište pravo na spajanje porodice.<sup>61</sup> Osoba kojoj je dodeljena supsidijarna zaštita ima pra-

55 Ibid., član 6.

56 Ibid., član 9.

57 Ibid., član 16.

58 Službeni glasnik RS, 135/04.

59 Zakon o državljanstvu, član 23.

60 Zakon o azilu, član 43.

61 Ibid., član 48.

vo na spajanje porodice u skladu sa propisima kojima je uređeno kretanje i boravak stranaca.<sup>62</sup> O spajanju porodice odlučuje Kancelarija za azil.

Koliko je poznato autorima ove publikacije, postupak spajanja porodice u skladu sa odredbama Zakona o azilu još uvek nije sproveden, te je nemoguće utvrditi kako bi ostvarivanje ovog prava izgledalo u praksi.

#### IV ZAKLJUČAK

Zakon o azilu predviđa uopštenu obavezu Republike Srbije da u okviru svojih mogućnosti obezbedi uslove za uključivanje izbeglica u društveni, kulturni i privredni život, kao i da omogući naturalizaciju izbeglica.<sup>63</sup> Zakonom o upravljanju migracijama<sup>64</sup> utvrđena je nadležnost Komesarijata za izbeglice i migracije<sup>65</sup> za smeštaj i integraciju lica kojima je priznato pravo na utočište ili dodeljena supsidijarna zaštita.

U Zakonu o azilu, kao ni u Zakonu o upravljanju migracijama nisu definisane konkretnе mere i postupci za izradu individualnog plana za integraciju lica kojima je odobreno utočište, već je potrebno da se ova materija reguliše podzakonskim aktom. Očekuje se usvajanje uredbe koja će detaljnije urediti pitanje individualne integracije lica sa izbegličkom zaštitom tokom 2016. godine, dok je u junu 2015. godine usvojena Uredba o merilima za utvrđivanje prioriteta za smeštaj lica kojima je priznato pravo na utočište ili dodeljena supsidijarna zaštita i uslovima korišćenja stambenog prostora radi privremenog smeštaja<sup>66</sup> koja je u velikoj meri olakšala proces integracije izbeglica jer im je na ovaj način pružena neophodna početna podrška (do jedne godine se obezbeđuje smeštaj) dok se ne uključe u društvene tokove i osnaže se da sami snose troškove života.

Iako je zakonski utvrđena nadležnost Komesarijata za izbeglice i migracije u oblasti integracije izbeglica, ne možemo konstatovati da je Komesarijat centralna institucija kojoj se korisnici mogu obratiti kako bi im se pružila podrška putem konkretnih mera za integraciju. Do sada se u praksi pokazalo da civilno društvo koje je aktivno u oblasti azila i migracija, efikasno pruža kako pravnu pomoć prilikom integracije, tako i druge vrste podrške<sup>67</sup> osobama koja dobiju međunarodnu zaštitu u Srbiji.

62 Ibid., član 49.

63 Član 46 Zakona o azilu.

64 *Službeni glasnika RS*, 107/12.

65 Članovi 15 i 16 ZOUM.

66 *Službeni glasnik RS*, 63/15.

67 Najčešće se ta pomoć ogleda kroz organizaciju časova srpskog jezika, pružanje administrativne pomoći prilikom obraćanja nadležnim institucijama, itd.

Uprkos tome što je sistem azila u Srbiji nedovoljno razvijen, pa tako i sistem integracije lica koja dobiju međunarodnu zaštitu, uključivanje izbeglica u ekonomski, društveni i socijalni život izuzetno je važno za ostvarivanje njihovog dostojanstvenog i kvalitetnog života u našem društvu. Neblagovremenno razvijanje sistema integracije i uključivanje tražilaca azila, izbeglica i migranata u tržište rada može samo negativno uticati i na dugoročne šanse za ekonomsku i društvenu integraciju, ostavljajući osobe pod međunarodnom zaštitom u poziciji izolacije i egzistencijalnog minimuma. Uživanje socijalnih i ekonomskih prava je za lica pod međunarodnom zaštitom od vitalnog značaja jer određuje temeljna pitanja sigurnosti i života, koje su za njih podjednako važne kao i sticanje međunarodne zaštite.



# Republika Slovenija





# SAŽETAK

*Rad koji je pred vama predstavlja pregled slovenačkog zakonodavstva kao i prakse u oblasti integracije izbeglica u Sloveniji. Odeljak I opisuje zakone i uredbe i osnovne karakteristike koje se tiču sistema azila sa posebnim osvrtom na integraciju izbeglica. U odeljku II predstavljena je institucionalna struktura za integraciju izbeglica u Sloveniji. Odeljak III se fokusira na pojedinačne oblasti integracije, i to kroz pristup tržištu rada, obrazovanje, zdravstvenu zaštitu, socijalnu pomoć, smeštaj, državljanstvo i spajanje porodice. Autor se osvrnuo na sve relevantne državne zakone i za potrebe ovog rada, sproveo je intervjuje sa predstavnicima Ministarstva unutrašnjih poslova kao i nevladiniom organizacijom Društvo Odnos koja je u Sloveniji zadužena za integraciju izbeglica.*

## I POJAM I OPŠTI POGLED NA SISTEM AZILA

Krovni zakon koji uređuje sistem azila u Republici Sloveniji je Međunarodni akt o zaštiti,<sup>1</sup> usvojen 2007. godine i poslednji put dopunjeno 2013. godine. Trenutno se u Sloveniji priprema novi zakon odnosno novi Međunarodni akt o zaštiti koji je u završnim fazama izmena i dopuna i njegovo usvajanje se очekuje u toku 2016. godine. Integracija lica koja uživaju međunarodnu zaštitu u Sloveniji se dalje uređuje Uredbom o metodima i uslovima za obezbeđivanje prava lica sa međunarodnom zaštitom (u daljem tekstu Uredba).<sup>2</sup> Odredbe koje se odnose na ovu materiju su takođe sadržane u Zakonu o strancima,<sup>3</sup> uključujući posebne odredbe o spajanju porodice (koje se razlikuju od odredbi koje se odnose na druge strance).

Nadležna institucija za sistem azila u Sloveniji je Ministarstvo unutrašnjih poslova, koje obavlja dužnosti putem različitih odseka – Odsek za smeštaj, Odsek za negu i Odsek za integraciju izbeglica. Za vreme postupka azila, tržiocima azila se obezbeđuje smeštaj u Kući za azil u Ljubljani.<sup>4</sup> Lica koja su

1 *Uradni list Republike Slovenije*, 111/07, sa amandmanima. Integracija lica kojima je data međunarodna zaštita je definisana u članovima 89–104.

2 *Uradni list Republike Slovenije*, 55/11 i 36/14.

3 *Uradni list Republike Slovenije*, 50/11, sa amandmanima.

4 Ili u drugim područnim jedinicama, trenutno jedna kuća za azil u Ljubljani i jedna u Lopatecu.

u postupku azila, takođe imaju čitav niz prava garantovanih Međunarodnim aktom o zaštiti,<sup>5</sup> uključujući odredbu o osnovnoj nezi (smeštaj, hrana i odeća), pravo na hitnu medicinsku pomoć, pristup obrazovanju i pravo na rad.

Međunarodni akt o zaštiti ne definiše posebno proces integracije tokom trajanja postupka azila. U praksi integracija izbeglica se sprovodi kroz različite mehanizme i institucije, kao što je inkluzivno obrazovanje,<sup>6</sup> zatim različite aktivnosti organizacija civilnog društva koje se sprovode u Kući za azil i njenim područnim jedinicama (npr. kurs slovenačkog jezika).

Međutim, integraciju tokom trajanja procedure azila otežava neizvesnost njenog ishoda usled relativno niskog procenta davanja azila u Sloveniji.<sup>7</sup>

Na osnovu kriterijuma Klasifikacijske direktive<sup>8</sup> tražioci azila u Sloveniji mogu dobiti izbeglički status ili status supsidijarne zaštite. Izbeglički status se dodeljuje bez vremenskog ograničenja, dok se supsidijarna zaštita dodeljuje na ograničen period (u zavisnosti od slučaja; u praksi obično na period od jedne do tri godine) sa mogućnošću produžetka.

## II INSTITUCIONALNI MEHANIZMI ZA ZAŠITU IZBEGLICA

Podrška prilikom integracije osoba kojima je data međunarodna zaštita se pruža u prve tri godine nakon dobijanja statusa.<sup>9</sup> Ministarstvo unutrašnjih poslova je deo svojih nadležnosti poverilo civilnom društvu,<sup>10</sup> preko različitih programa koji se finansiraju iz sredstava Fonda za azil, migraciju i integraciju (FAMI) Evropske komisije. Program koji trenutno sprovodi nevladina organizacija Društvo Odnos<sup>11</sup> uključuje pomoć u svakodnevnim aktivnostima pronalaženje smeštaja, otvaranje bankovnih računa, prijava za zdravstvenu negu, apliciranje za socijalne olakšice, itd.

5 Međunarodni akt o zaštiti, članovi 78–87.

6 Shodno članu 86 Zakona o međunarodnoj zaštiti, pohađanje osnovne škole je zagaran-tovano, a pohađanje srednje škole i fakulteta se dozvoljava licima koja su aplicirala za azil.

7 Prema zvaničnim podacima Ministarstva unutrašnjih poslova, 277 osoba je apliciralo za azil, a 34 je dobio status međunarodne zaštite u 2015. godini.

8 Direktiva 2011/95/EU Evropskog parlamenta i Saveta od 13. decembra 2011. o stand-ardima za kvalifikaciju državljanu zemalja trećeg sveta i osoba bez države pripadanja kao korisnika međunarodne zaštite za dobijanje uniformnog izbegličkog statusa ili lica kod kojih postoji osnov za dobijanje supsidijarne zaštite, kao i opisa date zaštite.

9 Međunarodni akt o zaštiti, član 99.

10 Više o tome videti na: [www.mnz.gov.si/si/o\\_ministrstvu/javna\\_narocila/?tx\\_t3javnirazpis\\_pi1%5Bshow\\_single%5D=2280](http://www.mnz.gov.si/si/o_ministrstvu/javna_narocila/?tx_t3javnirazpis_pi1%5Bshow_single%5D=2280).

11 Više informacija o organizaciji možete naći na zvaničnoj internet stranici: [www.odnos.si](http://www.odnos.si).

Prava na integraciju osoba sa izbegličkim statusom i osoba pod supsidijskom zaštitom su praktično ista, kao što je opisano u odeljku III.

Kada je reč o statistikama, od 1995. godine do trenutka pisanja ovog rada ukupno je 413 osoba dobilo status međunarodne zaštite u Republici Sloveniji. Prema podacima prikupljenim 16. marta 2016. godine, 278 njih i dalje uživa status, 114 je dobilo državljanstvo, 10 ih je preminulo, pet se odreklo statusa, pet supsidijskih statusa je isteklo i jedan status je obnovljen.<sup>12</sup>

### III OSTVARIVANJE PRAVA U SISTEMU INTEGRACIJE IZBEGLICA

#### 1.1. Pravo na rad

Slovenački zakon garantuje licima koja su dobila izbegličku zaštitu i njihovim porodicama pravo na rad, ali predviđa i druge vrste podrške nezaposlenim licima. Međunarodnim aktom o zaštiti se obezbeđuje sledeće:<sup>13</sup>

- (1) Osobe kojima je data međunarodna zaštita treba da uživaju sva prava u vezi sa zaposlenjem i radom u skladu sa regulativama vezanim za zaposlenje i rad stranaca.
- (2) Osobe kojima je data međunarodna zaštita treba da uživaju pravo i povlastice u slučaju nezaposlenosti u skladu sa regulativama vezanim za nezaposlenost i osiguranje u slučaju nezaposlenosti.

Dakle, strancima kojima je odobrena međunarodna zaštita u Sloveniji i članovima njihovih porodica koji imaju prebivalište na teritoriji Slovenije, omogućeno je da na osnovu boravišne dozvole izdate radi spajanja porodica dobiju i pravo na sloboden pristup tržištu rada, što znači da ova lica, iako su stranci, imaju pravo na samozaposlenje, zaposlenje i rad bez ispunjavanja drugih dodatnih uslova (u skladu sa pojedinačnom boravišnom i radnom dozvolom, plavom kartom Evropske unije ili sezonskom radnom dozvolom).<sup>14</sup>

Pravo na rad izbeglica je jasno definisano – osobe kojima je data međunarodna zaštita mogu tražiti posao odmah po dobijanju međunarodne zaštite, bez obaveze dobijanja radne dozvole ili ispunjavanja drugih administrativnih uslova.

Identifikaciona dokumenta koja se izdaju licima kojima je data međunarodna zaštita sadrže obaveštenje o pravu na zaposlenje (isti kao lična doku-

12 Podaci Ministarstva unutrašnjih poslova predstavljeni tokom intervjuja sa licem zaduženim za integraciju tog ministarstva.

13 Zakon o međunarodnoj zaštiti, član 98.

14 Zakon o samozaposlenju i radu stranaca, *Uradni list Republike Slovenije*, 47/15, član 6/2.

menta ostalih stranaca kojima je dato isto pravo).<sup>15</sup> U praksi se pokazalo da su poslodavci, pa čak i državne institucije, bili prilično nespremni za rad sa ovom vrstom stranaca, jer državni službenici ali i poslodavci nisu bili dovoljno upoznati sa ovim pravom izbeglica, što je dovelo do praktičnih problema i kašnjenja u pristupu zaposlenju.<sup>16</sup>

Pravo na osiguranje u slučaju nezaposlenosti za korisnike međunarodne zaštite se garantuje Zakonom o radu.<sup>17</sup> Nezaposlena lica kojima je data međunarodna zaštita stoga mogu aplicirati u Nacionalnoj službi za zapošljavanje Republike Slovenije i uživati prava i programe koji su dostupni nezaposlenim licima. Ovo uključuje dodeljivanje savetnika za zaposlenje koji pomaže u razvijanju ličnog plana zaposlenja, radionice i obuke koje organizuje Nacionalna služba za zapošljavanje, mogućnost finansiranja kurseva za dobijanje kvalifikacija za rad, itd. Ako se lica kojima je data međunarodna zaštita zaposle i izgube posao, oni imaju pravo na novčane povlastice usled nedavnog gubitka posla. Sva gore pomenuta prava i povlastice su ista kao za slovenačke državljanke i trenutno nema programa koji su specijalno usmereni na nezaposlene korisnike međunarodne pomoći.

## 1.2. Pravo na obrazovanje

Osobe kojima je data međunarodna zaštita u Sloveniji uživaju ista prava u vezi sa obrazovanjem kao i slovenački državljanji, uključujući predškolsko, osnovno, srednjoškolsko, visoko i univerzitetsko obrazovanje.<sup>18</sup> Troškovi u vezi sa priznavanjem stranih diploma, sertifikata i drugih dokumenata kojima se dokazuje formalno obrazovanje pokriva Ministarstvo unutrašnjih poslova.<sup>19</sup> Ostale troškove u vezi sa obrazovanjem, uključujući udžbenike i pohadjanje školskih aktivnosti, delimično pokriva Ministarstvo unutrašnjih poslova, dok ostatak pokriva Ministarstvo obrazovanja, nauke i sporta, ali samo kada je osoba bez ličnih finansijskih sredstava.<sup>20</sup> Prema Nacrtu novog zakona o međunarodnoj zaštiti, ovo pravo će biti ograničeno na period do tri godine od dodeljivanja međunarodne zaštite, što može predstavljati problem, posebno kod maloletnika bez pratnje. Takođe, osobe kojima je odobrena međunarodna zaštita, imaju pravo na besplatan kurs slovenačkog jezika u trajanju od 300 sati godišnje.<sup>21</sup>

15 *Uradni list Republike Slovenije*, 50/11, sa amandmanima, član 58/2.

16 Ova situacija bila je poznata autoru ovog rada, što su tokom intervjuja potvrđili i službenici Ministarstva unutrašnjih poslova zaduženi za integraciju.

17 *Uradni list Republike Slovenije*, 80/10, sa amandmanima, član 8.

18 Međunarodni akt o zaštiti, član 97/1.

19 *Ibid.*, član 97/2.

20 Uredba, član 13.

21 Međunarodni akt o zaštiti, član 99/3; i Uredba, član 15.

Shodno Nacrtu novog međunarodnog akta o zaštiti lica kojima je data međunarodna zaštita, uvodi se novina, a to je da imaju pravo na državne školarine i smeštaj u studentskim domovima pod istim uslovima kao i državljeni Republike Slovenije.

U maju 2007. godine, Ministarstvo obrazovanja, nauke i sporta je usvojilo Strategiju o inkluziji migrantske dece, đaka i studenata u obrazovni sistem Republike Slovenije,<sup>22</sup> koji je identifikovao postojeće nedostatke, postavio ciljeve i standarde u oblasti inkluzije i predložio mere za efikasno uključivanje ove osetljive kategorije lica u obrazovni sistem Slovenije. Strategija je dopunjena sa Pravilnikom za inkluziju migrantske dece u vrtiću i škole,<sup>23</sup> koji je usvojio Nacionalni institut za obrazovanje u maju 2012. godine. Postupak za inkluziju maloletnih migranata u škole je opisan na internet stranici Ministarstva za obrazovanje, nauku i sport<sup>24</sup> i uključuje uvodne časove jezika, časove slovenačkog jezika i pomoć pri učenju, kao i pripremu nastavnika, studenata i roditelja čiji je cilj uspešna integracija deteta migranta u školsko okruženje.

Prema podacima do kojih je autor došao kroz intervjue sa osobama zduženim za integraciju izbeglica u Ministarstvu unutrašnjih poslova i organizaciji Društva Odnos, trenutno nema značajnijih problema prilikom upisa u škole i priznavanja stranih diploma. Podaci govore da je do 31. decembra 2015. godine, ukupno 48 lica sa međunarodnom zaštitom upisano u škole, i to – 24 u osnovne škole, 5 u srednje škole, 8 na fakultete i 11 u osnovne škole za odrasle.<sup>25</sup>

### 1.3. Pravo na zdravstvenu zaštitu

Slovenački nacionalni sistem zdravstvene zaštite definisan je u Zakonu za zdravstvenu negu i zdravstveno osiguranje.<sup>26</sup> Sastoji se od obaveznog zdravstvenog osiguranja i dopunskog zdravstvenog osiguranja. Obavezno zdrav-

22 Ceo tekst strategije je dostupan na internet stranici: [http://www.mizs.gov.si/fileadmin/mizs.gov.si/pageuploads/Aktualno/Strategija\\_vkljucevanje\\_priseljencev\\_2007.doc](http://www.mizs.gov.si/fileadmin/mizs.gov.si/pageuploads/Aktualno/Strategija_vkljucevanje_priseljencev_2007.doc).

23 Ceo tekst smernice je dostupan na internet stranici: [http://www.zrss.si/pdf/220213081123\\_smernice\\_za\\_vkljucevanje\\_otrok\\_priseljencev\\_\\_dopolnjene\\_\\_2012-\\_sssi\\_25\\_10\\_2012.pdf](http://www.zrss.si/pdf/220213081123_smernice_za_vkljucevanje_otrok_priseljencev__dopolnjene__2012-_sssi_25_10_2012.pdf).

24 Postupak za inkluziju maloletnih migranata u škole je opisan na internet stranici Ministarstva za obrazovanje, nauku i dostupan je na sledećoj stranici: [http://www.mizs.gov.si/si/vkljucevanje\\_priseljencev\\_v\\_sistem\\_vzgoje\\_in\\_izobrazevanja/postopek\\_vkljucevanja/](http://www.mizs.gov.si/si/vkljucevanje_priseljencev_v_sistem_vzgoje_in_izobrazevanja/postopek_vkljucevanja/).

25 Zvanični podaci Ministarstva unutrašnjih poslova.

26 *Uradni list Republike Slovenije*, 9/92, sa amandmanima.

stveno osiguranje pokriva samo deo medicinskih troškova, dok je za pune povlastice zdravstvenog sistema osiguranja, potrebno aplicirati za dopunsko zdravstveno osiguranje.

Osobe kojima je data međunarodna zaštita pokrivena su obaveznim zdravstvenim osiguranjem na osnovu njihovog statusa o međunarodnoj zaštiti.<sup>27</sup> Izbeglice su podstaknute od strane službenika za integraciju da konkurišu i za dopunsko zdravstveno osiguranje, jer bez njega troškovi lekova i medicinskog lečenja mogu biti veoma visoki. Osobe koje dobijaju novčanu socijalnu pomoć (što je slučaj kod većine korisnika nakon dobijanja statusa, vidi odeljak 1.4.), ne moraju da imaju dopunsko zdravstveno osiguranje i uživaju puna prava i bez njega.<sup>28</sup>

Odredbe koje se tiču maloletnih lica su znatno povoljnije: oni imaju pravo na usluge zdravstvene nege pod istim uslovima kao i maloletna lica slovenačkog državljanstva,<sup>29</sup> što znači da im nije potrebno dopunsko zdravstveno osiguranje dok ne napune 18 godina (ili 26, sve dok pohađaju školu kao redovni studenti) i uživaju puna prava i bez istog.<sup>30</sup>

U praksi je pristup zdravstvenoj zaštiti komplikovan zbog jezičkih barijera, s obzirom na to da nije obezbeđeno prevođenje tokom zdravstvenih pregleda. Za ovu svrhu je trenutno u pripremi medicinski rečnik koji će biti u nadležnosti Ministarstva unutrašnjih poslova.<sup>31</sup>

#### 1.4. Pravo na socijalnu pomoć

Lica kojima je data međunarodna zaštita imaju pravo na socijalnu pomoć i zaštitu po sistemu nacionalnog socijalnog osiguranja.<sup>32</sup> Što je važnije, lica kojima je data međunarodna zaštita imaju pravo na socijalnu novčanu pomoć, koja se obezbeđuje svim licima bez drugih sredstava. Trenutni iznos za pojedinačne tražioce iznosi 288,88 EUR mesečno; u slučaju porodica taj iznos je manji, i računa se u skladu sa Zakonom o socijalnoj pomoći.<sup>33</sup> On se dopunjava sa dodatnim iznosom u sistemu nacionalnog socijalnog osiguranja, koji se daje pojedincima koji ispunjavaju posebne uslove, uključujući povlastice za decu, finansijski dodatak za porodice sa puno članova, pomoć u vanrednim situacijama i subvencije za predškolske ustanove.

27 Međunarodni akt o zaštiti, član 94/1.

28 *Uradni list Republike Slovenije*, 9/92, sa amandmanima, član 24.

29 Međunarodni akt o zaštiti, član 94/2.

30 *Uradni list Republike Slovenije*, 9/92, sa amandmanima, član 22.

31 Više o tome videti na internet stranici: [www.mnz.gov.si/si/o\\_ministrstvu/javna\\_narocila/?tx\\_t3javnirazpis\\_pi1%5Bshow\\_single%5D=2350](http://www.mnz.gov.si/si/o_ministrstvu/javna_narocila/?tx_t3javnirazpis_pi1%5Bshow_single%5D=2350).

32 Međunarodni akt o zaštiti, član 95.

33 *Uradni list Republike Slovenije*, 61/10, sa amandmanima.

Pored nacionalnog sistema za socijalnu zaštitu, dodatnu pomoć ponekad pružaju i lokalne samouprave. Korisnici međunarodne zaštite koji imaju prebivalište u određenim opština koje nude dodatnu pomoć, mogu da konkurišu za dobijanje ove vrste pomoći, pod uslovom da ispunjavaju sve zadate kriterijume koje propisuje lokalna samouprava.

Prema sadašnjem Zakonu o međunarodnoj zaštiti, osobe koje uživaju međunarodnu zaštitu imaju pravo na jednokratnu novčanu pomoć,<sup>34</sup> koja im se isplaćuje u jednoj rati po dobijanju statusa. Kolika će novčana pomoć biti, zavisi pre svega od mesečnog proseka novčane socijalne pomoći koja se isplaćuje svim korisnicima u Sloveniji (trenutno iznosi 288,81 EUR). Na žalost, prema Nacrtu novog zakona o međunarodnoj zaštiti, ovo pravo se uklida. Autor smatra da će to predstavljati izuzetan problem s obzirom na to da je jednokratna pomoć bila od suštinskog značaja za premošćavanje perioda između dobijanja statusa i apliciranja za redovnu socijalnu pomoć. Po odborenju statusa, osobe kojima je data međunarodna zaštita su u obavezi da napuste centre namenjene za smeštaj lica dok su u postupku azila u roku od 15 dana, nakon čega više nemaju pravo na besplatan smeštaj koji se obezbeđuje samo tražiocima azila. Prva rata finansijske socijalne pomoći se obično isplaćuje dvadesetog dana u mesecu nakon apliciranja za pomoć. Ukoliko se ovakav nacrt zakona usvoji, to će u praksi značiti da će izbeglice možda biti prinuđene da bez jednokratne finansijske pomoći žive i preko mesec dana, od momenta dobijanja statusa.

## 1.5. Pravo na smeštaj

Lica kojima je data međunarodna zaštita bez drugih finansijskih sredstava imaju pravo na smeštaj u trajanju od tri godine nakon dobijanja statusa, ili do 26. godine, ako pohađaju školu kao redovni studenti.<sup>35</sup> Ovo se generalno obezbeđuje kroz finansijsku pomoć kojom se subvencionisu sredstva za smeštaj i režije. Maksimalan mesečni iznos za pojedinačnog tražioca azila je usklađen sa mesečnim iznosom za novčanu socijalnu pomoć, što trenutno iznosi 288,81 EUR. Kada je u pitanju porodica sa više članova, maksimalan iznos po osobi je niži, i računa se u skladu sa Uredbom.

U prvoj godini nakon dobijanja statusa finansijska pomoć se može zameniti besplatnim smeštajem u „kućama za integraciju“ koje obezbeđuje Ministarstvo unutrašnjih poslova.<sup>36</sup> To su zapravo smeštajni kapaciteti koji se sastoje od apartmana namenjenih za izbeglice. Ministarstvo unutrašnjih

34 Međunarodni akt o zaštiti, član 92 č.

35 Međunarodni akt o zaštiti član 93 i Uredba, članovi 8–12.

36 Međunarodni akt o zaštiti, član 92.

poslova trenutno u svojoj nadležnosti ima dve kuće za integraciju; jedna u Ljubljani, koja je namenjena porodicama i ženama bez pratnje (sa maksimalnim kapacetetom za 15 osoba) i jedna u Mariboru, namenjenoj za muškarce bez pratnje (maksimalan kapacitet za 45 osoba).

Kada je u pitanju smeštaj maloletnika bez pratnje, do sada nisu predviđena adekvatna rešenja, što je ozbiljan nedostatak u slovenačkom sistemu integracije. Maloletnici bez pratnje kojima je data međunarodna zaštita smeštaju se u kuće za integraciju za odrasle, u studentske domove ili druge ustanove gde ne mogu dobiti odgovarajuću negu i neophodne savete u skladu sa njihovim potrebama i uzrastom.

Drugi nedostatak slovenačkog sistema je ograničenje pristupa neprofitnim stanovima za iznajmljivanje<sup>37</sup> za korisnike međunarodne pomoći, pošto je to pravo po zakonu omogućeno samo slovenačkim državljanima.<sup>38</sup> Pored obezbeđivanja privremenog smeštaja u kućama za integraciju, osobama kojima je data međunarodna zaštita moraju da nađu smeštaj na tržištu nekretnina, što može predstavljati poteškoću uzimajući u obzir njihovu finansijsku situaciju.

## 1.6. Pravo na državljanstvo

Zahtevani period boravka u Sloveniji za dobijanje državljanstva obično iznosi deset godina, međutim lica kojima je data međunarodna zaštita mogu dobiti državljanstvo nakon pet godina.<sup>39</sup> Svi ostali uslovi identični su kao i za druge strance koji konkurišu za dobijanje slovenačkog državljanstva (tečan slovenački jezik, dovoljna finansijska sredstva, itd.). Od 16. marta 2016. godine, 114 korisnika od ukupno 413 kojima je odobren status, dobili su slovenačko državljanstvo.

## 1.7. Pravo na spajanje porodice

Zakon o strancima sadrži posebne odredbe o spajanju porodice za osobe koje su do bile međunarodnu zaštitu.<sup>40</sup> Uslovi koji se postavljaju su manje zahtevni za izbeglice u odnosu na uobičajene slučajevе spajanja, pogotovo ako je prijava podneta u roku od 90 dana od dobijanja statusa. Članovima porodice

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37 Neprofitni stanovi za iznajmljivanje su stanovi koji su u vlasništvu opštine, države, javnog fonda za stanovanje i neprofitnih organizacija koje se bave obezbeđivanjem smeštaja, i oni se izdaju po smanjenoj ceni zakupa, shodno Zakonu o smeštaju, *Uradni list Republike Slovenije*, 69/03, sa amandmanima.

38 Zakon o smeštaju, član 87.

39 Zakon o državljanstvu Republike Slovenije, *Uradni list Republike Slovenije*, 1/91, sa amandmanima, član 12/7.

40 *Uradni list Republike Slovenije*, 50/11, sa amandmanima, članovi 47.a i 47.b.

kojima se odobri spajanje izdaju se boravišne dozvole i pasoš za ulazak u Sloveniju (važeći 90 dana). Ne obezbeđuje se novčana pomoć za putovanje u Sloveniju.

Prema statističkim podacima kojima raspolaže autor, do 8. aprila 2016. godine, 57 članova porodica korisnika međunarodne zaštite su dobili odobrение za spajanje porodice, od kojih se 50 već preselilo u Sloveniju.

#### IV ZAKLJUČAK

Osobe kojima je data međunarodna zaštita u Republici Sloveniji imaju slobodan pristup tržištu rada, imaju pravo na osiguranje za slučaj nezaposlenosti, imaju pristup obrazovanju kao i socijalnoj pomoći, i pruža im se dodatna podrška, poput smeštaja, spajanja porodica i dobijanja slovenačkog državljanstva. Sistematska podrška u ostvarivanju svih prava u oblasti integracije u Sloveniji, obezbeđena je od strane Ministarstva unutrašnjih poslova, ali i od strane civilnog društva na osnovu projekata koje sprovode u oblasti integracije izbeglica.

Podrška kao i čitav korpus prava koji su opisani u ovom radu su dovoljni za osiguravanje minimalnih životnih standarda, sprečavanje siromaštva i socijalne isključenosti. Bez obzira na to, izbeglice u Sloveniji se suočavaju sa nekoliko objektivnih izazova koji otežavaju integraciju u sadašnjem sistemu. Tu spadaju ograničeno tržište rada koje teško apsorbuje izbeglice, novi i nepoznat jezik koji treba savladati i nedostatak ili mali broj sunarodnika koji im mogu dati dodatnu podršku.

U praksi se pokazalo da je licima kojima je data međunarodna zaštita teško da nađu posao i većina njih mora da se oslanja na socijalnu pomoć u dužem periodu nakon dobijanja statusa međunarodne zaštite. Nakon dobijanja statusa međunarodne zaštite, tipična izbeglica mora da se izdržava od novčane pomoći namenjene za smeštaj i socijalne pomoći, u maksimalnom iznosu od 288,81 EUR mesečno, što jedva omogućava minimalnu egzistenciju imajući u vidu troškove života u Sloveniji.<sup>41</sup>

Uzimajući u obzir gore opisanu situaciju, sadašnji sistem integracije treba da se dopuni posebnim programima za izbeglice, čija je svrha njihova stvarna integracija u društvo. Ovo bi naročito bilo korisno u oblasti uključivanja u tržište rada. Kao što je predstavljeno u ovom radu, trenutno ne postoje mere koje imaju za cilj zapošljavanje izbeglica, bilo po pitanju stručne obuke, dokvalifikacija, prekvalifikacija ili po pitanju pomoći pri zapošljavanju putem

41 Minimalna plata u Sloveniji trenutno iznosi 790,73 EUR, shodno Zakonu o minimalnoj zaradi, *Uradni list Republike Slovenije*, 13/10, sa amandmanima.

subvencionisanih zarada, društveno korisnog rada, ponuda za državne poslove za korisnike međunarodne zaštite ili drugih sličnih programa.

Slovenačkom sistemu takođe nedostaju zvanične strategije i akcioni planovi neophodni za prepoznavanje izazova i razvijanje politike integracije izbeglica. Obrazovanje je jedina oblast integracije gde se čini da je integracija uspešna, izbeglice, bilo da su maloletnici ili odrasli, lica koja su podnela zahtev za azil ili lica kojima je data međunarodna zaštita, generalno nemaju problema pri upisu u škole i uspešno se integrišu u školsko okruženje.

Druge pozitivne karakteristike slovenačkog sistema uključuju slična prava koja uživaju lica sa izbegličkim statusom i lica sa statusom supsidijarne zaštite, i generalno nema administrativnih barijera u pristupu ovim pravima (npr. obrazovanje, zaposlenje, zdravstvena nega i socijalne povlastice i opsežni besplatni kursevi slovenačkog jezika za korisnike međunarodne zaštite).

Pored opisanih nedostataka slovenačkog sistema, postoji ozbiljan strah da će novi Zakon o međunarodnoj zaštiti dovesti izbeglice u gori položaj od sadašnjeg, jer kao što je navedeno, predviđa ukidanje jednokratne novčane pomoći, zbog čega se očekuje da će izbeglice biti u težem položaju u prvom periodu nakon dobijanja statusa. Takođe, ozbiljan nedostatak u sistemu integracije izbeglica ogleda se i u nepostajanju odgovarajućeg smeštaja za maloletnike bez pratnje, kao i ograničenje pristupa neprofitnim stanovima za iznajmljivanje.

# Republika Makedonija





## SAŽETAK

Lokalna integracija izbeglica je dugotrajno rešenje, i odnosi se na trajno nastanjivanje izbeglica u društвima zemalja koje su krajnja destinacija za njih. To je jedno od tri trajnija rešenja za izbeglice. S obzirom na sadašnje stanje azila, ovaj koncept ponovo privlaчи pažnju zbog svog potencijala da zašтiti ljudska prava, podstakne privredni razvoj i ponudi dugotraјna rešenja stalnim krizama.

Republika Makedonija prima izbeglice od kako je postala nezavisna 1991. godine do laskom izbeglica iz Bosne i Hercegovine (BiH) i Hrvatske. Dalji prliv, ili značajniji broj, desio se 1999. godine kao posledica krize na Kosovu. Ukupno, privremenu humanitarnu zaštitu je dobilo 400.000 izbeglica iz regionala, od kojih je 360.000 bilo sa Kosova. Od tog broja, u međuvremenu, veliki broj njih se vratio na Kosovo. Od aprila 2016. godine 33 osobe su dobiti izbeglički status (18 sa Kosova i 13 iz Sirije, 1 iz Palestine, 1 iz Iraka), a 456 osoba ima supsidijarnu zaštitu (453 sa Kosova, 1 Ukrajinac i 3 Avganistanca).<sup>1</sup> Većina njih pripada romskoj populaciji, aškalijskim i egipćanskim etničkim grupama sa Kosova, koje su kulturno-jezički slične zajednicama koje žive u toj zemlji. Mali broj osoba kojima je dodeljen status azila, a potiču iz zemalja van regionala, poput Sirije, Avganistana i severno-afričkih zemalja, je napustilo Makedoniju nakon što im je pružena međunarodna zaštitita.

Lokalna integracija u Republici Makedoniji se uređuje Strategijom za integraciju izbeglica i stranaca i njenog Nacionalnog akcionog plana, kojim se definišu integracija i mere za njenu implementaciju u periodu od 2008. do 2015. godine. Prema Strategiji, a u skladu sa Konvencijom o statusu izbeglica iz 1951. godine izbeglicama se daje pravo da traže zaposlenje, da učestvuju u drugim aktivnostima vezanim za sticanje prihoda, da poseduju i prodaju nekretnine, da imaju slobodu kretanja i pristup javnim ustanovama poput obrazovanja i zdravstva. Međutim, proces lokalne integracije je složen i postepen, i uključuje jasne, ne samo pravne, već i ekonomski, socijalne i kulturne dimenzije, što u realnosti nameće značajne zahteve kako pojedincima tako i društvu koje treba da ih prihvati.

## I POJAM I OPŠTI POGLED NA SISTEM AZILA

Republika Makedonija je država članica Konvencije o statusu izbeglica iz 1951. godine i njenog Protokola iz 1967. godine. Zakon o azilu i privremenoj zaštititi je stupio na snagu 3. avgusta 2003. godine, dok su podzakonski akti

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1 Prema statistici Udruženja mladih advokata Makedonije.

koji uređuju pitanja identifikacije (pravila o uzimanju otisaka prsta i obrasci ličnih karata za tražioce azila, kao i lica koja dobiju međunarodnu zaštitu) i putnih isprava stupili na snagu 2004. godine. Zakon o azilu i privremenoj zaštiti je kasnije revidiran 2007, 2008. i 2009. godine i naknadno dopunjeno 2012. godine. Ovaj zakon definiše izbeglice u skladu sa Konvencijom iz 1951, a lica koja imaju pravo na supsidijarnu zaštitu se definišu u skladu sa Klasifikacionom direktivom EU. Zakon o azilu i privremenoj zaštiti takođe sadrži: (1) odredbu o privremenoj zaštiti u slučajevima masovnog priliva izbeglica; (2) mere zaštite protiv neprihvatanja; (3) određivanje proceduralnih garancija za dodeljivanje bazičnog izbegličkog statusa („BIS“), uključujući i osobe sa posebnim potrebama poput žrtava trgovine ljudima; (4) napomene o polnom i dečijem progonu; (5) prava i obaveze predstavnika UNHCR koja učestvuju u ovom procesu; (7) i prihvatanje uloge supervizora UNHCR u pitanjima vezanim za azil i privremenu zaštitu.

Kao odgovor na izrazit porast migracionih tokova koji su počeli u prvoj polovini 2015. Zakon o azilu je naknadno dopunjeno, uvođenjem tzv. instituta izražene namere za traženje azila.<sup>2</sup> Izražena namera na granici, u praksi je štitila tražioce azila od rizika od proterivanja i dozvoljavala im da legalno uđu i borave u zemlji u kratkom periodu od 72 sata, pre nego što formalno podnesu zahtev za azil. U 2015. godini, Vlada Republike Makedonije je započela rad na novom Nacrtu zakona o azilu, u skladu sa standardima evropskog *acquie* vezanim za azil, koji treba da stupa na snagu u 2016. godini. Važeći Zakon o azilu sadrži ključne odredbe iz Konvencije 1951. i odredbe o supsidijarnoj zaštiti ovog zakona koje su usaglašene sa relevantnim EU standardima. Institut azila je generalno uređen tako da se njime omogućavaju „određena prava u skladu sa standardima koji se odnose na državljanе kojima je data međunarodna zaštita“, kao i besplatna pravna pomoć tokom prolaska kroz sve faze postupka za dobijanje azila.<sup>3</sup>

U Republici Makedoniji dve institucije su nadležne u oblasti azila, odnosno one dele odgovornost u vezi sa pravnim postupkom, smeštajem i socijalnom pomoći tražilaca azila i izbeglica. Ministarstvo unutrašnjih poslova, Sektor za azil, je odgovoran za postupak azila, bez obzira na to gde je prijava podneta (na graničnom prelazu, unutar teritorije zemlje ili na aerodromu).<sup>4</sup>

2 Amandman je dopunjen 18. juna 2015.

3 Nacrt novog zakona o azilu sadrži standarde koje propisuju UNHCR, Konvencija o statusu izbeglica iz 1951. i njen Protokol iz 1967, CAT i ECHR. Država je potpisala Sporazum o stabilizaciji i pridruživanju sa EU 2001. godine i dodeljen joj je status zemlje kandidata 17. decembra 2005. Nacrt predviđa i usvajanje EU *acquis*, koji je sadržan u Poglavlju o pravdi, slobodi i bezbednosti.

4 Član 12 Zakona o azilu i privremenoj zaštiti, *Službeni vesnik na Republika Makedonija*, 49/03, 66/07, 142/08, 146/09, 166/12 i 101/15.

Tokom trajanja postupka azila, uključujući i žalbeni period, tražiocima azila je dopušteno da borave na teritoriji države. Troškove vezane za njihov smeštaj i negu snosi država, a zakonodavno telo koje je odgovorno za prijem tih lica je Ministarstvo rada i socijalne politike, preko Centra za prijem tražilaca azila – Vizbegovo. Ovo ministarstvo je takođe u potpunosti zaduženo za vođenje procesa lokalne integracije, koji počinje od momenta kada Ministarstvo unutrašnjih poslova odobri zaštitu.<sup>5</sup>

## II INSTITUCIONALNI MEHANIZMI ZA ZAŠITU IZBEGLICA

U 2006. godini osnovana je Grupa za integraciju izbeglica i stranih državljana,<sup>6</sup> unutar Ministarstva rada i socijalne politike za integraciju izbeglica i stranih državljanina, koju čine sledeće institucije:

- Ministarstvo rada i socijalne politike – koje predsedava Grupom,
- Ministarstvo unutrašnjih poslova,
- Ministarstvo zdravlja,
- Ministarstvo obrazovanja,
- Ministarstvo spoljnih poslova,
- Ministarstvo državne uprave i lokalne samouprave,
- Udruženje lokalnih vlasti Republike Makedonije,
- Crveni krst Republike Makedonije.

Ova grupa je bila zadužena za izradu nacrta i pripremu dokumenata nacionalne politike u vezi sa integracijom izbeglica i stranaca. U 2008. godini Vlada Republike Makedonije je usvojila Strategiju za integraciju izbeglica i stranaca za period od 2008. do 2015.,<sup>7</sup> a u 2009. godini je usvojila i Nacionalni akcioni plan (NAP)<sup>8</sup> u kom su detaljno opisane aktivnosti neophodne za olakšavanje implementacije usvojene strategije. Cilj strategije je prevashodno bio da olakša lokalnu integraciju Roma, Aškalija i Egipćana iz regiona kojima je data međunarodna zaštita.

Sama strategija se drži koncepta da je „lokalna integracija dinamičan i komplikovan dvostrani proces, koji zahteva ulaganje napora svih strana, uk-

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5 Član 48 Zakona o azilu i privremenoj zaštiti, *Služben vesnik na Republika Makedonija*, 49/03, 66/07, 142/08, 146/09, 166/12 i 101/15.

6 Više informacija dostupno na: [http://mtsp.gov.mk/WBStorage/Files/strategija\\_begalci.pdf](http://mtsp.gov.mk/WBStorage/Files/strategija_begalci.pdf).

7 Dostupno na: [http://mtsp.gov.mk/WBStorage/Files/strategija\\_begalci.pdf](http://mtsp.gov.mk/WBStorage/Files/strategija_begalci.pdf).

8 Dostupno na <http://www.mtsp.gov.mk/dokumenti.nspx>.

ljučujući spremnost izbeglica da se prilagode društvu domaćinu bez odričanja kulturnog identiteta, ali i spremnost društava domaćina i javnih institucija da prihvate izbeglice i izadu u susret potrebama mešovitog društva.<sup>9</sup> Unutar okvira nacionalne politike, proces integracije se odnosi samo na izbeglice sa priznatim izbegličkim statusom i lica kojima je data supsidijarna zaštita, kao i, pod određenim uslovima, na druge osobe koje su ostvarile bliske veze sa makedonskim državljanima, kao i osobe sa prijavom boravka. To znači da, kada se doneše odluka o podnesenom zahtevu za azil i kada se dodeli status za azil, lokalna integracija može zvanično da počne. Strategija ne uključuje tražioce azila čije su prijave još u toku razmatranja ili su odbijene. Vlada smatra da iskustvo tražilaca azila pre dodele određenog statusa utiče na nivo njihove integracije na mnogo načina, ali oni mogu uživati isključivo povlastice koje su definisane Zakonom o azilu i privremenoj zaštiti, dok se njihov status konačno ne odredi. Do integracije, u punom smislu reči prema nacionalnoj politici, može da dođe samo kada se osobi dodeli izbeglički status ili status lica pod supsidijarnom zaštitom, kako bi one mogle planirati svoju budućnost, uključujući planove vezane za zaposlenje, stanovanje i integraciju u makedonsko društvo.

Uprkos svojim ograničenjima u vezi sa licima koja se njom štite, Strategija sama po sebi je sveobuhvatan dokument koji se ne treba čitati izolovano. Njena prava funkcija se može shvatiti uporedo sa širim reformama koje se primenjuju na polju migracija, decentralizacije, društvene inkluzije svih ranjivih grupa, i uključivanje ostalih ključnih službi u zemlji. Ovo znači da je pravni okvir za njenu implementaciju sačinjen ne samo na osnovu Zakona o azilu i privremenoj zaštiti, već i iz mnogih drugih poput Zakona o strancima,<sup>10</sup> Zakona o zapošljavanju i radu stranih državljanova<sup>11</sup>, Zakona o državljanstvu,<sup>12</sup> Zakona o socijalnoj zaštiti,<sup>13</sup> Porodičnog zakona,<sup>14</sup> Zakona o zaštiti dece,<sup>15</sup> Zakona o zapošljavanju i osiguranju u slučaju nezaposleno-

9 Izvršni komitet UNHCR, *Zaključak o lokalnoj integraciji*, 104 (LVI) – 2005, preambula i (k), dostupno na: <http://www.unhcr.org/4357a91b2.html>.

10 *Službeni vesnik na Republika Makedonija*, 35/06, 66/07, 117/08, 92/09, 156/10, 158/11, 84/12, 13/13, 147/13, 148/15 i 217/15.

11 *Službeni vesnik na Republika Makedonija*, 70/07, 5/09, 35/10, 148/11, 84/12, 148/13, 38/14 i 150/15.

12 *Službeni vesnik na Republika Makedonija*, 67/92, 8/04, 98/08, 158/11 i 55/16.

13 *Službeni vesnik na Republika Makedonija*, 79/09, 36/11, 51/11, 166/12, 15/13, 79/13, 164/13, 187/13, 38/14, 44/14, 116/14, 180/14, 33/15, 72/15, 104/15, 150/15, 173/15, 192/15 i 30/16.

14 *Službeni vesnik na Republika Makedonija*, 80/92, 9/96, 38/04, 33/06, 84/08, 67/10, 156/10, 39/12, 44/12, 38/14, 115/14, 104/15 i 150/15.

15 *Službeni vesnik na Republika Makedonija*, 23/13, 12/14, 44/14, 144/14, 10/15, 25/15, 150/15, 192/15 i 27/16.

sti,<sup>16</sup> Zakona o osnovnom obrazovanju,<sup>17</sup> Zakona o srednjoškolskom obrazovanju,<sup>18</sup> Zakona o visokom obrazovanju,<sup>19</sup> Zakona o udruženjima građana i fondacijama,<sup>20</sup> Zakona o javnim okupljanjima,<sup>21</sup> Zakona o upravnom postupku,<sup>22</sup> Zakona o upravnom sporu<sup>23</sup> itd.

Proces lokalne integracije u makedonsko društvo obuhvata tri osnovna elementa. Prvi ima za cilj da se licima kojima je dat azil omogući uključivanje i ravnopravnost u nacionalnom sistemu socijalne pomoći i sistemu zaštite, koji uključuje službe zdravstvene i socijalne zaštite. Drugim elementom se omogućava razvojni aspekt integracije putem specijalno izrađenih projekata čiji je cilj pružanje pomoći pri osamostaljivanju osoba kojima je dat azil tako što se izlazi u susret njihovim potrebama za smeštajem, zaposlenjem, obrazovanjem i stručnim obučavanjem. Treći element nudi pravnu pomoć pri integraciji izbeglica u dobijanju pravnog statusa u zemlji koja im omogućava punu integraciju u društvo – državljanstvo kroz naturalizaciju ili davanje trajnog prebivališta.<sup>24</sup>

Nacionalni akcioni plan Ministarstva za rad i socijalnu politiku<sup>25</sup> predlaže mere za omogućavanje integracije izbeglica i lica sa supsidijarnom zaštitom, poput finansijske pomoći za smeštaj, aktivnosti za smanjenje osetljivosti i podsticanje samopodrške ovih lica, kampanja za informisanje izbeglica o svojim pravima i obavezama, olakšavanje pristupa službama. Po pitanju učestovanja u društvenoj zajednici i razvoju, gore pomenuti plan ističe značaj

16 *Službeni vesnik na Republika Makedonija*, 37/97, 25/00, 101/00, 50/01, 25/03, 37/04, 4/05, 50/06, 29/07, 102/08, 161/08, 50/10, 88/10, 51/11, 11/12, 80/12, 114/12, 39/14, 44/14, 113/14, 56/15, 129/15, 147/15, 154/15 i 27/16.

17 *Službeni vesnik na Republika Makedonija*, 103/08, 33/10, 116/10, 156/10, 18/11, 42/11, 51/11, 6/12, 100/12, 24/13, 41/14, 116/14, 135/14, 10/15, 98/15, 145/15 i 30/16.

18 *Službeni vesnik na Republika Makedonija*, 44/95, 24/96, 34/96, 35/97, 82/99, 29/02, 40/03, 42/03, 67/04, 55/05, 113/05, 35/06, 30/07, 49/07, 81/08, 92/08, 33/10, 116/10, 156/10, 18/11, 42/11, 51/11, 6/12, 100/12, 24/13, 41/14, 116/14, 135/14, 10/15, 98/15, 145/15 i 30/16.

19 *Službeni vesnik na Republika Makedonija*, 35/08, 103/08, 26/09, 83/09, 99/09, 115/10, 17/11, 51/11, 123/12, 15/13, 24/13, 41/14, 116/14, 130/14, 10/15, 20/15, 98/15, 145/15, 154/15 i 30/16.

20 *Službeni vesnik na Republika Makedonija*, 52/10, 135/11 i 55/16.

21 *Službeni vesnik na Republika Makedonija*, 55/95, 19/06, 66/07 i 152/15.

22 *Službeni vesnik na Republika Makedonija*, 38/05, 110/08 i 51/11.

23 *Službeni vesnik na Republika Makedonija*, 62/06 i 150/10.

24 Pregled Nacionalnog plana za integraciju izbeglica i stranaca, Ministarstvo rada i socijalne politike, Strategija za integraciju izbeglica i stranaca.

25 Nacionalni plan Ministarstva rada i socijalne politike, Strategija za integraciju izbeglica i stranaca od 2008–2015, dostupno na <http://www.mtsp.gov.mk/dokumenti.nspx>.

procesa integracije u svim društvenim sferama i mešanja sa lokalnim stanovništvom. U vezi sa tim „proces integracije se ne završava odlukom da se ciljna grupa integriše u lokalno okruženje, ili odredbom o pružanju pomoći tokom prolaska kroz taj period – proces naturalizacije je podjednako važan, pa je zato potrebno obezbediti adekvatnu podršku.“<sup>26</sup>

Kada se Strategija za integraciju usvojila, Ministarstvo za rad i socijalnu politiku, u partnerstvu sa UNHCR iz 2009. godine je osnovalo Centar za integraciju izbeglica i stranaca koji je zadužen za olakšavanje procesa integracije korisnika pomoći u oblastima poput: smeštaja, zdravstvene nege, obrazovanja, zaposlenja, socijalne zaštite, razvoja društvene zajednice. Pored toga, Centar je bio zadužen za pripremu odgovarajućih individualnih programa integracije.<sup>27</sup> Ovaj centar igra krucijalnu ulogu u postizanju rezultata u vezi sa procesom lokalne integracije. Aktivnosti centra su usmerene na dva glavna polja delovanja: pružanje saveta, informacija i praktične podrške svojim korisnicima, omogućavajući im pristup državnim službama i društvenim dobroim; i pomaže u implementaciji specifičnih projekata koji su usmereni na specifične integracione aktivnosti koje nisu obuhvaćene radom redovnih državnih službi. Pored pružanja saveta izbeglicama i praktične pomoći u pristupu državnim službama, centar takođe sprovodi kampanje informisanja kada je to potrebno. Centar je centralna tačka za integraciju, pružanje relevantnih informacija i koordinaciju državnih ministarstava i agencija, kao i lokalnih i međunarodnih nevladinih partnera. Od svog osnivanja 2009. godine, prema informacijama koje je centar obezedio, preko 6.000 korisnika je dobilo direktnu pomoć, a to su izbegličke porodice koje su učestvovale u lokalnoj integraciji, najviše na osnovu Zakona o socijalnoj zaštiti, Zakona o zdravstvenom osiguranju i Zakona o zaposlenju stranaca. Centar za integraciju takođe omogućava i pristup povlasticama koje proističu iz specijalno kreiranih programa integracije.

Važno je napomenuti da, iako je integracija izbeglica i lica pod supsidijarnom zaštitom kao takva utvrđena kroz centralnu vlast – Ministarstvo rada i socijalne politike i Centra za integraciju koji se nalazi u glavnom gradu, prema članu 11 Zakona o azilu i privremenoj zaštiti, princip lokalnog doprinosa podrazumeva obavezu lokalnih samoupravnih jedinica da prihvate odgovornost za smeštanje lica kojima je dat izbeglički status i lica pod supsidijarnom zaštitom u zavisnosti od svog privrednog razvoja i broja svojih stanovnika, o čemu će Vlada Republike Makedonije odlučiti.

26 Ibid.

27 Strategija za integraciju izbeglica i stranaca u Republici Makedoniji, dostupno na [http://mtsp.gov.mk/WBStorage/Files/strategija\\_begalci.pdf](http://mtsp.gov.mk/WBStorage/Files/strategija_begalci.pdf).

### III OSTVARIVANJE PRAVA U SISTEMU INTEGRACIJE IZBEGLICA

Da bi se odobrila pomoć izbeglicama i licima pod supsidijarnom zaštitom tokom procesa integracije u Makedoniji, oni moraju zvanično podneti prijavu u kancelariji Centra za integraciju. Sledeći korak je izrada Porodičnog plana integracije, koji se razvija zajedno sa izbegličkom porodicom. Plan se sastoji u proceni nedostataka i opisu aktivnosti koje se tiču rešavanja problema važnih za tu porodicu tokom procesa integracije. Plan porodične integracije treba da ponudi konkretne tačke delovanja u različitim segmentima integracije (zaposlenje, obrazovanje, smeštaj, zdravstveno osiguranje, socijalna zaštita) i tako formira osnovu za pojedinačnu implementaciju, monitoring i evaluaciju integracionih aktivnosti.

Kao što je ustanovljeno članovima 50–57 Zakona o azilu i privremenoj zaštiti, izbeglice sa priznatim statusom i osobe pod supsidijarnom zaštitom imaju ista prava i obaveze kao i makedonski državljanici izuzev: prava da glasaju, prava da se bave profesijama gde je zakonom propisano da ta osoba mora da bude državljanin, obaveze da učestvuju u izvršenju vojnih dužnosti. Oni mogu steći prava na pokretnu i nepokretnu imovinu; da učestvuju u aktivnostima vezanim za zaradu i bave se svojim profesijama, da imaju pravo na socijalnu zaštitu, zdravstvenu negu, obrazovanje, itd. U skladu sa članom 59 i članom 60 ovog istog zakona, osobe kojima se dodeli status za supsidijarnu zaštitu su jednaki sa makedonskim državljanima kada je u pitanju korišćenje prava na socijalnu zaštitu, zdravstvene ustanove i smeštaj. Što se tiče drugih prava, njihova situacija je jednaka strancima sa boravišnom dozvolom.

#### 1.1. Pravo na rad

Po pravilu, zaposlenje stranaca u Republici Makedoniji se smatra najsloženijim problemom u procesu socijalne integracije. Ovo je najviše posledica toga što državne strukture imaju ograničen uticaj na mogućnosti zaposlenja izbeglica na slobodnom tržištu rada. Što se tiče pristupa tržištu rada, pitanja zaposlenja stranaca su u potpunosti regulisana, uključujući neposredne članove porodice stranca sa regularnom boravišnom dozvolom na teritoriji Republike Makedonije, i izbeglice imaju pravo da apliciraju za ličnu radnu dozvolu, stičući prava na zaposlenje jednaka onim koje uživa lokalno stanovništvo.

Izbeglice sa dodeljenim statusom treba da uživaju pravo na rad u skladu sa ovim zakonom i regulativom koja se odnosi na zapošljavanje stranaca.<sup>28</sup> U slučaju primene restriktivnih mera za zaposlenje stranaca, isto se neće primenjivati na izbeglice sa već stečenim izbegličkim statusom, a o kojima odlučuje

28 Više informacija u vezi sa radom ove organizacije se može naći na: [www.recs.org.mk](http://www.recs.org.mk).

država na čije se državljane ove mere odnose, ako izbeglica sa priznatim statusom ispunjava jedan od sledećih uslova:

- Boravi najmanje tri godine na teritoriji Republike Makedonije;
- U braku je sa državljanom Republike Makedonije;
- Ima jedno ili više dece koja su državljeni Republike Makedonije.

Pristup tržištu rada je isti za izbeglice kao i za makedonske državljane od onog časa kada dobiju radnu dozvolu koju izdaje Državna agencija za zaposlenje. Kao deo Plana porodične integracije, Centar procenjuje veštine, stečeno radno iskustvo i daje preporuke po pitanju aktivnosti vezanih za zaposlenje i upućuje zainteresovane korisnike državnim institucijama i ostalim organizacijama koje posreduju pri zapošljavanju. Prema izbeglicama su takođe usmerene aktivne državne mere za zaposlenje i imaju pristup primanjima koja daje UNHCR, kao i finansijskoj pomoći za stručnu obuku.

Stručne obuke se u potpunosti obezbeđuju putem projekata koje sprovođe nevladine organizacije u bliskoj saradnji sa Centrom za integraciju. Prema podacima koje je obezbedio RECES Skoplje (nacionalna NVO koja obezbeđuje stručne obuke),<sup>29</sup> u 2015. godini 6 ljudi je dobilo stručnu obuku i 5 subvencionisano zaposlenje. U 2014. godini 11 ljudi je dobilo stručnu obuku, 10 je učestvovalo u dugoročnim programima za učenje i 1 lice je imalo koristi od subvencionisanog zaposlenja (svi su kosovski državljeni).

U realnosti, iako je pristup zaposlenju omogućen zakonom, izbeglica ma je izuzetno teško da ovo pravo iskoriste u praksi usled jezičkih barijera, komplikovanih administrativnih procedura, i već visokih stope nezaposlenosti u državi (27,3% u momentu pisanja rada). Kao posledica toga, osobe kojima je data međunarodna zaštita i dalje generalno ostaju nezaposlene i zavise od novčane pomoći koja se obezbeđuje putem Zakona o socijalnoj zaštiti.<sup>30</sup>

## 1.2. Pravo na obrazovanje

U oblasti obrazovanja, makedonsko zakonodavstvo sadrži pravne akte kojima se reguliše obrazovni proces, počevši od predškolskog uzrasta pa sve do visokog obrazovanja. Od 2010. godine izbeglička deca imaju pravo na upis u predškolske ustanove kojima upravlja Ministarstvo rada i socijalne politike.

29 Visoki komesar za izbeglice UN (UNHCR), Bivša jugoslovenska Republika Makedonija kao zemlja azila – zapažanja o situaciji tražilaca azila i izbeglica iz Bivše jugoslovenske Republike Makedonije, avgust 2015, str. 19.

30 *Službeni vesnik na Republika Makedonija*, 103/08, 33/10, 116/10, 156/10, 18/11, 42/11, 51/11, 6/12, 100/12, 24/13, 41/14, 116/14, 135/14, 10/15, 98/15, 145/15 i 30/16.

U 2014. i 2015. godini, Centar za integraciju je obavio kampanje na terenu odlazeći u posetu svim porodicama sa decom predškolskog uzrasta, pružio pomoć roditeljima pri procedurama vezanim za upis i pomogao u organizovanju lekarskih pregleda neophodnih za proces prijave.

Zakon o osnovnom obrazovanju<sup>31</sup> omogućava stranim državljanima i osobama bez države prebivališta da steknu osnovno obrazovanje pod uslovima ustanovljenim zakonom, što znači pod istim uslovima koji važe za decu makedonske nacionalnosti. Pravo i relativna obaveza da se pohađa osnovno obrazovanje se primenjuje na svako dete koje ima prebivalište u Republici Makedoniji i zasniva se na odredbama Ustava Republike Makedonije, po kojem je osnovno obrazovanje besplatno i obavezno. Kada se nađu u novoj sredini, izbeglice i migranti se često suočavaju sa ozbiljnim poteškoćama, kako tehničke tako i psihološke prirode. Stoga, potrebno je uložiti napore sa ciljem da se oni integrišu u proces obrazovanja što doprinosi njihovoj sveopštoj integraciji u društvo. U periodu od 2004. do 2007. godine oko 250 učenika koji pripadaju izbegličkom stanovništvu (većinom sa Kosova) redovno pohađaju školu. Ova deca su pohađala redovnu nastavu u obrazovnim institucijama, što je obeležilo početak njihove sveopšte integracije u naše društvo. Kursevi na maternjem jeziku (uglavnom za Rome i Albance) se organizuju u saradnji sa Ministarstvom obrazovanja i nauke. Mnoga izbeglička deca koja pohađaju osnovnu školu su korisnici stipendija koje obezbeđuje Crveni krst Skoplje.

Prema Zakonu o srednjoškolskom obrazovanju,<sup>32</sup> kojim se omogućava besplatno i obavezno obrazovanje, počevši od 2008. do 2009. godine, izbeglice i lica pod supsidijarnom zaštitom mogu steći srednjoškolsko obrazovanje pod istim uslovima kao i makedonski državljeni. Srednjoškolsko obrazovanje u državnim srednjim školama je besplatno. Dikriminacija na osnovu pola, rase, boje kože, nacionalnog i društvenog porekla, političkih i religioznih uverenja, imovine i društvenog statusa nije dozvoljena.

Za vreme perioda 2012–2013. godine, tokom trajanja pripreme planova za individualnu integraciju, Centar za integraciju je obavio procenu nivoa formalnog obrazovanja izbeglica, kao i znanje makedonskog jezika. Nakon

31 *Službeni vesnik na Republika Makedonija*, 44/95, 24/96, 34/96, 35/97, 82/99, 29/02, 40/03, 42/03, 67/04, 55/05, 113/05, 35/06, 30/07, 49/07, 81/08, 92/08, 33/10, 116/10, 156/10, 18/11, 42/11, 51/11, 6/12, 100/12, 24/13, 41/14, 116/14, 135/14, 10/15, 98/15, 145/15 i 30/16.

32 *Službeni vesnik na Republika Makedonija*, 44/95, 24/96, 34/96, 35/97, 82/99, 29/02, 40/03, 42/03, 67/04, 55/05, 113/05, 35/06, 30/07, 49/07, 81/08, 92/08, 33/10, 116/10, 156/10, 18/11, 42/11, 51/11, 6/12, 100/12, 24/13, 41/14, 116/14, 135/14, 10/15, 98/15, 145/15 i 30/16.

ove procene, došlo je do razvoja zvanične saradnje između Centra i Ministarstva obrazovanja i nauke u kreiranju obrazovnog programa koji kombinuje završavanje najmanje osam razreda osnovne škole, kurseve pismenosti i osnovnog znanja makedonskog jezika.<sup>33</sup>

Međutim, u praksi je jedna od osnovnih poteškoća tokom procesa integracije to što država ne daje mogućnosti za učenje jezika. U prethodnom periodu, kurseve jezika su obezbeđivali samo Crveni krst ili druge nevladine organizacije, koje kao takve u velikoj meri zavise od raspoloživih sredstava dobijenih za sprovođenje projekata. Pored toga, ne postoji posebni državni programi kojima se olakšava pristup obrazovanju izbegličke dece i drugih kojima je data međunarodna zaštita.

### 1.3. Pravo na zdravstvenu zaštitu

Prema članu 54 Zakona o azilu i privremenoj zaštiti, do dobijanja punog zdravstvenog osiguranja na osnovu Zakona o zdravstvenom osiguranju, izbeglica sa priznatim izbegličkim statusom ima pravo samo na osnovnu zdravstvenu negu, kao što je slučaj i sa makedonskim državljanima. Zdravstveno osiguranje je dostupno svim izbeglicama kako je predviđeno Zakonom o zdravstvenom osiguranju.<sup>34</sup> Fond za zdravstveno osiguranje je zadužen za obezbeđivanje osiguranja sve dok Ministarstvo rada i socijalne politike ima mandat za davanje i plaćanje naknada za osiguranje izbeglicama koje uživaju to pravo. Od oktobra 2012. godine, nakon informativne kampanje Centra za integraciju, 342 dozvole (588 korisnika)<sup>35</sup> su odobrene za pristup zdravstvenom sistemu koji finansira država. Trenutno 189 porodica koriste usluge zdravstvene zaštite u Makedoniji,<sup>36</sup> veliki broj njih su državljeni Kosova. Oni koji primaju socijalnu pomoć istovremeno mogu besplatno koristiti usluge zdravstvenih ustanova,<sup>37</sup> koje su u nadležnosti Fonda za zdravstveno osiguranje Republike Makedonije.

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33 Više dostupno u *Brošuri*, Ministarstvo rada i socijalne politike Republike Makedonije, Centar za integraciju, potpomognut od strane Kancelarije UNHCR u Skoplju, Skoplje, 2013.

34 „Što se tiče prava opisanih u zakonima vezanim za rad, zdravstvenu zaštitu, penziju i osiguranje u slučaju invaliditeta, izbeglice sa priznatim statusom imaju isti tretman kao i građani Republike Makedonije“, član 56, red 3 – Zakon o radu i prava na socijalnu zaštitu.

35 Više dostupno u *Brošuri*, Ministarstvo za rad i socijalnu politiku Republike Makedonije, Centar za integraciju, potpomognut od strane Kancelarije UNHCR u Skoplju, Skoplje, 2013.

36 Informacije dobijene iz Centra za integraciju izbeglica i stranaca tokom intervjua.

37 Primarno, sekundarno i tercijarno zdravstveno lečenje.

## 1.4. Pravo na socijalnu pomoć

Prema Zakonu o socijalnoj zaštiti,<sup>38</sup> osnovna socijalna zaštita, trajna socijalna zaštita, kućna nega i jednokratna finansijska pomoć su dostupne svim izbeglicama i licima pod supsidijarnom zaštitom. Pristup i korišćenje socijalnih prava su isti kao i za makedonske državljanе. Centri za socijalni rad su odgovorni za pružanje socijalne zaštite u ovim slučajevima, a Centar za integraciju je odgovoran za obezbeđivanje adekvatne informisanosti i pružanje pomoći izbeglicama u pripremi i podnošenju prijava za socijalnu pomoć.<sup>39</sup> Centar za integraciju ažurira bazu podataka socijalne pomoći koja pomaže ovom ministarstvu i centru za socijalni rad da vodi ove slučajeve i koordiniše mesečne uplate koje proističu iz prava na socijalnu zaštitu. Centar za integraciju povremeno obezbeđuje dodatnu pomoć, poput deljenja garderobe i druge humanitarne pomoći.<sup>40</sup>

Što se tiče trenutne situacije u vezi sa ostvarivanjem socijalnih prava, samo lica koja primaju humanitarnu pomoć, žrtve trgovine ljudima, izbeglice sa priznatim statusom i lica sa supsidijarnom zaštitom, kao i strani državljanji sa trajnim boravkom, imaju potpun pristup socijalnim pravima. Prema članu 53 Zakona o azilu i privremenoj zaštiti, izbeglice sa priznatim statusom, od dana donošenja odluke o priznavanju izbegličkog statusa, imaju ista prava kao državljanji Republike Makedonije u vezi sa korišćenjem prava socijalne zaštite ustanovljenih Zakonom o socijalnoj zaštiti. Pravo na finansijsku pomoć se može koristiti putem lokalnih centara za socijalnu pomoć u periodu od jedne do dve godine. Nakon tog perioda, izbeglice sa priznatim statusom postaju jednakе makedonskim državljanima po pitanju svih prava na socijalnu zaštitu.

Prema članu 47 Zakona o socijalnoj zaštiti, socijalna pomoć se daje u iznosu od 2.334 makedonskih denara<sup>41</sup> (u daljem tekstu: osnovni iznos). Za svakog člana porodice osnovni iznos se uvećava koeficijentom od 0,37, do pet članova domaćinstva. Iznos socijalne pomoći je obično u skladu sa nivoom troškova života za prethodnu godinu, koje objavljuje Državna kancelarija za statistiku u januaru tekuće godine i osnovnog iznosa socijalne pomoći za sledeću godinu.<sup>42</sup>

38 Službeni vesnik na Republika Makedonija, 79/09, 36/11, 51/11, 166/12, 15/13, 79/13, 164/13, 187/13, 38/14, 44/14, 116/14, 180/14, 33/15, 72/15, 104/15, 150/15, 173/15, 192/15 i 30/16.

39 Informacije dobijene iz Centra za integraciju izbeglica i stranaca tokom intervjua.

40 Više dostupno u Brošuri, Ministarstvo rada i socijalne politike Republike Makedonije, Centar za integraciju, potpomognut od strane Kancelarije UNHCR u Skoplju, Skoplje, 2013, str. 10.

41 Jednako iznos od 37,8 evr.

42 U situaciji u kojoj je porast troškova života u prethodnim godinama negativan, nema podudaranja sa osnovnim iznosom. Pravo na socijalnu zaštitu treba da se isplati kao razlika između određenog iznosa socijalne pomoći i ukupnih prihoda svih članova domaćinstva

## 1.5. Pravo na smeštaj

Ministarstvo rada i socijalne politike pruža pomoć za nalaženje kako privremenih tako i dugotrajnih rešenja za smeštaj izbeglica. Kao privremena mera, prema Programu integracije, preko centra za socijalni rad i relevantnog ministarstva, obezbeđuje se mesečna finansijska pomoć za pokrivanje troškova stanarine i režija izbeglicama koje žive u privatnom smeštaju i kućama. Prema Programu za integraciju lica kojima je dodeljen azil u Republici Makedoniji za 2015. godinu,<sup>43</sup> iznos finansijske pomoći potrebne za obezbeđivanje smeštajnih jedinica i iznajmljivanje stambene zgrade ili jednog njenog dela, za pojedinačnu osobu iznosi 4.000 makedonskih denara, za porodicu od dva do četiri člana iznosi do 5.000, a za porodice od pet i više članova iznosi do 6.000 denara. Finansijska pomoć za režije (struja, grejanje, voda i komunalni otpad) za jednu osobu je 1.500 makedonskih denara, za porodicu od dva do četiri člana je 2.000 makedonskih denara, a za porodicu od pet i više članova iznosi 2.500 makedonskih denara.

Centar za integraciju je tokom ovog procesa asistirao u obezbeđivanju pomoći pri sklapanju ugovora o iznajmljivanju smeštaja. Kao dugotrajno rešenje, Ministarstvo sarađuje sa vladinim i nevladinim partnerima u obezbeđivanju smeštaja ili pruža pomoć izbeglicama koje poseduju kuće da obave manje prepravke kako bi poboljšali životne uslove.<sup>44</sup> Na osnovu ugovora između Ministarstva rada i socijalne politike i UNHCR Skoplje iz 2014. godine, obavljena je izgradnja 20 socijalnih stanova u blizini Prijemnog centra za tražioce azila,<sup>45</sup> koje je dobilo 20 izbegličkih porodica sa supsidijarnom zaštitom. Pored toga, renovirano je 6 kuća koje su u posedu izbeglica. Kao rezultat toga, 20 porodica tj. ukupno 117 osoba je dobilo socijalni smeštaj.<sup>46</sup>

Pravo na smeštaj je shodno tome definisano članom 52 Zakona o azilu i privremenoj zaštiti, na osnovu koga se izbeglicama sa priznatim statusom obezbeđuje smeštaj, po principu lokalnog doprinosa, davanjem odgovarajućeg

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po svim osnovama. Iznos socijalne pomoći se određuje u zavisnosti od perioda korišćenja ovog prava, pogotovo u prve tri godine – u iznosu od 2.334 denara, i u trećoj godini u iznosu od 50% određenog iznosa.

43 Službeni vesnik na Republika Makedonija, 23/15, donesen kao Statut Ministarstva rada i socijalne politike.

44 U proseku 120 porodica ima korist od mesečne novčane pomoći za stanarinu i režije. Podaci za period 2012–2014, Brošura, Ministarstvo rada i socijalne politike Republike Makedonije, Centar za integraciju, potpomognut od strane Kancelarije UNHCR u Skoplju, Skoplje, 2013, str. 14.

45 Visoki komesar za izbeglice UN (UNHCR), ažurirano od strane države, 1. januar – 31. mart 2013, dostupno na: <http://www.unhcr.org/50f3db1c9.pdf>.

46 Glavni kriterijum za podelu su bili faktori poput stepena osetljivosti – samohrani roditelji i lica kojima je data međunarodna zaštita.

stana na korišćenje, ili davanjem finansijske pomoći neophodne za obezbeđivanje smeštajnih kapaciteta, sve dok te osobe ne obezbede sredstva za izdržavanje, ali u maksimalnom trajanju od dve godine od dana dobijanja odluke kojom se priznaje izbeglički status. Ministar rada i socijalne politike propisuje kriterijume i način upotrebe odgovarajućeg stana ili smeštaja ili finansijsku pomoć neophodnu za obezbeđivanje prostorija za smeštaj izbeglica. Ukoliko izbeglica sa priznatim statusom odbije dodeljeni smeštaj u toj opštini, gubi pravo na smeštaj i može da se preseli u drugu opština o svom trošku.<sup>47</sup>

## 1.6. Pravo na državljanstvo

Strategija za integraciju podstiče vlasti da promovišu naturalizaciju izbeglica i osoba pod supsidijarnom zaštitom, gde god je to moguće, što u širem smislu reči znači davanje državljanstva. Štaviše, Nacionalni akcioni plan uključuje ne samo podsticanje angažovanja društvene zajednice u učestvovanju u multikulturalnim aktivnostima, već i mere kojima se olakšava proces naturalizacije.

Prema članu 7-a Zakona o državljanstvu,<sup>48</sup> osoba sa priznatim izbegličkim statusom može dobiti državljanstvo Republike Makedonije putem naturalizacije, ako je od priznavanja izbegličkog statusa do podnošenja prijave za dobijanje državljanstva ta osoba legalno i neprekidno živela na teritoriji Republike Makedonije u trajanju od najmanje šest godina i ako ima najmanje 18 godina; ima smeštaj i stalni izvor prihoda u iznosu koji je dovoljan za obezbeđivanje materijalne i socijalne sigurnosti i koji je u skladu sa zahtevima određenim zakonom; poznaje makedonski jezik na tom nivou da može nesmetano da komunicira sa okruženjem; nije osuđena merom zabrane boravka u Republici Makedoniji i dodeljivanje državljanstva Republike Makedonije toj osobi ne predstavlja opasnost po nacionalnu bezbednost ili odbranu Republike Makedonije. Međutim, u praksi se izbeglice i dalje susreću sa mnogim problemima tokom tog procesa, uključujući i poteškoće pri dobijanju ličnih dokumenata koja su im neophodna za podnošenje zahteva. Od 2013. do 2015. godine prema podacima koje je obezbedilo Udruženja mlađih advokata Makedonije, samo pet osoba je dobilo državljanstvo na osnovu ovog člana, i svi oni potiču sa Kosova.

Što se tiče osoba pod supsidijarnom zaštitom, može se primenjivati član 7 Zakona o državljanstvu. Stranac koji je lično predao zahtev za dobijanje državljanstva Republike Makedonije može dobiti državljanstvo Republike Makedonije putem naturalizacije, ukoliko ispunjava sledeće uslove: napunio je

47 Član 52, Zakon o azilu i privremenoj zaštiti, *Služben vesnik na Republika Makedonija*, 49/03, 66/07, 142/08, 146/09, 166/12 i 101/15.

48 *Služben vesnik na Republika Makedonija*, 67/92, 8/04, 98/08, 158/11 i 55/16.

18 godina; da je do podnošenja prijave legalno i neprekidno živeo na teritoriji Republike Makedonije najmanje osam godina; da je obezbedio smeštaj i kontinuirana sredstva za život u iznosu koji obezbeđuje materijalnu i socijalnu sigurnost u skladu sa iznosom definisanim zakonom; da nije kažnjavan u Republici Makedoniji i u državi porekla kaznom zatvora u trajanju od najmanje godinu dana za krivična dela po službenoj dužnosti i koja se kažnjavaju u skladu sa regulativama Republike Makedonije; da nije pokrenut krivični postupak protiv te osobe u Republici Makedoniji i u državi porekla; da poznaje makedonski jezik na tom nivou da može nesmetano da komunicira sa okruženjem; da nije izrečena mera zabrane prebivališta u Republici Makedoniji; da dodeljivanje državljanstva toj osobi ne ugrožava sigurnost i odbranu Republike Makedonije; da potpiše zakletvu da će biti lojalan građanin Republike Makedonije i ima izdato prethodno državljanstvo ili se ispostavlja da će ga dobiti ako mu se dodeli državljanstvo Republike Makedonije.<sup>49</sup>

Prema podacima koje je tokom svog rada obezbedilo Udruženje mladih advokata Makedonije, većina uspešnih procesa naturalizacije lica pod supsidijarnom zaštitom u periodu od 2012. do 2015. godine je urađeno na osnovu člana 4 – dobijanje državljanstva na osnovu porekla koje proističe iz Zakona o državljanstvu,<sup>50</sup> što znači da su većina njih bila deca iz mešovitih brakova između izbeglice i makedonskog državljanina. Ukupno, 56 osoba je dobilo makedonsko državljanstvo; međutim, ni jedno lice pod supsidijarnom zaštitom nije uspelo da dobije državljanstvo po članu 7. Na duže staze, proces integracije nije ni blizu tome da se ostvari dobijanje državljanstva.

## 1.7. Pravo na spajanje porodice

Ukoliko članovi porodice izbeglice sa priznatim statusom kao i članovi porodice lica sa supsidijarnom zaštitom podnesu zahtev za azil, treba im to pravo omogućiti. Članovima porodice, u smislu propisanom zakonom, smatraju se supružnici, ako je brak sklopljen pre dolaska u Republiku Makedoniju i ako su njihova maloletna deca stekla pravo na azil. Princip spajanja porodice se ne bi trebao primenjivati ako su razlozi za razdvajanje povezani sa pretnjom

<sup>49</sup> Nakon izuzimanja, ako strana država ne da pristanak za oslobođanje od državljanstva ili postavi takve uslove koji strancu onemogućavaju ispunjavanje istih, da bi se izbeglo stvaranje egzistencijalnih i bezbednosnih problema strancu i njegovoj/njenoj porodici, on/ona treba da se prime u državljanstvo Republike Makedonije ukoliko daju izjavu da se odriču svog страног državljanstva.

<sup>50</sup> Ukupno 29 ljudi; nakon naturalizacije putem braka u skladu sa članom 9 Zakona o državljanstvu – ukupno 17, po članu 12 istog zakona, dete ispod 18 godina dobija državljanstvo ako su oba roditelja dobila makedonsko državljanstvo putem naturalizacije – 5 takvih slučajeva.

po nacionalnu bezbednost ili ako su te osobe državljeni neke druge države koja im može pružiti zaštitu. Proces započinje zahtevom osobe kojoj je data međunarodna zaštita. Procedura za spajanje porodice do sada nije korišćena, s obzirom na to da nije bilo podnetih zahteva.

#### IV ZAKLJUČAK

Izbeglice se uvek posmatraju kao pridošlice koje tu ne pripadaju, bilo da tu zakonski ne pripadaju, bilo na osnovu fizičkog izgleda, rase, kulturoloških i religioznih razlika, ili zbog kombinacije ovih elemenata. Uzimajući u obzir stvarnost u kojoj živimo, takvi stavovi mogu biti okidač za diskriminaciju, dalje pogoršanje međuetničkih odnosa, i slabljenje kohezije društva u društvima koja te pridošlice prihvataju. U ovom kontekstu, od suštinskog je značaja da oba učesnika u procesu integracije, i izbeglice i društva u koja izbeglice dolaze, postanu povezani jasnom i čvrstom integracionom politikom koja će obezbediti dugoročan okvir sa idejom kako ostvariti ravnotežu po pitanju problema sa kojima se suočavaju obe ove strane. Istraživači MIPEX-a<sup>51</sup> su došli do zaključka da ambiciozne integracione politike zaista daju rezultate, i da zemlje sa „inkluzivnim integracionim politikama“ nastoje da pruže najbolje uslove za društvenu koheziju, u korist i pridošlica i društva uopšte. Slično tome, restriktivne politike mogu dovesti do ksenofobičnih stavova i nesposobnosti da se vide prednosti raznolikosti.

Republika Makedonija se trenutno bavi pripremom procesa za desetogodišnju Strategiju za integraciju izbeglica i stranaca (2016–2026). Priprema ove strategije se vrši u vremenu punom izazova, kada se država (slično ostalim državama sa Balkana) suočava sa masovnim prilivom migranata svakodnevno, koje uglavnom dolaze iz zemalja Bliskog istoka i Severne Afrike, čije se kulturno poreklo mnogo razlikuje od porekla onih koji su prethodno primljeni u državu. U realnosti se pokazalo da osobe kojima je data međunarodna zaštita a potiču iz država van regiona nemaju iste mogućnosti integracije ili pristup programima integracije, najviše zbog jezičkih barijera, i zbog drugih prethodno pomenutih faktora, što utiče na praktičnu primenu usluga.

Shodno tome, prilikom pripreme Strategije za integraciju od 2016. do 2026. godine, Vlada Republike Makedonije treba da ponudi budućnost ne samo izbeglicama koje pristižu, već i makedonskom društву. Ovaj dokument treba da ponudi okvir za razmišljanje o opštim ciljevima kojima treba da teži makedonsko društvo, i da pruži smernice svim učesnicima o tome kako one

51 Međunarodni ključni rezultati, dostupni na: <http://www.mipex.eu/key-findings>.

mogu da pruže svoj doprinos. Strategija treba da uzme u obzir politike koje su već na snazi a tiču se azila i migracije, koje treba da oslikaju i trendove koje migracije imaju, i tako ponudi proaktivne politike za rešavanja integracije izbeglica. Ona treba u centar da stavi izbeglice i njihov dugotrajan boravak i na taj način efikasno utiče na njihov položaj, sredstva za uspešno funkcionisanje u društvu, i pristup javnim objektima na jednakoj osnovi kao što je imaju i državljeni.

Od suštinskog je značaja da nove integracione politike budu izrađene tako kako bi se njima prihvatile raznolikost i stvarnosti sa kojima se makedonsko društvo suočava. Treba da se gleda šire, van granica države, ali isto tako da se učini sigurnim da će nacionalne politike biti izgrađene u skladu sa potrebama nacionalnog konteksta.

Prethodno iskustvo pokazuje da se adekvatne usluge mogu obezbediti isključivo uz nesebičnu pomoć međunarodnih organizacija, ali takođe i uz napore i ideje u koje se ulaže iz sredstava nacionalnih nevladinih organizacija. Preciznije, nevladine organizacije su te koje u velikoj meri mogu uticati na političku klimu i političke ishode, i mogu predstavljati bitne činioce u borbi protiv socijalne isključenosti, diskriminacije i ksenofobije. Treba obratiti posebnu pažnju na lokalne ustanove koje su jednaki, ako ne i značajniji činioci u olakšavanju procesa integracije. Pored toga treba razmotriti religiozne institucije, sindikate radnika, organizacije poslodavaca, medije, kao potencijalne partnere.

Mere koje se preduzimaju u društveno-ekonomskoj sferi migracije bi trebale da omoguće izbeglicama sticanje ekonomske nezavisnosti, tj. cilj tih mera bi trebao da bude da izbeglice prestanu da zavise od finansijske pomoći koju dobijaju od države. Samo ekonomski integrisane izbeglice doprinose razvoju države domaćina pre nego da joj predstavljaju „teret“. One progresivno postaju manje zavisne od pomoći države ili humanitarne pomoći i sposobnije su da same sebe izdržavaju, i tako postaju u potpunosti integrisane u novo društvo.

# Kraljevina Holandija





## SAŽETAK

Izbeglice u Kraljevinu Holandiju dolaze još od Prvog svetskog rata.<sup>1</sup> Kako su se poprišta oružanih sukoba izmeštala van Zapadne i Centralne Evrope, menjala se i njihova etnička struktura. Tokom devedesetih godina, Kraljevina Holandija se po prvi put suočila sa visokim prilivom izbeglica. Rekordan broj izbeglica – samo 1994. godine stiglo je 53.000 izbeglica – koje su bežale od ratova na prostoru bivše Jugoslavije stigle su u Holandiju, dok je početkom 2000. godine počeo da raste broj izbeglica iz Avganistana.<sup>2</sup>

U toku poslednje četiri godine, uključujući i 2016, došlo je do znatnog povećanja broja izbeglica iz Sirije.<sup>3</sup> U istom periodu konstantno raste broj podnetih zahteva za azil i zahteva za spajanje porodice.<sup>4</sup> Do tada nezabeleženog priliva, većeg čak i od onog 1994. dolazi 2015. godine, kada je u Holandiji registrovano oko 60 hiljada tražilaca azila.<sup>5</sup> Prema statistici koja je objavljena za period od januara do septembra 2015. godine, izbeglički status je dodeljen u oko 31% slučajeva, supsidijarna zaštita u 35%, a humanitarna zaštita dodeljena je u skoro 3% slučajeva.<sup>6</sup>

Kada je reč o zemljama Evropske unije, nakon Bugarske, Malte i Danske, Kraljevina Holandija je zemlja sa najvećom stopom pozitivnih odluka u prvostepenom postupku.

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- 1 *Twice as many asylum seekers and following family members in 2015 as in 2014*, Centraal Bureau voor de Statistiek, 2016. Dostupno na: <<https://www.cbs.nl/en-gb/news/2016/04/twice-as-many-asylum-seekers-and-following-family-members-in-2015-as-in-2014>>.
  - 2 *Substantial increase asylum seekers*, Centraal Bureau voor de Statistiek, 2015. Dostupno na: <https://www.cbs.nl/en-gb/news/2015/05/substantial-increase-asylum-seekers>.
  - 3 *Substantial increase asylum seekers*, Centraal Bureau voor de Statistiek, januar 2015; Steven Ammeraal i ostali, *Country report-Netherlands*, Asylum Data Base, septembar 2015; *Population growth fuelled by immigration*, Centraal Bureau voor de Statistiek, januar 2016; *Protection in the Netherlands*, VluchtelingenWerk Nederland, mart 2016.
  - 4 *Substantial increase asylum seekers*, Centraal Bureau voor de Statistiek, 2015; Od marta 2014. godine u postupku spajanja porodice, članovi koji se pridružuju tražiocu azila nisu u obavezi da podnesu zahtev za azil već dobijaju pravo na boravak po dolasku u Holandiju. Vidi više na: <<https://www.cbs.nl/en-gb/news/2015/05/substantial-increase-asylum-seekers>>.
  - 5 *Twice as many asylum seekers and following family members in 2015 as in 2014*, Centraal Bureau voor de Statistiek, 2016. Jednu trećinu registrovanih tražioca azila u Holandiji u 2015. godini čine deca (*circa* 18 hiljada).
  - 6 Steven Ammeraal i ostali, *Country report-Netherlands*, Asylum Data Base, 2015. Stopa odbijanja zahteva za ovaj period iznosi 30%. Vidi više na: <[http://www.asylumineurope.org/sites/default/files/report-download/aida\\_nl\\_update.iv\\_.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_nl_update.iv_.pdf)>.

## I POJAM I OPŠTI POGLED NA SISTEM AZILA

U Kraljevini Holandiji oblast azila, uključujući i oblast integracije osoba kojima je u Holandiji dodeljena međunarodna zaštita, uređena je pre svega Zakonom o strancima iz 2000. godine (*Vreemdelingenwet*), koji, osim što propisuje pravni položaj stranaca u zemlji, propisuje opšti postupak za dobijanje azila u Holandiji kao i prava i obaveze osoba koje su dobile azil.<sup>7</sup>

Načelno u Kraljevini Holandiji svaki stranac može zatražiti azil kako u centralnom prihvatom centru u Ter Apelu, ukoliko na teritoriju Holandije pristiže kopnom, ili na aerodromu „Schiphol“ (*Schiphol*) u Amsterdamu ukoliko stiže vazduhom. Zakon o strancima propisuje da, ukoliko stranac izrazi nameru da traži azil prilikom prelaska granice, službenici granične kontrole neće odbiti da mu omoguće pristup teritoriji Holandije, izuzev u slučaju da o tome postoji poseban ukaz ministra pravde.<sup>8</sup> Policija za strance vrši identifikaciju i registraciju tražioca azila u prihvatom centru u Ter Apelu (što podrazumeva pretres, fotografisanje i uzimanje otiska prstiju, ali i privremeno zadržavanje svih ličnih isprava i dokumenata kojima stranac raspolaze). U slučaju da se radi o osobama koje azil traže na aerodromu „Schiphol“, to čine pripadnici Kraljevske žandarmerije (*Koninklijke Marechaussee*). Zahtev za azil podnosi se po registraciji, kako u centru u Ter Apelu, tako i u prihvatom centru pri aerodromu. Svi tražioci azila imaju pravo na 6 dana odmora i pripreme po izvršenoj registraciji, i u tom periodu će biti posavetovani o svojim pravima i biće im pružena zdravstvena pomoć.

Po isteku ovog roka, Služba za imigraciju i naturalizaciju sprovodi prvo saslušanje, koje predstavlja početak opšteg postupka azila. Služba utvrđuje sve činjenice relevantne za utvrđivanje osnova za dodeljivanje izbegličke zaštite u Holandiji,<sup>9</sup> a tražioci azila imaju pravo na besplatnu pravnu pomoć advokata kojeg imenuje država. Postupak mora biti sproveden uz posredovanje prevođioca za jezik koji tražilac azila razume.

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7 Zakon o strancima (*Vreemdelingenwet*) Kraljevine Holandije od 23. novembra 2000. godine, dostupan na holandskom jeziku na: [http://wetten.overheid.nl/BWBR0011823/geldigheidsdatum\\_03-02-2016](http://wetten.overheid.nl/BWBR0011823/geldigheidsdatum_03-02-2016).

8 *Ibid.*, član 3.

9 Iako u Holandiji ne postoje različite kategorije osoba kojima je dodeljen azil, osnov za dobijanje azila može biti izbeglički status u skladu sa odredbama Konvencije o statusu izbeglica iz 1951. godine ili supsidijarna zaštita u skladu sa režimom člana 3 Evropske konvencije za zaštitu ljudskih prava i osnovnih sloboda i član 15 (c) Direktive 2004/83/EC od 29. aprila 2004. godine. Služba za imigracije i integraciju dužna je da utvrđivanju postojanja osnova pristupi supsidijarno, a u slučaju da je zahtev za azil usvojen po osnovu supsidijarne zaštite, mogućnost žalbe ne postoji jer se prava osoba kojima je dodeljen azil ne razlikuju usled različitih osnova za dodeljivanje takve zaštite.

Opšti postupak azila podrazumeva utvrđivanje činjenica o osnovanosti zahteva za azil kroz dva saslušanja.<sup>10</sup> Služba za imigraciju i naturalizaciju ima rok od 8 dana da doneše odluku kojom se usvaja zahtev za azil, odbija ili se produžava rok neophodan za donošenje odluke (čime počinje produženi postupak azila). Produženi postupak pokreće se u slučaju da je u roku od 4 dana jasno da Služba neće moći da doneše odluku u datom roku. U slučaju da je odluka negativna, tražilac azila može izjaviti žalbu mesno nadležnom sudu u roku od nedelju dana, pri čemu se zahtev za meru kojom se odlaže izvršenje odluke mora zahtevati u roku od 24 sata; u suprotnom bi do prinudnog uđeljena stranca moglo da dođe i pre nego što je sud odlučio po žalbi.

U slučaju da je Službi za imigraciju i integraciju potrebno više vremena kako bi donela odluku o zahtevu za azil pokreće se produženi postupak azila, u kome Služba ima rok od 6 meseci da doneše odluku, uz mogućnost da se taj rok po potrebi produži za još 6 meseci. Za to vreme, tražilac azila biva smešten u centru za tražioce azila pod nadležnošću Centralne agencije za prijem tražilaca azila (*Centraal Orgaan opvang asielzoekers*).

Ukoliko se u produženom postupku doneše negativna odluka, tražilac azila ima rok od četiri nedelje da podnese žalbu mesno nadležnom sudu. Žalba ima suspenzivno dejstvo.

Ukoliko Služba za imigraciju i integraciju u opštem ili produženom postupku doneše pozitivnu odluku o zahtevu za azil, osoba kojoj je dodeljen azil dobija privremenu boravišnu dozvolu sa rokom važenja od 5 godina.<sup>11</sup> Ukoliko, po isteku tog roka, osoba kojoj je dodeljen azil ispuni uslove vezane za integraciju u holandsko društvo, njemu ili njoj dodeljuje se boravišna dozvola sa stalnim važenjem.<sup>12</sup>

## II INSTITUCIONALNI MEHANIZMI ZA ZAŠITU IZBEGLICA

Sistem integracije izbeglica u Holandiji ostvaruje se putem različitih mehanizama koji se odnose na primenu pojedinačnih prava osoba kojima je dodeljen azil, a može se reći da u izvesnom smislu integrativni proces počinje od samog dolaska tražilaca azila na teritoriju Holandije.

U sistemu integracije izbeglica došlo je do suštinskih i praktičnih promena u poslednjih nekoliko godina, do čega je došlo usled konstituisanja nove, desno orijentisane vlade u Holandiji. Za razliku od prethodnog sistema, koji je inici-

10 Prvi intervjue je kraći, dok je drugo saslušanje znatno detaljnije i važnije za odlučivanje o osnovanosti zahteva za azil.

11 Vidi više o tome na internet stranici IND-a na engleskom jeziku na: <https://ind.nl/EN/individuals/residence-wizard/asylum>.

12 *Ibid.*

jativu za integrisanje izbeglice pretežno ostavljao državi, postojeći sistem čini obrnuto, zahtevajući od osobe koja je dobila azil da sama preuzme tu inicijativu. Uprkos tome što bi ovaku promenu u sistemu integracije izbeglica trebalo posmatrati kao element strože migracione politike uopšte – budući da se sistem integracije takođe odnosi i na stalno nastanjene strance – institucionalni i drugi mehanizmi koji postoje u tom pogledu i dalje se mogu smatrati elementima razvijenog i adekvatnog sistema za integriranje osoba koje dobiju azil u Holandiji.

Nadležni organi u postupku integracije izbeglica, i uopšte migranata u Holandiji, jesu Služba za imigraciju i naturalizaciju (*Immigratie – en Naturalisatiedienst*) koja je u sastavu Ministarstva bezbednosti i pravde i Centralna agencija za prijem tražilaca azila (*Centraal Orgaan opvang asielzoekers*). Služba za imigraciju i naturalizaciju nadležna je za statusna pitanja i izdavanje ličnih isprava tražiocima azila, kao i za integraciju osoba koje su dobile azil u Holandiji, dok je Centralna agencija za prijem tražilaca azila zadužena za obezbeđivanje smeštaja kako za osobe koje se nalaze u postupku azila, tako i za one kojima je dodeljen azil.

IND je nadležni organ za većinu pitanja vezanih za status stranaca u Holandiji, uključujući i tražioce azila i osobe kojima je u Kraljevini dodeljen azil. IND sprovodi postupak azila, izdaje dozvole za privremeni i stalni boravak i sprovodi test integrisanosti za migrante uopšte.

Centralna agencija za prijem tražilaca azila je odgovorna za prijem tražilaca azila, smeštanje tražilaca azila u za to namenjenu ustanovu ili opštinska prihvatilišta i pokriće troškova opštine za takvo staranje, posredovanje u odnosima vezanim za pravo na boravak stranaca koji poseduju boravišnu dozvolu po osnovu azila u objektima koje odrede opštinski zvaničnici i za sprovođenje drugih aktivnosti vezanih za smeštaj tražilaca azila<sup>13</sup> u skladu sa odlukom ministra bezbednosti i pravde.<sup>14</sup>

### III OSTVARIVANJE PRAVA U SISTEMU INTEGRACIJE IZBEGLICA

#### 1.1. Pravo na rad

Pravo na rad osoba kojima je dodeljen azil u Holandiji uređeno je Zakonom o zapošljavanju stranaca.<sup>15</sup> Zanimljiv je veoma liberalan stav u odnosu na druge

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13 Važnu ulogu u dodeljivanju smeštaja imaju opštinske vlasti; više o tome u poglavljju 1.5.

14 Član 3 Zakona o Centralnoj agenciji za prijem tražilaca azila (*Wet Centraal Orgaan opvang asielzoekers*) Kraljevine Holandije od 19. maja 1994. godine, dostupan na holandskom jeziku na: [http://wetten.overheid.nl/BWBR0006685/geldigheidsdatum\\_05-02-2016](http://wetten.overheid.nl/BWBR0006685/geldigheidsdatum_05-02-2016).

15 Zakon o zapošljavanju stranaca (*Wet arbeid vreemdelingen*) Kraljevine Holandije od 21. decembra 1994. godine, dostupan na holandskom jeziku na [http://wetten.overheid.nl/BWBR0007149/geldigheidsdatum\\_08-10-2012](http://wetten.overheid.nl/BWBR0007149/geldigheidsdatum_08-10-2012).

zemlje Evropske unije, da osobe koje traže azil i koje još uvek nisu dobile boravišnu dozvolu u Holandiji, imaju pravo na pristup tržištu rada, ali taj pristup ograničen je na maksimalno 24 radne nedelje u dvanaestomesečnom periodu. Poslodavac je taj koji je u obavezi da traži dozvolu da zaposli tražioca azila, a sam tražilac azila mora da ispunjava sledeće uslove kako bi mogao da stupi u radni odnos: da je prošlo barem šest meseci od podnošenja zahteva za azil, a da kočna odluka još uvek nije doneta; rad se obavlja u skladu sa opštim uslovima na tržištu rada; i da se predava kopija isprave koja je izdata tražiocu azila.<sup>16</sup> S obzirom na to da tražilac azila koji se na ovaj način zaposli ima pravo da još uvek boravi u prihvatom centru, podrazumeva se da bi trebalo da snosi deo troškova smestaja. Osobe koje dobiju privremenu radnu dozvolu, uključujući i osobe kojima je dodeljen azil u Holandiji, ne moraju da imaju posebnu radnu dozvolu.<sup>17</sup>

U Holandiji postoje različite organizacije koje pružaju pomoć osobama kojima je dodeljen azil da uspešno stupe na tržište rada, kao što je Fondacija za izbegle studente (*Stichting voor Vluchtelings-Studenten*).<sup>18</sup>

## 1.2. Pravo na obrazovanje

Pravo na obrazovanje u Holandiji ostvaruje se još u toku postupka azila. Sva deca ispod 18 godina starosti imaju obavezu da pristupe obrazovnom sistemu,<sup>19</sup> dok centri za tražioce azila imaju sporazume sa obližnjim osnovnim školama kako bi se to omogućilo i deci koja su u postupku azila kao i deci koja dobiju međunarodnu zaštitu.<sup>20</sup> Deca uzrasta između 12 i 18 godina slušaju nastavu u međunarodnoj grupi, a kada dovoljno nauče holandski jezik, nastava se obavlja u školi.<sup>21</sup>

Centralna agencija za prijem tražilaca azila omogućava razne obrazovne programe u centrima za tražioce azila, uključujući i nastavu holandskog

- 16 Vidi Asylum Information Database, *Access to the Labour Market – Netherlands*, Holandski savet za izbeglice i Evropska mreža za izbeglice i izgnanice, dostupno na engleskom jeziku na: [http://www.asylumineurope.org/reports/country/netherlands/access-labour-market#footnote2\\_k0s7nrx](http://www.asylumineurope.org/reports/country/netherlands/access-labour-market#footnote2_k0s7nrx).
- 17 Zakon o zapošljavanju stranaca Kraljevine Holandije, članovi 14 i 3.
- 18 Internet stranica Fondacije dostupna je na engleskom jeziku na: <https://www.uaf.nl/home/english>.
- 19 Član 3 Zakona o obaveznom obrazovanju (*Leerplichtwet*) Kraljevine Holandije od 30. maja 1968. godine, dostupan na holandskom jeziku na: [http://wetten.overheid.nl/BWBR0002628/geldigheidsdatum\\_05-02-2016](http://wetten.overheid.nl/BWBR0002628/geldigheidsdatum_05-02-2016).
- 20 Uz mogućnost izbora od strane roditelja da decu upišu i druge škole koje nemaju sporazum sa centrima za azil.
- 21 Vidi više o tome na internet stranici Centralne agencije za prijem tražilaca azila na engleskom jeziku na: <https://www.Centralne agencije za prijem tražilaca azila .nl/en/asylum-seekers/living-at-a-reception-centre/work-and-education>.

jezika i upoznavanje sa holandskom kulturom; ovo je neophodno za kasniji test integrisanosti, a nastava se vrši bez obzira na krajnji ishod produženog postupka azila.<sup>22</sup>

Polaganje testa integracije obavezno je za sve osobe kojima je dodeljen azil i može se postaviti kao uslov za izdavanje stalne boravišne dozvole. Položen test integrisanosti je preduslov za opruštanje duga po državnoj pozajmici koju dobijaju osobe kojima je dodeljen azil, a učestalo neuspješno polaganje može biti uslov da se ukine socijalna pomoć. Ipak, u opravdanim slučajevima, pre svega, kada je reč o osobama ograničene poslovne sposobnosti, uslov polaganja testa integrisanosti može u potpunosti biti ukinut.<sup>23</sup>

Kada je reč o priznavanju stranih diploma i drugih školskih isprava, imajući u vidu kurikulum u Holandiji u odnosu na druge države, o akreditaciji odlučuju Fondacija holandskih univerziteta za međunarodnu saradnju (NUFFIC) i Asocijacija za saradnju u obrazovanju i ekonomiji (SBB). U postupku priznanja strane diplome, pre svega, se utvrđuje njena autentičnost, a zatim i sadržina obrazovnog programa, stekocene kompetencije, trajanje i svrha studiranja i da li postoje značajne razlike u odnosu na isti obrazovni nivo u Holandiji.

Osobe kojima je dodeljen azil, a koje žele da upišu visokoškolske ustanove, školarinu plaćaju jednakojako kao i holandski državljanini. Nevladina organizacija pod imenom Fondacija izbeglih studenata pruža pomoć u tom pogledu i daje zajmove izbeglicama kako bi mogli da pokriju troškove studiranja.<sup>24</sup>

### 1.3. Pravo na zdravstvenu zaštitu

Od samog dolaska tražilaca azila u Holandiju pruža im se zdravstvena zaštita koja bi trebalo da bude ekvivalentna onoj koju imaju osobe sa prebivalištem u Holandiji. U trenutku kada su tražioci azila prisutni u prihvatnim centrima, Centralna agencija za prijem tražilaca azila je organ koji je dužan da im omogući pristup sistemu zdravstvene zaštite i upozna ih sa načinom na koji taj sistem funkcioniše. Svi tražioci azila registriraju se u Zdravstvenom centru za tražioce azila (*Gezondheids-centrum Asielzoekers*), nacionalnoj mreži lekara opšte prakse koji pružaju zdravstvenu zaštitu tražiocima azila i mogu, po potrebi, da ih upute na lekare specijaliste.

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22 Ibid.

23 Vidi više o tome na internet stranici Vlade Kraljevine Holandije na holandskom jeziku na: <https://www.rijksoverheid.nl/onderwerpen/nieuw-in-nederland/vraag-en-antwoord/kan-ik-ontheffing-krijgen-voor-een-inburgeringsexamen>.

24 Više o fondaciji i načinu podrške izbeglicama videti na internet stranici koja je dostupna na engleskom jeziku na: <https://www.uaf.nl/home/english>.

Osobe kojima je dodeljen azil, kao i tražioci azila i druge osobe sa prebivalištem u Holandiji, imaju pravo na pristup opštinskoj službi zdravstvene zaštite. Tražioci azila i osobe kojima je dodeljen azil imaju pravo na naknadu troškova zdravstva od strane države, a ovaj režim uglavnom se preklapa sa onim koji važi za domaće državljanе. Pravo na zdravstvenu zaštitu uvek postoji kada je reč o hitnim intervencijama, čak i kada je reč o osobama čiji je zahtev za azil odbijen.<sup>25</sup>

#### 1.4. Pravo na socijalnu pomoć

Tražioci azila u Holandiji koji ne mogu sami da se izdržavaju dobijaju nedeljni „džeparac“ od kojeg nabavljaju hranu i odeću. Visina ovog džeparca vezuje se za minimalni iznos socijalne pomoći na koju imaju pravo holandski državljeni, ali je niža od njega, imajući u vidu da je za ove osobe obezbeđen smeštaj u prihvatnim centrima.<sup>26</sup> Osobe koje poseduju sredstva za sopstveno izdržavanje nemaju pristup ovom režimu.

Osobe kojima je dodeljen azil u Holandiji mogu da učestvuju u sistemu socijalne zaštite pod istim uslovima kao i holandski državljeni.<sup>27</sup> Međutim, ove osobe imaju pravo da dobiju pozajmicu u iznosu do 10.000 evra od Izvršne službe za obrazovanje (*Dienst Uitvoering Onderwijs*) Ministarstva za obrazovanje, kulturu i nauku pored socijalne pomoći kao takve kako bi mogli da snose troškove pripremanja testa integrisanosti u holandsko društvo. U slučaju da uspešno polože test, lišeni su obaveze da vrate zajam.

#### 1.5. Pravo na smeštaj

U Holandiji osobe koje su dobile azil imaju pravo na smeštaj i stanovanje koje se načelno ostvaruje u dve faze: u prvoj fazi, pre nego što je Centralna agencija za prijem tražilaca azila za njih pripremila stambeni prostor u nekoj opštini, osobe koje su dobile boravišnu dozvolu po osnovu azila nastavljaju da borave u centru za tražioce azila; kasnije, u saradnji između Centralne

25 Zakon o strancima Kraljevine Holandije, član 10.

26 Dana 30. septembra 2015. godine, ovaj džeparac ukupno je mesečno iznosio 246,90 evra za odraslu osobu bez pratnje porodice; prema Asylum Information Database, *Country Report: The Netherlands*, Evropski savet za izbeglice i izgnanike i Holandski savet za izbeglice, novembar 2015, dostupno na engleskom jeziku na <http://www.asylumineurope.org/reports/country/netherlands>, str. 52.

27 Asylum Information Database, *Health Care – Netherlands*, Holandski savet za izbeglice i Evropska mreža za izbeglice i izgnanice, dostupno na engleskom jeziku na: <http://www.asylumineurope.org/reports/country/netherlands/reception-conditions/health-care>.

agencije za prijem tražilaca azila i opštine za koju se utvrdi da bi trebalo da primi osobu o kojoj je reč, osobi ili domaćinstvu koje je dobilo azil dodeljuje se socijalni smeštaj na teritoriji te opštine.

Smeštaj u centru za azil uređen je na sledeći način: kao i tražiocu azila, osobe kojima je dodeljen azil, a još uvek nisu dobile propisani smeštaj na teritoriji neke opštine, imaju pravo na boravak u centru, gde se uslovi smeštaja dodeljuju u odnosu na pojedinačne potrebe. U većini slučajeva, između pet i osam osoba smeštene su u posebne jedinice centra za azil koje se sastoje iz nekoliko spavačih soba, kuhinje i kupatila.<sup>28</sup> Ove osobe same su zadužene za održavanje reda u prostorijama koje su im dodeljene. Maloletnici bez pratnje smešteni su u posebne dečje grupe, pod dvadesetčetvoročasovnim nadzorom.<sup>29</sup>

Uključujući i „procesne“ centre, prihvavnih centara u Holandiji ima 84, sa ukupnim kapacitetom za smeštaj 24.850 ljudi.<sup>30</sup> S obzirom na porast broja osoba koje traže azil u Holandiji, osobe koje su dobile azil, a još uvek nisu dobile smeštaj van centra, imaju pravo da borave kod rodbine ili prijatelja, ukoliko ih imaju.<sup>31</sup> Kada je reč o smeštaju koji se dodeljuje osobama kojima je dodeljen azil u Holandiji, pojedinačne opštine imaju obavezu da obezbede stambeni prostor za osobe koje poseduju boravišne dozvole po osnovu azila. Ovaj smeštaj trebalo bi da bude obezbeđen u roku od 12 nedelja po izdavanju dozvole.<sup>32</sup>

Država svakih šest meseci postavlja kvote koje opštine moraju da ispune kada je reč o smeštaju datog broja osoba koje poseduju boravišnu dozvolu. Centralna agencija za prijem tražilaca azila povezuje pojedinačne imaoce boravišnih dozvola sa opštinom, koja onda obezbeđuje smeštaj na postojećoj lokaciji ili ukoliko nema slobodnih mesta, mora da sagradi dodatne objekte

28 Osobe smeštene u ovim ustanovama dobijaju nedeljni džeparac za hranu, odeću i lične troškove. Iako se podrazumeva da će tražiocu azila i osobe kojima je dodeljen azil, a još uvek su prisutne u centrima za azil, same sebi kupovati i spremati hranu, postoji mogućnost da dobiju doručak i ručak u centru za azil, ali u tom slučaju smanjiće im se džeparac koji dobijaju.

29 Budući da se maloletnici bez pratnje radi sopstvene bezbednosti drže odvojeno od odraslih osoba smeštenih u centrima za azil, centri u Drahtenu (*Drachten*), Oistervajku (*Oisterwijk*) i Aude Pekeli (*Oude Pekela*) imaju poseban, odvojeni smeštaj za maloletnike bez pratnje, a oni mogu biti smešteni i u centru u Vageningenu (*Wageningen*); *ibid.*, str. 56.

30 Podaci od 30. septembra 2015. godine; *ibid.*, str. 53.

31 Odluka holandskog ministra za bezbednost i pravdu 677862 od 10. septembra 2015. godine.

32 Vidi internet stranicu Vlade Kraljevine Holandije o smeštaju za osobe koje poseduju boravišnu dozvolu, dostupnu na engleskom jeziku na: <https://www.government.nl/topics/asylum-policy/contents/housing-for-residence-permit-holders>.

za smeštaj po povlašćenim cenama (*low-cost housing*).<sup>33</sup> Osoba kojoj se nudi smeštaj u obavezi je da prihvati ponudu; u suprotnom, gubi pravo kako na dalje učešće u programu dodeljivanja smeštaja, tako i na smeštaj u prihvatnom centru. Trebalo bi i naglasiti da osoba koja dobija smeštaj od opštine ne postaje vlasnik objekta, ali ima pravo da ga otkupi, ukoliko njegova ili njena finansijska situacija to dozvoljava.

Iako se smeštaj najčešće obezbeđuje u mestu u kome se nalazi prihvatni centar, osobe kojima se dodeljuje smeštaj mogu izraziti želju da budu smešteni i na drugim mestima ukoliko im tamo već žive članovi porodice ili ukoliko imaju posebne zdravstvene potrebe koje bi takvu relokaciju opravdale.

Ove osobe same su dužne da snose troškove smeštaja koji im je dodeljen; ukoliko je reč o osobama koje su nezaposlene, u velikoj većini slučajeva one će biti i osobe koje dobijaju socijalnu pomoć od države, koja je dovoljno velika da se pokriju razumni troškovi stanovanja i života.

Važnu ulogu u ovom pogledu igra istaknuta nevladina organizacija Holandski savet za izbeglice, koja putem ustaljene saradnje sa državnim organima pomaže ovim osobama da se prilagode novom načinu života i osposebe se da žive nezavisan život u Holandiji.<sup>34</sup>

## 1.6. Pravo na državljanstvo

Osobe koje dobiju boravišnu dozvolu u Kraljevini Holandiji imaju pravo da apliciraju za državljanstvo pod okolnostima koje inače važe za stalno nastanjene strance u ovoj zemlji. S obzirom na to da postoje različiti osnovi po kojima se može dobiti holandsko državljanstvo,<sup>35</sup> i osobe kojima je dodeljena međunarodna zaštita imaju pravo da podnesu zahtev za dobijanje državljanstva u Holandiji.

Radi dobijanja holandskog državljanstva podnosi se poseban zahtev Ministarstvu pravde, a uslovi za sticanje državljanstva su sledeći: da je podnositelj zahteva punoletan; da ima stalno prebivalište na teritoriji Holandije; da zakonito boravi na toj teritoriji već pet godina; za koga se može reći da je

33 Vidi internet stranicu Centralne agencije za prijem tražilaca azila o smeštaju za osobe koje poseduju boravišnu dozvolu, dostupnu na engleskom jeziku na: <https://www.Centralne agencije za prijem tražilaca azila: .nl/en/asylum-seekers/accommodation-for-residence-permit-holders>.

34 Internet stranica Holanskog saveta za izbeglice dostupna je na holandskom jeziku na: <http://www.vluchtelingenwerk.nl/>.

35 Ovi uslovi opisani su u Zakonu o holandskom državljanstvu (*Rijkswet op het Nederlandschap*) iz 1985. godine, dostupnom na holandskom jeziku na: [http://wetten.overheid.nl/BWBR0003738/geldigheidsdatum\\_02-02-2016](http://wetten.overheid.nl/BWBR0003738/geldigheidsdatum_02-02-2016).

integrисан (asimilован) u holandsko društvo, vlada holanskим jezikom na izvesnom nivou i poznaje politički i društveni sistem Holandije; i ko je spreman da položи zakletvu<sup>36</sup> (*verklaring van verbondenheid*).<sup>37</sup>

### 1.7. Pravo na spajanje porodice

Holandski Zakon o strancima, kada je reč o ostvarivanju prava na spajanje porodice, pod porodicom smatra suprugu ili supruga i maloletnu decu.<sup>38</sup>

Pravo na spajanje porodice ima osoba koja poseduje boravišnu dozvolu po osnovu dobijenog azila, odnosno osoba kojoj je dodeljen izbeglički status u Holandiji. Osobe koje bi boravišnu dozvolu trebalo da dobiju po osnovu spajanja porodice moraju se za to prijaviti u roku od tri meseca od dolaska u Holandiju ili prilikom izdavanja same dozvole. Ostvarivanje prava na jedinstvo porodice moguće je i putem *resettlement-a*, ali samo za članove porodice koji su bili poznati kao takvi od samog početka postupka izbora za *resettlement*, kako bi se predispole zloupotrebe.<sup>39</sup>

Osobe koje su po ovom osnovu dobiti boravišnu dozvolu u Holandiji imaju pravo da žive zajedno sa članom ili članovima porodice sa kojima su se spojili, pa i da zajedno žive u prostoru koji je dodelila opština osobi kojoj je dodeljen azil.

## IV ZAKLJUČAK

Uprkos merama kojima je sistem integracije izbeglica u holandsko društvo pooštren, holandski model i dalje predstavlja izuzetno razvijen mehanizam podrške koji omogućava osobama kojima je dodeljen izbeglički status da „stanu na noge“ i da se adekvatno uključe u društveni život Holandije. Stiče se utisak da paradigmatski okvir u kome se naglašava uloga same izbeglice u sopstvenoj integraciji – uz adekvatnu podršku od strane države i nevladinog sektora još za vreme trajanja postupka azila, u suštini omogu-

<sup>36</sup> Budуći da se osoba koja traži holandsko državljanstvo ovom izjavom obavezuje na поштovanje ustavnog poretku Kraljevine Holandije, što se može učiniti sa ili bez verske komponente, pojma „zakletva“ trebalo bi shvatiti u širem smislu, naročito s obzirom na činjenicu da je termin „zaklinjem se“ (*iz zweer*) u varijanti bez verske komponente zamenjen terminom „izjavljujem“ (*ik verklaar*).

<sup>37</sup> Zakon o holandskom državljanstvu, *supra* 17, čl. 8.

<sup>38</sup> Član 27 (1) (e) Zakona o strancima.

<sup>39</sup> Vidi UNHCR Resettlement Handbook, *Netherlands by the Government of the Netherlands*, UNHCR, dostupno na engleskom jeziku na: <http://www.refworld.org/pdfid/52a0776c0.pdf>.

ćava efikasnije i lakše integrisanje osoba koje dobiju međunarodnu zaštitu u Holandiji.

Imajući u vidu veliku razliku koja postoji u pogledu raspoloživih kapaciteta i resursa u zemljama Zapadnog Balkana i Srbije, sa jedne strane, i Kraljevine Holandije, sa druge, ali i višedecenijsko iskustvo potonje u zbrinjavanju izbeglica, nužno se postavlja pitanje u kojoj je meri holandski model adekvatan u odnosu na ovdašnje prilike. Ipak, određeni elementi tog modela svakako bi mogli da se primene i u našoj zemlji.



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## PREFACE

The Belgrade Centre for Human Rights in 2015 and 2016 implemented a project entitled “Serbia – From Transit to Destination Country” in cooperation with the Embassy of the Kingdom of the Netherlands and the Dutch Refugee Council.

The project aimed at improving the national asylum system by raising the awareness of all the actors dealing with this issue, at developing migration and asylum policies in Serbia in the context of EU integration and at turning this topic into a political priority. One of our key priorities was to familiarise as many people as possible, the expert and the general public alike, with the asylum system, the integration policy and the role of civil society organisations in the integration of persons granted international protection.

The Belgrade Centre for Human Rights has from the outset devoted major attention to its publishing endeavours. This project, too, envisages the publication of a report on integration policies in Serbia and the region and recommendations on how to further develop them and align them with European standards since, to the best of our knowledge, there is a lack of such literature in Serbia, which would inform the professionals dealing with this topic, as well as all those planning on engaging in this field more thoroughly.

We have decided to provide an overview of the law and practices of all the countries in the region, not only Serbia, because they are all on the so-called “Western Balkan refugee route”, their laws and policies are relatively similar and they all face various challenges and changes in their development. The regional approach to the topic is of exceptional relevance to Serbia, because the efficient protection of asylum seekers and refugees greatly depends on the asylum systems in the region and all improvements in any of them are likely to affect Serbia positively as well.

The regional approach was initiated also by international organisations, the UNHCR together with the IOM, which organised the first conference on international migration in the Western Balkans in Vienna in 2013, with a view to helping the states in the region build efficient asylum systems. All Western Balkan states took part in the conference and one of the main recommendations was to engage civil society in the region more actively and

establish cooperation in the fields of asylum and migration. The conference was followed by a regional meeting of civil society organisations extending legal aid to asylum seekers in their countries as UNHCR's executive partners (including Greece and Turkey) in Skopje. Its participants in general concluded that the countries in the region were not all at the same stage of development, despite the similarities between their national legislations, and that organisations in countries with more progressive and efficient asylum systems needed to share their knowledge with others. The participants also emphasised the negative perceptions of the countries in the region, because they above all politically positioned themselves as "transit countries" on the Western Balkan route towards EU countries. Joint advocacy and action by the region's civil society are instrumental if these perceptions are to change and if the transit countries are to build their institutions and refugee protection mechanisms gradually and efficiently and become destination countries. We hope that this publication, too, will contribute to the achievement of this goal.

The authors of the publication presented their countries (the Former Yugoslav Republic of Macedonia, Slovenia, Serbia and the Netherlands) and their asylum law, with particular focus on the system of integration of people granted international protection. We methodologically endeavoured to cover all the major rights in the refugee integration system, wherefore each country chapter comprises the same sections: PART I – Concept and General Overview of the National Asylum System; PART II – Institutional Mechanisms for the Protection of Refugees; PART III – Realisation of Rights Forming an Integral Part of Refugee Integration (1.1 Right to Work; 1.2 Right to Education; 1.3 Right to Health Care; 1.4 Right to Social Assistance; 1.5 Right to Housing; 1.6 Right to Citizenship; and, 1.7 Right to Family Reunification; and PART IV – Conclusions and Recommendations.

The Kingdom of the Netherlands is also included in this publication because of its impressive refugee integration system. BCHR associates had the unique opportunity to go on a study visit to the Dutch Refugee Council in Amsterdam, to familiarise themselves with the Dutch asylum system, integration policy and the role of civil society organisations in the integration of persons granted international protection.

# INTRODUCTION

Migration is today an extremely important economic and social phenomenon, which should be perceived as a complex process involving the movement of people. When we view migration in the context of the globalisation of society, we realise it provides ample opportunities both for the migrants and the states they are migrating to, as well as potential threats reflected in the migrants' social vulnerability and, frequently, their marginalisation and discrimination. This is precisely why migration is increasingly viewed through the prism of human rights because, if migrants do not have access to human rights, the very purpose of migration is threatened since the true potential of migration can be perceived as the migrants' contribution to the societies they live in or which they are linked to. The protection of the migrants' human rights is important also from the viewpoint of their social inclusion and integration, because it helps them be economically productive and culturally and socially enrich the communities they are integrating in. As the Global Migration Group emphasised, "Protecting these rights is not only a legal obligation, it is also a matter of public interest and intrinsically linked to human development." Migration will achieve its full potential only when it is conceptualised in human rights terms. The migration process, however, entails complex challenges in terms of migration management, protection of migrants and international cooperation between the countries of origin, transit and destination.

The status of asylum seekers and refugees as a sub-category of migrants is particularly sensitive given that they fall in the so-called vulnerable groups of migrants, because they leave their countries of origin fearing for their lives; their vulnerability renders them extremely susceptible to discrimination on grounds of their nationality. On the other hand, many destination countries have extremely rigorous or unfavourable policies on "aliens", undermining the realisation and protection of their social, economic and cultural rights, because they lay down particular, usually stringent conditions for the integration of this category of people.

The authors of this publication have endeavoured to present various integration systems, which demonstrate that the main issue today is the

extent to which integration-related rights are limited, how they are protected by international documents and the headway each of the selected states has made in this area.

The Republic of Serbia is also experiencing what other Central and East European countries had gone through: the inflow of migrants increased as they drew nearer to EU membership.

Serbia, however, scored 41 out of 100 points on the Migrant Integration Policy Index (MIPEX), which actually shows that its policies are barely halfway favourable for the social integration of third-country nationals. Serbia has faced increased mixed migration flows in the past few years. The reasons why the aliens are moving to Serbia are not easy to categorise. A large number of them are potential refugees, i.e. people coming from refugee-producing countries (e.g. Syria, Afghanistan, Eritrea, Somalia, etc.), which calls for additional efforts of the competent authorities to identify the different categories of migrants. The Serbian asylum system cannot be qualified as efficient yet; nor can the situation in this field be described as satisfactory.

Given Serbia's strategic commitment to accede to the European Union and its intensive EU integration efforts in the past few years, particularly with a view to opening the first chapters relevant to improving the general state of human rights in the country, including in the asylum and migration field, the opening of talks on Chapter 24 – Justice, Freedom and Security – falling within the so-called high policies of sovereign states, launches an extremely important process both for the candidate country and the European Union itself. Chapter 24 will be particularly relevant to the accession of both Serbia and the other Western Balkan states to the European Union due to the region's reputation for instability, conditionally speaking, as well as the EU's recent experiences after its enlargement to Bulgaria, Romania and Croatia. Experience has shown that the reforms of the judicial and internal affairs systems are sometimes more difficult than the adoption of the *acquis* and integration in the EU economic system, and that earlier alignment and better preparedness of the candidate states yield more efficient post-accession results.

Serbia's integration system still suffers from shortcomings although the state has improved its legislative framework, with the adoption of a new Aliens Employment Act (in December 2014), which is largely in line with all the European standards in this field, and the Decree on Criteria for Establishing Priority Accommodation of Persons Recognised the Right to Refuge or Granted Subsidiary Protection (in July 2015).

Serbia, notably, still lacks an institution that would be charged with the comprehensive integration of people granted asylum, as well as regulations

governing this matter in greater detail. The constant increase in the number of asylum seekers is likely to result in a greater number of approved asylum applications, wherefore the absence of regulations facilitating their integration may lead to major problems in the functioning of the system. Furthermore, in countries with high unemployment rates, such as Serbia, there are fears that migrants from third countries will “compete” for the already meagre job opportunities. Many integration policy makers, however, claim that immigration may open new opportunities for the domestic population together with the migrants. For example, when migrants take the jobs supplementing the labour market rather than replacing the local workforce (e.g. unqualified jobs) or migrants with qualifications and training in demand in the host country (e.g. engineers, IT experts, financial services experts, etc.). It would also be reasonable to expect that the Serbian society’s acceptance of migrants and asylum seekers will be a complex and novel process, in view of the fact that Serbia has in the past 15 years or so been primarily a country of emigration rather than immigration. The situation has changed significantly in the past few years and Serbia is now tasked with developing its migration policies and efficiently integrating the refugees in its society.



# Republic of Serbia





## ABSTRACT

*This study is intended to a specific target group of people, asylum seekers and migrants residing and exercising their rights in the Republic of Serbia, who are not that “popular” in this country. The efforts invested in providing the access to their rights do not differ from those of Serbian citizens. Yet, they have been marginalized, especially in terms of exercising economic, social and cultural rights, which are particularly sensitive and violated in Serbia.*

*Although the Republic of Serbia is currently facing an influx of persons seeking international protection and migrating through it, few have been granted international protection and stayed within its territory. Nevertheless, with the development of efficient asylum system and integration of refugees, a greater number of them will inevitably express the intention to reside and work throughout Serbia.*

*Requirements to access European Union also include establishment of transparent legal frame in line with European standards regarding integration of refugees, which shall encompass the areas such as protection mechanisms, guarantee and exercise of a whole set of rights, regulation of access to labor market, education, social services, naturalization of refugees and many others. Serbia is at the very beginning in its creation of efficient integration system, and civil society organizations will hopefully be active and equal partners in the process.*

## I GENERAL OVERVIEW

The Republic of Serbia is bound by numerous international treaties governing the asylum issue, either directly or indirectly. Apart from the 1951 UN Convention Relating to the Status of Refugees<sup>1</sup> and its 1967 Protocol, Serbia is bound, *inter alia*, by the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the UN Convention on the Rights of the Child and many other conventions.

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<sup>1</sup> Official Gazette of the FPRY – International Treaties and Other Agreements, 7/60.

As a party to these international documents, Serbia is under the obligation to include the relevant provisions in its legislation and adopt the relevant enactments aligning its law with its international obligations.

Article 57 of the Constitution guarantees the right to refuge<sup>2</sup>, while the asylum procedure and the way asylum seekers and people granted asylum in Serbia exercise their rights are governed by the Asylum Act<sup>3</sup> that came into force in 2008.

The Asylum Office, operating within the Ministry of the Interior (MOI) Border Police Directorate, is charged with reviewing the asylum applications in the first instance. Aliens who want to express the intention to seek asylum may do so when they enter the territory of the Republic of Serbia or within its territory, by expressing such an intention to an authorised officer of the MOI Aliens Department.<sup>4</sup> The officer issues the alien a certificate of intent to seek asylum, which is valid for 72 hours, and refers him<sup>5</sup> to the designated Asylum Centre.

Once an asylum seeker is accommodated in an Asylum Centre (or allowed to rent private accommodation), the Asylum Office schedules his registration, which entails establishing the alien's identity and photographing and fingerprinting him. The registered alien is issued an ID for asylum seekers.<sup>6</sup>

The registered asylum seeker is under the obligation to submit an application for asylum either orally or in writing in the presence of an Asylum Office officer within the fortnight.<sup>7</sup>

The asylum procedure formally begins when an alien submits his asylum application. The Asylum Act does not specify the duration of the procedure, but the General Administrative Procedure Act, as a *lex generalis*, lays down a 60-day deadline within which decisions in administrative proceedings must be reached.<sup>8</sup> Before rendering its first-instance decision, the Asylum Office is under the duty to interview the applicant at least once, with a view to ascertaining all the relevant facts regarding his asylum application.<sup>9</sup>

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2 *Official Gazette of the RS*, 98/2006.

3 *Official Gazette of the RS*, 109/2007.

4 Asylum Act, Article 22.

5 The masculine pronoun is used in the Report to refer to an antecedent that designates a person of either gender unless the Report specifically refers to a female. Both the authors of the Report and the BCHR advocate gender equality and in principle support gender neutral language.

6 Asylum Act, Article 24.

7 Asylum Act, Article 25.

8 *Official Journal of the FRY*, 33/97 and 31/2001 and *Official Gazette of the RS*, 30/2010, Article 208.

9 Asylum Act, Article 26.

The Asylum Office renders rulings by which it either uphold,<sup>10</sup> rejects<sup>11</sup> or dismisses<sup>12</sup> asylum applications depending on the circumstances of the individual cases. Asylum seekers dissatisfied with the Office's decisions are entitled to appeal them with the Asylum Commission<sup>13</sup> within 15 days from the day of service.<sup>14</sup> The Commission is under the duty to rule on an appeal within 60 days.

The asylum seekers may challenge the Asylum Commission's decisions by initiating an administrative dispute before the Administrative Court, as the third instance in the asylum procedure.

In addition to the Ministry of Interior, which is charged with implementing the asylum procedure, the Commissariat for Refugees and Migration also plays a key role in the asylum system. It is charged with providing asylum seekers and people granted asylum with accommodation and with the integration of the latter (see below). The Ministry of Labour, Employment and Veteran and Social Affairs and the Ministry of Health also play an important role in the asylum system.

Asylum seekers are, *inter alia*, entitled to stay in the Republic of Serbia pending a decision on their application, accommodation in an Asylum Centre,<sup>15</sup> health care,<sup>16</sup> free primary and secondary education and social assistance.<sup>17</sup> Asylum seekers undergo medical examinations on admission to the Asylum Centres. The costs of their accommodation in the Centres are covered by the state and they are provided with three meals a day.

## II INSTITUTIONAL MECHANISMS FOR THE PROTECTION OF REFUGEES

Efficient refugee integration mechanisms are crucial in the process, because they help the refugees get used to their new country and also help the receiving country and its communities and nationals adjust to living with

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10 Asylum Act, Article 28.

11 Asylum Act, Article 29.

12 Asylum Act, Article 33.

13 The Asylum Commission is an independent body comprising a chairperson and eight members, who are appointed to four-year terms in office by the Government. It rules on appeals of Asylum Office decisions. All the Commission members must fulfil the following requirements: they must be nationals of the Republic of Serbia, have a law degree, at least five years of professional working experience and knowledge of regulations on human rights.

14 Asylum Act, Article 35.

15 Asylum Act, Article 39.

16 Asylum Act, Article 40.

17 Asylum Act, Article 41.

the newcomers. Institutions extending services at the national level have the opportunity to facilitate the refugees' long-term integration.<sup>18</sup>

The rights of asylum seekers and people granted refugee protection are governed in Chapter VI of the Serbian Asylum Act, which includes provisions on their right to residence, accommodation, basic living conditions, health care, education and social assistance. These categories of aliens are also entitled to other rights granted to aliens habitually residing in the Republic of Serbia and rights exercised by Serbia's nationals.<sup>19</sup> People granted the right to refuge in the Republic of Serbia have rights equal to those of habitually residing aliens with respect to the right to work and rights arising from employment, entrepreneurship, the right to permanent residence and freedom of movement, the right to movable and immovable property and the right of association.

Although the Aliens Act<sup>20</sup> does not, in principle, apply to aliens applying for or granted asylum in Serbia, the provisions of this law apply to conditions for the reunification of people granted asylum or subsidiary protection with their families and to the removal of aliens from Serbia's territory. The Aliens Act also applies to successful asylum seekers with respect to the above-mentioned rights enjoyed by habitually residing aliens.<sup>21</sup>

Under the Migration Management Act, the Commissariat for Refugees and Migration is charged with the integration of aliens granted asylum in Serbia.<sup>22</sup> The Migration Management Act<sup>23</sup> governs the accommodation and integration of people granted asylum or subsidiary protection and entrusts these duties to the Commissariat for Refugees and Migrations (the erstwhile Refugee Commissariat established under the Republic of Serbia Refugee Act). The Commissariat is tasked with identifying, proposing and taking measures to integrate people granted asylum under the Asylum Act and with the accommodation of aliens granted asylum or subsidiary protection.<sup>24</sup>

The method of integration, i.e. inclusion of people granted asylum in the country's social, cultural and economic life shall be regulated by the Government, at the proposal of the Commissariat.<sup>25</sup> The Commissariat is also charged with proposing programmes for developing a system of measures for

<sup>18</sup> Ruti Sinai, Adi Binhas, Yael Rockoff, *Alatke za rad za integraciju imigranata u Srbiji*, International Organization for Migration – Mission in Serbia, Capacity Building of Institutions Involved in Migration Management and Reintegration of Returnees in the Republic of Serbia (CBMM) Belgrade, 2012, 13.

<sup>19</sup> Articles 39–44, Asylum Act.

<sup>20</sup> *Official Gazette of the RS*, 97/2008.

<sup>21</sup> Article 46, Asylum Act.

<sup>22</sup> *Official Gazette of the RS*, 107/2012, Article 10.

<sup>23</sup> *Official Gazette of the RS*, 107/2012.

<sup>24</sup> Articles 10–16, Migration Management Act.

<sup>25</sup> Article 16, Migration Management Act.

families of aliens illegally residing in Serbia's territory and programmes for facilitating the voluntary return of aliens illegally residing in Serbia to their countries of origin.

Under the 2009 National Migration Management Strategy,<sup>26</sup> Serbia shall manage migration in a comprehensive manner, whilst adhering to European migration standards and taking into account its own specificities. The Strategy is, *inter alia*, based on values that are to ensure respect for the human rights of all categories of migrants, facilitate their integration in society, prohibit discrimination, facilitate family reunification, whilst paying due consideration to the needs of all the stakeholders.

The institutional framework is also made up of other institutions involved in the Serbian migration system under the law and relevant normative enactments and strategies. They include various ministries charged with individual rights, such as the Ministry of Labour, Employment and Veteran and Social Affairs, the Ministry of Education, Science and Technological Development, the Ministry of Health, the Ministry of Internal Affairs, etc.

Under the Chapter 24 Action Plan prepared within Serbia's accession talks with the European Union, the Commissariat shall draft a plan for the integration of people granted international protection.<sup>27</sup> In the absence of a comprehensive plan, the integration of people granted international protection is very limited in scope. One of the normative problems arises from the fact that Serbian law recognises the right to integration only to people granted asylum i.e. the right to refuge, but not to people granted subsidiary protection.

The Asylum Act does not define the character of the integration process which successful asylum seekers are entitled to. However, given that a complex phenomenon regarding the realisation of various rights is at issue, we shall diagnose the situation by looking at the various individual norms and their practical implementation.

### III REALISATION OF RIGHTS FORMING AN INTEGRAL PART OF REFUGEE INETGRATION

#### 1.1. Right to work

In terms of Article 43 of the Asylum Act, the employment of asylum seekers and aliens granted international protection is governed by regulations on the employment of aliens and stateless persons.

26 Official Gazette of the RS, 59/09.

27 The Chapter 24 Action Plan is available at [http://www.bezbednost.org/upload/document/akcioni\\_plan\\_za\\_poglavlje\\_24\\_-\\_finalna\\_verzija.pdf](http://www.bezbednost.org/upload/document/akcioni_plan_za_poglavlje_24_-_finalna_verzija.pdf), point 2.1.5.1.

One of greatest differences between the Serbian and EU Member States' asylum systems was that asylum seekers in Serbia were not allowed to work until December 2014. Only persons granted refuge (i.e. refugee status) under the Asylum Act were entitled to work, while aliens granted other forms of international protection were not. The status of aliens seeking and granted international protection, however, significantly improved with the adoption of the new Aliens Employment Act<sup>28</sup> in December 2014. The new Act generally governs the work of aliens in a much more modern manner and includes the obligation to issue work permits to a much broader circle of aliens. Article 2(8) of the Act is the first to explicitly mention "*refugees as aliens recognised the right to refuge pursuant to asylum regulations, with the exception of people from the former SFRY, whose refugee status has been recognised in accordance with regulations on refugee and whom this law does not apply to*". Paragraph 9 of this Article defines "*persons belonging to a special category of aliens as persons seeking asylum, persons granted temporary protection, human trafficking victims and persons granted subsidiary protection in accordance with the law*".

Under the Aliens Employment Act, personal work permits may also be issued to the special category of aliens, notably, asylum seekers, persons granted temporary protection, human trafficking victims, persons granted subsidiary protection and refugees.<sup>29</sup> The validity of the personal work permits depends on the duration of the aliens' status; the situation in the labour market may be taken into account during the issuance of such a permit, in the event a decision on a quota is rendered. The Serbian labour law has thus been aligned with EU standards as it transposed the provisions in EU Directives (2013/33, 2001/55, 2004/81 and 2011/95) governing issues related to persons under international protection, refugees, asylum seekers, persons under temporary or subsidiary protection and human trafficking victims. The National Employment Service is tasked with issuing work permits and implementing various active employment policy measures.

Pursuant to EU standards,<sup>30</sup> Serbia needs to introduce new, specific vocational and advanced training programmes, programmes for acquiring practical work experience and to extend work-related counselling services, under the same conditions applicable to Serbian nationals. The National

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<sup>28</sup> Official Gazette of the RS, 128/2014.

<sup>29</sup> Article 13, Aliens Employment Act of the Republic of Serbia.

<sup>30</sup> Above all, the integration standards laid down in Article 26 of classification Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection. Official Journal L 180/60.

Employment Service is at the moment extending such services but only to nationals of Serbia, while this special category of aliens still has not been recognised as a target group in need of support in joining the labour market.

The 2011–2020 National Employment Strategy<sup>31</sup> recognises that the Republic of Serbia is facing all types of migration, external and internal, forced and voluntary, legal and illegal, migration of highly qualified and unqualified workers, immigration and emigration.<sup>32</sup> Serbia's migration policy in the past few decades has focused on providing humanitarian aid to thousands of forced migrants, fleeing inter-ethnic violence and military activities. The Strategy provides for the establishment and expansion of a network of migration service centres under the National Employment Service, which are to provide migrants and potential migrants with information, counselling and guidance.<sup>33</sup>

## 1.2. Right to education

Asylum seekers and persons granted asylum are entitled to primary and secondary education free of charge.<sup>34</sup> The right to education in the Republic of Serbia is governed by a set of laws, first and foremost, by the corollary Education System Act, while primary, secondary and tertiary education are regulated by the Primary Education Act<sup>35</sup>, Secondary Education Act<sup>36</sup> and Higher Education Act<sup>37</sup>. These laws govern also the education of foreign nationals and stateless persons in the Republic of Serbia, as well as the recognition of foreign school documents.<sup>38</sup> Under the Education System Act, foreign nationals and stateless persons shall enrol in primary and secondary

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31 *Official Gazette of the RS*, 55/05, 71/05 – corr., 101/07, 65/08 and 16/11.

32 *Ibid*, p. 18.

33 *Ibid*, p. 29.

34 Article 41, Asylum Act.

35 *Official Gazette of the RS*, 50/92, 53/93, 67/93, 48/94, 66/94 – Constitutional Court decision, 22/2002, 62/2009 – other law, 101/2005 – other law and 72/2009 – other law.

36 *Official Gazette of the RS*, 50/92, 53/93, 67/93, 48/94, 24/96, 23/2002, 25/2002 – corr., 62/2003 – other law, 64/2003 – corr. of other law, 101/2005 – other law, 72/2009 – other law and 55/2013 – other law, 50/92, 53/93, 67/93, 48/94, 24/96, 23/2002, 25/2002 – corr., 62/2003 – other law, 64/2003 – corr. of other law, 101/2005 – other law, 72/2009 – other law и 55/2013 – other law.

37 *Official Gazette of the RS*, 76/2005, 100/2007 – authentic interpretation, 97/2008 and 44/2010, 93/2012 and 89/2013.

38 Osnovi upravljanja migracijama u Republici Srbiji, International Organization for Migration – Mission to Serbia, Belgrade, 2012, p. 62.

school and exercise the right to education under the same conditions and in the same manner as nationals of the Republic of Serbia.<sup>39</sup>

The schools shall organise language lessons and preparatory and additional classes pursuant to instructions issued by the Education Minister for children and pupils, who are foreign nationals or stateless persons, as well as for those who have been expelled or displaced, and who do not speak the language of tuition or lack the requisite knowledge in specific subjects that they need to pursue their education.<sup>40</sup> Underage asylum seekers have not had access to education although a legal framework governing their enrolment procedure and satisfaction of their specific educational needs is in place.<sup>41</sup> Although the Asylum Act came into effect in 2008, the first two underage asylum seekers enrolled in school (a primary school in Bogovađa) in the 2012/2013 school year. These pupils were enrolled thanks to the Asylum Protection Center, the organisation extending legal aid to their families.<sup>42</sup> On the other hand, secondary education, or at least Serbian language lessons, should be organised not only for underage asylum seekers, but for adults in the Asylum Centres as well. Although some Centres provide Serbian language courses, organised by international organisations, notably the UNHCR and the Danish Refugee Council, the national authorities charged with education are not involved in the organisation of these activities.<sup>43</sup>

Furthermore, no procedure expediting the recognition of the refugees' foreign diplomas is in place. The refugees have to cover all the fees for the recognition of their diplomas, as the state does not provide for any waivers. Most of the refugees are unable to submit the required documentation due to the situation in their countries of origin and there is no alternative procedure in place to validate their qualifications, e.g. by testing them. Such a procedure should be introduced to facilitate their integration in various spheres of society.

39 Asylum seekers and persons granted asylum in the Republic of Serbia are equated with the category of stateless persons, i.e. are entitled to some of the same rights as foreign nationals. That is also the case in the field of education, because the by-laws governing these issues in greater detail have not been adopted yet.

40 Article 100, Education System Act, *Official Gazette of the RS*, 72/2009 and 52/2011.

41 More in BCHR's periodic and annual asylum reports (the sections on the right to education), available at: <http://www.azil.rs/documents/category/reports>.

42 To the best of BCHR's knowledge, these children and their families left Serbia in the autumn of 2013.

43 Language courses are organised for children and adults in the Banja Koviljača and Bogovada Asylum Centres, with the financial support of the UNHCR Office in Belgrade and the Danish Refugee Council.

### 1.3. Right to health care

Under the Asylum Act, asylum seekers and persons granted asylum in the Republic of Serbia have equal rights to health care, pursuant to regulations governing the health care of aliens.<sup>44</sup>

As provided for by the Rulebook on Medical Examinations of Asylum Seekers on Admission to Asylum Centres,<sup>45</sup> an asylum seeker shall undergo a medical examination on admission to an Asylum Centre; such check-ups are performed by doctors working in the outpatient health clinics extending health services in the municipalities in which the asylum seekers are residing. Health supervision is performed by the Public Health Institutes and the costs of health care extended to asylum seekers and persons granted asylum are covered by the Ministry of Health; the UNHCR covers the costs of medications and therapy of chronically ill persons.

### 1.4. Right to social assistance

The Asylum Act also guarantees the right to social assistance to asylum seekers and persons granted asylum. Article 2 of the new Social Protection Act<sup>46</sup> defines social protection as an organised social activity of public interest aimed at extending assistance to and supporting individuals and families to live independent and productive lives in society and at preventing social exclusion and eliminating its consequences. The Act also specifies that social protection may be extended to Serbian nationals, as well as to foreign nationals and stateless persons pursuant to the law and international treaties. Regulations on the provision of social assistance to persons seeking or granted asylum shall be enacted by the minister charged with social policy. The by-law on social assistance to persons seeking or granted asylum<sup>47</sup> has been adopted, but it guarantees the right to social assistance only to persons renting accommodation, not to those living in the Asylum Centres, which is contradictory in itself, given that aliens who can afford to rent accommodation definitely are not as financially destitute as those forced to live in the collective centres and ineligible to exercise this right. To the best of BCHR's knowledge, social assistance was not extended to anyone seeking or granted asylum in the 2012–2014 period.<sup>48</sup>

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44 Asylum Act, Article 40.

45 Rulebook on Medical Examinations of Asylum Seekers on Admission to Asylum Centres, *Official Gazette of the RS*, 93/2008.

46 *Official Gazette of the RS*, 24/2011.

47 *Official Gazette of the RS*, 44/2008.

48 *Right to Asylum 2014*, BCHR, p. 52.

## 1.5. Right to housing

Under the Asylum Act, aliens who initiate the asylum procedure are entitled to accommodation in an Asylum Centres, which shall provide them with the basic living conditions, i.e. clothes, food and financial aid.<sup>49</sup> Aliens living in Asylum Centres, who have sufficient funds, are under the obligation to cover part of their accommodation expenses; the state, however, has not invoked this provision yet. The Asylum Office may allow asylum seekers to live outside the Asylum Centres at their request, provided there are no grounds for restricting their freedom of movement; these asylum seekers are under the obligation to cover the costs of accommodation themselves.

Aliens recognised the right to refuge or granted subsidiary protection are entitled to accommodation commensurate with the capacities of the Republic of Serbia for up to a year from the day the rulings on their status become final.<sup>50</sup> This entails providing them with specific housing or financial aid to rent housing.

In July 2015, the Government of the Republic of Serbia adopted a Decree on Criteria for Establishing Priority Accommodation of Persons Recognised the Right to Refuge or Granted Subsidiary Protection and the Conditions for the Use of Temporary Housing.<sup>51</sup> The Decree regulates in detail the allocation of accommodation to persons granted asylum, including the eligibility requirements and the accommodation priorities and conditions.

Accommodation shall be provided to persons recognised the right to refuge or granted subsidiary protection and their family members provided the rulings on their status were issued within the past 12 months and they lack the income to resolve their housing needs themselves.<sup>52</sup> Housing may also be provided to persons with income to resolve their housing needs, depending on their personal circumstances and the availability of housing.<sup>53</sup> Temporary housing shall be provided in facilities and parts of facilities owned by the Republic of Serbia and used by the Commissariat for Refugees and Migration and designated for this purpose by a decision of the Commissioner or in facilities or parts of facilities owned by the Republic of Serbia or local self-governments pursuant to a decision of the relevant authority.<sup>54</sup>

Each housing unit must comprise a kitchen, toilet, a bed and bed linen, have electricity and running water, heating and personal and household

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<sup>49</sup> Asylum Act, Article 39.

<sup>50</sup> Asylum Act, Article 44.

<sup>51</sup> *Official Gazette of the RS*, 63/15.

<sup>52</sup> *Ibid.*, Article 3.

<sup>53</sup> *Ibid.*, Article 4.

<sup>54</sup> *Ibid.*, Article 5.

hygiene products.<sup>55</sup> If no housing facilities or temporary accommodation conditions exist, the beneficiaries may be provided with financial aid to meet their housing needs.<sup>56</sup>

Under the Asylum Act and this Decree, the beneficiaries will be provided with accommodation for a maximum of one year from the day the ruling recognising their right to refuge or granting them subsidiary protection becomes final.<sup>57</sup>

## 1.6. Right to citizenship

Neither the Citizenship Act<sup>58</sup> nor the Asylum Act provide for an expedited naturalisation procedure for persons granted asylum, despite the requirement in Article 34 of the Convention Relating to the Status of Refugees, under which the “Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees”. The Citizenship Act provides for an expedited integration of refugees from the other former Yugoslav republics,<sup>59</sup> but not of persons granted asylum in accordance with the Asylum Act.

A problem has appeared in practice with regard to the fulfilment of the three-year residence eligibility requirement by persons granted asylum and applying for Serbian citizenship. Namely, although the Asylum Act sets out that persons recognised the right to refuge shall have the status of habitually residing aliens in Serbia,<sup>60</sup> the competent authorities do not consider the refugees habitual residents because they *de facto* do not fulfil the habitual residence requirements in the Aliens Act. Instead, their residence is defined as temporary, as long as they maintain their status. By the time this publication was finalised, not one refugee had entered the procedure for obtaining Serbian citizenship; nor are refugees *de facto* able to, until the law is amended to allow them to exercise this right.

## 1.7. Right to family reunification

Under the Asylum Act, persons recognised the right to refuge are entitled to reunification with their families.<sup>61</sup> Persons granted subsidiary protection are

55 *Ibid.*, Article 6.

56 *Ibid.*, Article 9.

57 *Ibid.*, Article 16.

58 *Official Gazette of the RS*, 135/2004.

59 Citizenship Act, Article 23.

60 Asylum Act, Article 43.

61 Asylum Act, Article 48.

entitled to family reunification in accordance with regulations governing the movement and residence of aliens.<sup>62</sup> Decisions on family reunification are rendered by the Asylum Office.

To the best of our knowledge, no family reunification procedures under the Asylum Act have been conducted to date, wherefore it is impossible to ascertain how this right would be exercised in practice.

#### IV CONCLUSION

The Asylum Act lays down the obligation of the Republic of Serbia to put in place conditions for the inclusion of the refugees in the country's social, cultural and economic life, commensurate with its capacities, and to enable the naturalisation of the refugees.<sup>63</sup> Under the Migration Management Act,<sup>64</sup> the Commissariat for Refugees and Migration<sup>65</sup> is charged with the accommodation and integration of persons recognised the right to refuge or granted subsidiary protection.

Neither the Asylum Act nor the Migration Management Act define the specific measures or procedures for designing individual plans for the integration of individuals granted refuge. This matter is to be regulated by subsidiary legislation. The Government is expected to adopt a decree governing in detail the individual integration of persons granted refugee protection. In July 2015, it adopted a Decree on Criteria for Establishing Priority Accommodation of Persons Recognised the Right to Refuge or Granted Subsidiary Protection and the Conditions for the Use of Temporary Housing.<sup>66</sup>

Although the Commissariat for Refugees and Migration is legally charged with the integration of refugees, the authors of this publication cannot conclude that the Commissariat is the central institution they can turn to for support in the form of specific integration measures. Rather, hitherto practice has shown that civil society organisations active in the asylum and migration field have efficiently extended both legal aid during integration, and other forms of support<sup>67</sup> to persons granted international protection in Serbia.

62 Asylum Act, Article 49.

63 Article 46, Asylum Act.

64 *Official Gazette of the RS*, 107/2012.

65 Articles 15 and 16, Migration Management Act

66 *Official Gazette of the RS* 63/2015.

67 This assistance has mostly taken the form of Serbian Language lessons, extension of administrative aid in the beneficiaries' submissions to the competent institutions, etc.

Despite the fact that the asylum system in Serbia is underdeveloped, and consequently the integration system of persons granted international protection, inclusion of refugees into economic and social life in the Serbian society is crucial if they are to lead normal and productive lives. Inopportune development of integration system and inclusion of asylum seekers, refugees and migrants into the labour market may only have a negative impact on longlasting chances for their economic and social integration, leaving persons granted international protection in isolation and poverty. It is of vital importance that persons granted international protection enjoy their economic and social rights as they create basis for their general well-being and they are to these persons equally important as international protection itself.



# Republic of Slovenia





# ABSTRACT

*This study provides a legislative and practical overview of integration of refugees in Slovenia. Section I. outlines the laws and regulations and basic characteristics pertaining to the asylum system with a specific emphasis on integration. In Section II. the study presents the institutional structure for integration of refugees, as well as overall and current number of persons granted international protection in Slovenia. Section III. focuses on individual fields of integration: employment, education, health care, social assistance, accommodation, citizenship and family reunification. In preparation of the study the author reviewed all relevant national legislation and carried out interviews with an integration officer of the Ministry of the Interior and a representative of the national civil society "Društvo Odnos".*

## I GENERAL OVERVIEW

The main law covering the asylum system in Slovenia is the International Protection Act<sup>1</sup>, enacted in 2007 and last amended in 2013. A new International Protection Act is currently in the final stages of legislative procedure and is expected to be enacted in April 2016. Integration of persons granted international protection in Slovenia is further specified in the Decree on the methods and conditions for ensuring the rights of persons granted international protection<sup>2</sup>. Provisions relevant to accommodation of asylum seekers are also contained in the Aliens Act<sup>3</sup>, including special provisions for family reunification (differing from provisions for other aliens).

The competent authority charged with the asylum system in Slovenia is the Ministry of the Interior, operating through its departments for the Accommodation, Care and Integration, tasked with providing accommodation to asylum seekers and integration of persons granted international protection and the Status Affairs Department, tasked with deciding on the merits of their applications.

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1 *Official Gazette of the Republic of Slovenia*, No. 111/2007, as amended, International Protection Act, integration of persons granted international protection is covered in Articles 89–104.

2 *Official Gazette of the Republic of Slovenia*, No. 55/2011 and 36/2014, hereafter: Decree.

3 *Official Gazette of the Republic of Slovenia*, No. 50/2011, as amended.

Asylum seekers pending a decision on their applications are given accommodation in the Asylum Home in Ljubljana or one of its branch facilities<sup>4</sup>. Asylum seekers enjoy the rights set out in the International Protection ActPA<sup>5</sup>, including provision of basic living conditions (housing, food and clothing), the right to emergency medical care for adults and full medical care for underage asylum seekers, the right to education and the right to work, in case the applicant's identity has been established and the Ministry of the Interior has not rendered decision on their status within nine months from the date of application. International Protection Act does not specifically address the integration process of asylum seekers. In practice it is mostly facilitated through inclusion in schools<sup>6</sup> and activities of civil society organizations conducted in the Asylum Home and its branch facilities (e.g. Slovenian language lessons). However, integration of asylum seekers is constrained by its uncertain outcome with regard to the relatively low recognition rate in Slovenia<sup>7</sup>.

Based on the criteria from the EU Qualification directive<sup>8</sup> asylum seekers in Slovenia can be granted refugee status or subsidiary protection status. Refugee status is granted with no time limitation on the status, while subsidiary protection status is granted for a limited period (depending on the case; in practice usually for a period ranging from one to three years) with the possibility of extension.

## II INSTITUTIONAL MECHANISMS FOR THE PROTECTION OF REFUGEES

Support to persons granted international protection is provided in the first three years after their applications are approved by the integration officers of the Ministry of the Interior<sup>9</sup>; currently three persons entrusted these duties are employed by the Ministry of Interior. It has also entrusted a part

4 Currently one in Ljubljana and one in Logatec.

5 International Protection Act, Articles 78–87.

6 Pursuant to International Protection Act, Article 86, attendance of primary school is guaranteed and attendance of high schools and universities is allowed to asylum seekers.

7 According to official data provided by the Ministry of Interior, 277 persons applied for asylum and 34 were granted international protection in the year 2015.

8 Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted.

9 International Protection Act, Article 99.

of assistance to a civil society organization, through a program<sup>10</sup> funded under the Asylum, Migration and Integration Fund (AMIF) of the European Commission. The program, currently carried out by Društvo Odnos<sup>11</sup>, includes assistance in day to day activities (finding accommodation, opening bank accounts, registering for health care, applying for social assistance etc.), study help for beneficiaries attending schools and focused assistance for various groups of beneficiaries (women, unemployed etc.).

The rights related to integration of persons granted refugee status and persons granted subsidiary protection status are practically the same, as specified in Section III.

From 1995 to the time of drafting of this study, altogether 413 persons had been granted international protection in the Republic of Slovenia. According to data collected on 16 March 2016, 278 of them still lived under the international protection status, 114 had been granted citizenship, 10 passed away, five denounced their status, five subsidiary statuses expired and one status had been revoked.<sup>12</sup>

### III REALISATION OF RIGHTS FORMING AN INTEGRAL PART OF REFUGEE INTEGRATION

#### 1.1. Right to work

Slovenian law guarantees the persons granted international protection and their families the right to work and the rights and programs extending to unemployed persons. The IPA provides as follows<sup>13</sup>:

- “(1) Persons granted international protection shall exercise the rights related to employment and work in accordance with regulations on the employment and work of aliens.
- (2) Persons granted international protection shall exercise the right to unemployment benefits in accordance with the regulations on employment and unemployment insurance.”

Pursuant to regulation on the employment and work of aliens, referenced in paragraph (1) above, persons granted international protection in the

10 For more information visit: [www.mnz.gov.si/si/o\\_ministrstvu/javna\\_narocila/?tx\\_t3javnirazpis\\_pi1%5Bshow\\_single%5D=2280](http://www.mnz.gov.si/si/o_ministrstvu/javna_narocila/?tx_t3javnirazpis_pi1%5Bshow_single%5D=2280)

11 For more information visit: [www.odnos.si](http://www.odnos.si).

12 MOI data presented during the interview with the MOI integration officer.

13 International Protection Act, Article 98.

Republic of Slovenia and their family members who reside in the Republic of Slovenia on the basis of residence permit issued due to family reunification have the right to free access to the labor market, meaning that alien has access to self-employment, employment and work without meeting other requirements (consent to the single residence and work permit or EU Blue Card or seasonal work permit).<sup>14</sup>

As can be seen from the legal outline in the previous paragraph, the access to employment is streamlined – upon being granted international protection the beneficiaries can seek work and become employed immediately, without having to acquire work permits or having to meet any other administrative requirements. The identification documents issued to beneficiaries contain a notification on the right to work (same as IDs for other aliens enjoying this right)<sup>15</sup>; before this was introduced into law, employers and even some public officials were not familiar with the right to work that persons granted international protection are entitled to, which caused practical problems and delays in access to employment.<sup>16</sup>

Right to unemployment benefits for persons granted international protection (see paragraph (2) cited above) is guaranteed by the Labor Market Regulation Act<sup>17</sup>. Beneficiaries that are unemployed can therefore themselves with the Employment Service of Slovenia and enjoy the rights and programs extended to unemployed persons. This includes entails appointment of an employment counselor, who helps develop a personal employment plan, workshops and trainings organized by the Employment Service, possible financing of courses for acquiring work qualifications etc. The beneficiaries that become employed and lose their job, also enjoy financial benefits for recently unemployed. All of the above rights and benefits are the same as for Slovenian citizens and currently there are no targeted programs organized for unemployed persons granted international protection.

## 1.2. Right to education

Persons granted international protection in Slovenia enjoy the same rights related to education as Slovenian citizens, including pre-school, primary, secondary and tertiary education<sup>18</sup>. Costs related to the recognition of

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14 Self-employment and Work of Aliens Act (*Official Gazette of the Republic of Slovenia*, No. 47/2015), Article 6/2.

15 *Official Gazette of the Republic of Slovenia*, No. 50/2011, as amended, Article 58/2.

16 This issue was familiar to the author of the study and also confirmed by the MOI integration officer during the interview.

17 *Official Gazette of the Republic of Slovenia*, No. 80/2010, as amended, Article 8.

18 International Protection Act, Article 97/1.

foreign diplomas, certificates and other documents proving formal education are covered by the Ministry of Interior<sup>19</sup>. Other education-related costs, including schoolbooks and attendance of school culture and sports days, are covered by the MOI and the Ministry of Education, Science and Sport, but only if the person is without their own means of financing<sup>20</sup>; this right will be limited in the new IPA up to three years from being granted international protection, which is problematic, particularly for unaccompanied minors.

Furthermore, persons granted international protection are entitled to a free Slovenian language course in the duration of 300 hours<sup>21</sup>.

Pursuant to the upcoming new IPA beneficiaries will also be eligible for state scholarships and accommodation in student homes under the same conditions as citizens of the Republic of Slovenia.

In May 2007 the Ministry of Education, Science and Sport published the Strategy on inclusion of migrant children, pupils and students in the education system in the Republic of Slovenia<sup>22</sup>, and identified existing challenges and shortcomings, goals and principles of inclusion and proposed measures. This has been supplemented by the Guidelines for inclusion of immigrant children in kindergartens and schools<sup>23</sup>, published by the National Education Institute in May 2012. A procedure for inclusion of migrant minors into schools is presented at the webpage of the Ministry of Education, Science and Sport<sup>24</sup> and includes introductory classes, Slovenian language lessons and study help, as well as preparation of teachers, students and parents aiming at successful integration of a migrant child into the school environment.

According to the interviewed MOI integration officer of the Ministry of Interior and representative of “Društvo Odnos”, there are no considerable problems regarding enrolment into schools and recognition of foreign diplomas. As of 31 December 2015, 48 beneficiaries were enrolled in schools – 24 in primary schools, 5 in high schools, 8 in universities and 11 in primary schools for adults<sup>25</sup>.

19 International Protection Act, Article 97/2.

20 Decree, Article 13.

21 International Protection Act, Article 99/3; Decree, Article 15.

22 For more information visit: [http://www.mizs.gov.si/fileadmin/mizs.gov.si/pageuploads/Aktualno/Strategija\\_vkljucevanje\\_priseljencev\\_2007.doc](http://www.mizs.gov.si/fileadmin/mizs.gov.si/pageuploads/Aktualno/Strategija_vkljucevanje_priseljencev_2007.doc).

23 For more information visit: [http://www.zrss.si/pdf/220213081123\\_smernice\\_za\\_vkljucevanje\\_otrok\\_priseljencev\\_dopolnjene\\_2012-\\_sssi\\_25\\_10\\_2012.pdf](http://www.zrss.si/pdf/220213081123_smernice_za_vkljucevanje_otrok_priseljencev_dopolnjene_2012-_sssi_25_10_2012.pdf)

24 For more information visit: [http://www.mizs.gov.si/si/vkljucevanje\\_priseljencev\\_v\\_sistem\\_vzgoje\\_in\\_izobrazevanja/postopek\\_vkljucevanja/](http://www.mizs.gov.si/si/vkljucevanje_priseljencev_v_sistem_vzgoje_in_izobrazevanja/postopek_vkljucevanja/)

25 Official MOI data.

### 1.3. Right to health care

The Slovenian national system of health insurance, set out in the Health Care and Health Insurance Act<sup>26</sup>, comprises of compulsory health insurance and complementary health insurance. The compulsory health insurance covers only a part of the medical costs; in order to enjoy full benefits of the health insurance system one has to apply for the complementary health insurance.

Persons granted international protection are covered by the compulsory health insurance on the grounds of their international protection status<sup>27</sup>. They are encouraged by the integration officers to apply for complementary health insurance as well. Otherwise, the costs of medicines and medical treatment can be very high. Persons receiving social assistance (as is the case with most beneficiaries upon being granted status, see Section III.4.) do not require complementary health insurance and enjoy full rights without it<sup>28</sup>.

The provisions for minor beneficiaries of international protection are more favorable: they are entitled to health-care services under the same conditions as Slovenian minors<sup>29</sup>, which means they do not require complementary health insurance until reaching the age of 18 (or until 26, as long as they are enrolled into school as regular students) and enjoy full rights without it<sup>30</sup>.

In practice access to health care is complicated by language barriers, as no interpretation is provided for medical appointments. A medical dictionary is currently in preparation for this purpose, commissioned by the Ministry of Interior<sup>31</sup>.

### 1.4. Right to social assistance

Persons granted international protection are entitled to social benefits under the national social security system<sup>32</sup>. Most importantly, beneficiaries are entitled to social assistance, provided to all persons without other financial means. The current amount for single claimants is 288,81 EUR per month; in case of families the amount per person is less, calculated in accordance with

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26 *Official Gazette of the Republic of Slovenia*, No. 9/1992, as amended.

27 International Protection Act, Article 94/1.

28 *Official Gazette of the Republic of Slovenia* No. 9/1992, as amended, Article 24.

29 International Protection Act, Article 94/2.

30 *Official Gazette of the Republic of Slovenia* No. 9/1992, as amended, Article 22.

31 For more information visit: [www.mnz.gov.si/si/o\\_ministrstvu/javna\\_narocila/?tx\\_t3javnirazpis\\_pi1%5Bshow\\_single%5D=2350](http://www.mnz.gov.si/si/o_ministrstvu/javna_narocila/?tx_t3javnirazpis_pi1%5Bshow_single%5D=2350).

32 International Protection Act, Article 95.

the Social Assistance Benefits Act<sup>33</sup>. This is complemented by other benefits under the national social security system, granted to individuals who meet the specific criteria, including child benefits, large family allowance, emergency assistance and kindergarten subsidies.

Apart from the national social security system additional assistance is sometimes provided by local municipalities. Persons granted international protection residing in a municipality offering social assistance may be entitled to it depending on the particular criteria set out in municipal by-laws.

Pursuant to current law, beneficiaries are entitled to one-off financial assistance<sup>34</sup>, paid to them in a single installment upon being granted status. The amount paid is set against to the monthly amount of welfare allowance (currently 288,81 EUR). Unfortunately, this right is being terminated with the upcoming new International Protection Act. This is problematic as the one-off financial assistance has been crucial for bridging the period between receiving status and applying for regular social assistance. Upon being granted status, beneficiaries are obliged to move from the asylum facility in the fortnight, after which they no longer can enjoy the free care provided to asylum seekers. The first installment of social assistance is normally paid out on the 20<sup>th</sup> of the month following the month when the application for social assistance was submitted. In terms of the upcoming law, a beneficiary without the one-off financial assistance may be forced to go for more than a month without any guaranteed means of subsistence upon acquiring status.

## 1.5. Right to housing

If persons granted international protection have no other financial means they are entitled to financial aid for housing in the period up to three years after being granted status, or until the age of 26, if they attend school as regular students<sup>35</sup>. This is generally provided through financial aid that subsidizes the rent for housing and related utility costs. The maximum monthly amount for single claimants is set against to monthly amount of welfare allowance, currently 288,81 EUR; in case of families the maximum amount per person is less, calculated in accordance with the Decree.

In the first year upon receiving status financial aid can be substituted with free accommodation in “integration houses” of the MOI<sup>36</sup>, i.e. facilities comprising of apartments for beneficiaries. The MOI currently administers

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33 *Official Gazette of the Republic of Slovenia*, No. 61/2010, as amended.

34 International Protection Act, Article 92.

35 International Protection Act, Article 93; Decree, Articles 8–12.

36 International Protection Act, Article 92.

two integration houses: one in Ljubljana, intended for families and single women (maximum capacity 15 persons) and one in Maribor, intended for single men (maximum capacity 45 persons).

Suitable options for accommodation of unaccompanied minors have so far not been established, which is a serious shortcoming in Slovenian system. Unaccompanied minors with international protection status are accommodated in integration houses intended for adults, in student dormitories or other facilities where they cannot be provided with appropriate care and guidance considering their needs and vulnerability.

Another shortcoming of the Slovenian system is that persons granted international protection are not entitled to non-profit rental apartments<sup>37</sup>, since this right can be exclusively enjoyed by Slovenian citizens<sup>38</sup>. Apart from temporary accommodation in the integration houses beneficiaries have to find accommodation in the real-estate market, which can be difficult considering their financial situation.

## 1.6. Right to citizenship

The required period of residence in Slovenia for being granted citizenship is normally ten years. However, persons granted international protection may obtain citizenship after five years<sup>39</sup>. All other requirements (fluency in Slovenian language, financial means etc.) still apply. As of 16 March 2016, 114 beneficiaries out of total 413 granted status have acquired Slovenian citizenship.

## 1.7. Right to family reunification

The Aliens Act contains special provisions on family reunification for persons granted international protection<sup>40</sup>. The requirements are lower than in common reunification cases, especially if the application is submitted within 90 days from being granted international protection status – no financial requirements need to be met in such cases. Family members approved for

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37 Apartments owned by the municipality, the state, the public housing fund or a non-profit housing organization, leased out under a reduced rent, pursuant to the Housing Act (Official Gazette of the Republic of Slovenia No. 69/2003, as amended – hereafter: HA).

38 *Official Gazette of the Republic of Slovenia*, No. 69/2003, as amended, Article 87.

39 Citizenship of the Republic of Slovenia Act (*Official Gazette of the Republic of Slovenia*, No. 1/1991, as amended), Article 12/7.

40 *Official Gazette of the Republic of Slovenia*, No. 50/2011, as amended, Articles 47.a and 47.b.

reunification are issued residence permits and a passport for entering Slovenia (valid for 90 days). Financial aid for travel to Slovenia is not provided.

As of 8 April 2016, 57 family members of persons granted international protection have been approved for reunification, 50 of which have already moved to Slovenia.

## IV CONCLUSION

Persons granted international protection in the Republic of Slovenia enjoy free access to employment, unemployment benefits, education and social assistance and are provided limited additional support in some fields, such as housing, family reunification and acquiring citizenship. Assistance in accessing their rights and managing daily situations is provided by integration officers of the Ministry of the Interior and the CSO-implemented project.

The rights and assistance described in the study are generally sufficient to ensure basic living conditions and prevent situations of abject poverty. Nevertheless, refugees in Slovenia are faced with several objective challenges that make integration difficult under the current system. These include a restricted labor market, a new and unfamiliar language to learn and absence or only a small number of compatriots that can offer support.

In practice, finding jobs for persons granted international protection is proving to be difficult and most of them have to rely on social benefits for an extended time after obtaining international protection status. Upon being granted international protection status, a typical refugee has to rely on financial aid for housing and social welfare, each in the maximum amount of 288,81 EUR per month, which barely provides a minimum for subsistence considering present living expenses in Slovenia<sup>41</sup>.

Considering the situation described above, the current system of integration should be supplemented with targeted programs for refugees, aimed at their actual integration into society. This would be particularly beneficial in the field of employment. As presented in the study, no measures specifically aimed at employment of refugees are currently in place, either in terms of vocational training and acquiring qualification or in terms of supporting their employment through subsidized wages, community work, public job offers for persons granted international protection and other similar means.

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<sup>41</sup> The minimum wage in Slovenia is currently set at 790,73 EUR, pursuant to the Minimum Wage Act (*Official Gazette of the Republic of Slovenia*, No. 13/2010, as amended).

The Slovenian system also comes short in terms of official strategies, guidelines and action plans necessary to identify challenges and develop integration policy. Education is the only field of integration where the study identified existence of such policy documents. This is also the field where integration seems to be most successful – refugees, whether minors or adults, asylum seekers or persons granted international protection, generally do not have problems to enroll in schools and successfully integrate into the school environment.

Other positive characteristics of the Slovenian system include similar rights enjoyed by persons granted refugee and subsidiary protection status, general absence of administrative barriers for accessing rights (e.g. education, employment, health care and social benefits) and an extensive free Slovenian language course for persons granted international protection.

Apart from the ones mentioned above, shortcomings include the upcoming termination of one-off financial aid, which is expected to cause precarious situations for refugees in the first period upon being granted status, lack of suitable accommodation for unaccompanied minors and restriction of access to non-profit rental apartments.

# Republic of Macedonia





## ABSTRACT

*Local integration is a long-term solution, referring to permanently settling refugees in host communities in countries of asylum. It is one of the three durable solutions for refugees. In view of the current state of asylum, the concept is attracting revived attention for its potential to protect refugee rights, promote economic development and provide long-term solutions to persistent crises.*

*The Republic of Macedonia has hosted refugees since its independence in 1991, with the arrival of refugees from Bosnia and Herzegovina (BiH) and Croatia. A further significant influx was experienced in 1999 as a result of the Kosovo conflict. In total, temporary humanitarian protection was granted to 400,000 refugees from the region, out of which 360,000 were from Kosovo. Today, large portion of them have returned. As of April 2016, 33 persons have been granted refugee status (18 coming from Kosovo and 13 from Syria, 1 from Palestine, 1 from Iraq) and 456 persons enjoy subsidiary protection (453 Kosovars, 1 Ukrainian and 3 Afghani)<sup>1</sup>. The majority of them belong to the Roma, Ashkali and Egyptian (RAE) ethnic groups from Kosovo, which are culturally and linguistically similar to the communities living in the country. The small number of persons granted asylum coming from countries other than the ones in the region, such as Syria, Afghanistan and North African countries have left Macedonia after being granted protection.*

*Local integration in the Republic of Macedonia is arranged through the Strategy for Integration of Refugees and Foreigners and its National Action Plan in which the integration and assistance measures for implementation of the period 2008–2015 are set out. Under the Strategy, pursuant to the 1951 Refugee Convention, refugees are given the right to seek employment, to engage in other income-generating activities, to own and dispose of property, to enjoy freedom of movement and to have access to public services such as education and health. However, the process of local integration is complex and gradual, and comprises distinct but related not just legal, economic, social, but as well cultural dimensions, which in practice imposes considerable demands on both the individual and the receiving society.*

## I GENERAL OVERVIEW

The Republic of Macedonia is a State Party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. It has adequate legal framework and functioning asylum system in place. The Asylum and Temporary

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<sup>1</sup> According to MYLA statistics.

Protection Act came into force on 3 August 2003, while its by-law regulating the rules for fingerprinting and the format of identity cards and travel documents came into force in 2004. The Asylum and Temporary Protection Act was further revised in 2007, 2008, 2009 and substantially amended in 2012. The act provides the definition of a refugee in line with the *1951 Convention* definition, as well as a definition of persons eligible for subsidiary protection in line with the *EU Qualification Directive*. The *Asylum and Temporary Protection Act* also contains: (1) a provision for temporary protection in cases of mass influx; (2) safeguards against *refoulement*; (3) basic refugee status determination (“RSD”) procedural guarantees, including for persons with specific needs such as victims of human trafficking; (4) reference to gender- and child-specific persecution; (5) the rights and obligations of UNHCR’s persons of concern; (7) and acknowledgment of UNHCR’s supervisory role in matters related to asylum and temporary protection.

In response to the sharp increase in irregular migration which started in the first half of 2015, the Asylum act was further amended to modify the previous regulations for applying for asylum in the Republic of Macedonia, by introducing the institute *Intention to seek asylum*.<sup>2</sup> The intention, registered at the border, in practice protected the asylum-seekers from the risk of *refoulement* and allowed them to enter and stay in the country legally for a short timeframe of 72 hours, before formally submitting their asylum application. In 2015 the government initiated the drafting of a new asylum law, in line with the [recast] EU asylum instruments, to be adopted in 2016. The law currently incorporates many key provisions of the 1951 Convention and the provisions on subsidiary protection in the law are in conformity with relevant EU standards. The overall asylum framework also provides for *certain rights up to the standard of nationals for those who benefit from international protection*, as well as free legal aid during all stages of the asylum procedure<sup>3</sup>.

In Republic of Macedonia two state authorities share the responsibility regarding the legal procedure/ residence and social protection of the asylum seekers and refugees. The Ministry of Interior, Sector for Asylum, is charged with the asylum procedure, regardless of the fact where the application is submitted (at the border crossing points, inside the territory of the country or

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2 The amendment was adopted on 18 June 2015.

3 The fundamental sources of this law include UDHR, 1951 Convention and its 1967 Protocol, CAT and ECHR. The country has signed a Stabilization and Association Agreement with EU in 2001 and it was granted the status of candidate country on 17 December 2005. It has a National Programme for the Adoption of the EU Acquis, which is regularly updated setting out priorities in the field of asylum in a specific sub-chapter in the Chapter on Justice, Freedom and Security.

at the airport)<sup>4</sup>. During the asylum procedure, including the appeal period, asylum seekers are allowed to stay on the territory of the country. The costs related to their residence and care, are borne by the state and the authority responsible for their reception is the Ministry of Labor and Social Policy, through the work of the Reception Center for Asylum Seekers- Vizbegovo. This Ministry is as well fully in charge of the process of local integration, once the protection has been granted by the Ministry of Interior<sup>5</sup>.

## II INSTITUTIONAL MECHANISMS FOR THE PROTECTION OF REFUGEES

In 2006 an Inter-Ministerial Group for Integration of Refugees and Foreign Nationals<sup>6</sup> has been established within the Ministry of Labor and Social Policy, comprised of:

- Ministry of Labor and Social Policy- chairing the Group
- Ministry of Interior
- Ministry of Health
- Ministry of Education
- Ministry of Foreign Affairs
- Ministry of Local Governments
- Association of Local Governments of the Republic of Macedonia
- Red Cross of the Republic of Macedonia

This Group was in charge of drafting and preparing the national policy documents related to integration of refugees and aliens. In 2008, the Government of Republic of Macedonia adopted the Integration Strategy for Refugees and Aliens for the period 2008–2015<sup>7</sup>; and in 2009, adopted the corresponding National Action Plan (NAP)<sup>8</sup> detailing activities necessary to support the implementation of the adopted Strategy. The strategy was primarily aimed at facilitating the local integration of Roma, Ashkali and

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4 Article 12 of the Asylum and Temporary Protection Act, *Official Gazette of the Republic of Macedonia*, no. 49/2003, 66/2007, 142/2008, 146/2009, 166/2012, 101/2015.

5 Article 48 of the Asylum and Temporary Protection Act, *Official Gazette of the Republic of Macedonia*, no. 49/2003, 66/2007, 142/2008, 146/2009, 166/2012, 101/2015.

6 More information available at: [http://mtsp.gov.mk/WBStorage/Files/strategija\\_begalci.pdf](http://mtsp.gov.mk/WBStorage/Files/strategija_begalci.pdf) (accessed 04.04.2014).

7 Available at [http://mtsp.gov.mk/WBStorage/Files/strategija\\_begalci.pdf](http://mtsp.gov.mk/WBStorage/Files/strategija_begalci.pdf) (accessed 04.04.2014).

8 Available at <http://www.mtsp.gov.mk/dokumenti.nspx> (accessed 04.04.2014).

Egyptians (RAE) from the region who were granted international protection, without special consideration for refugees from outside the region.

The Strategy itself embraces the concept that *local integration is a dynamic and multifaceted two-way process which requires efforts by all parties concerned, including a preparedness on the part of refugees to adapt to the host society without having to forego their own cultural identity, and a corresponding readiness on the part of host communities and public institutions to welcome refugees and meet the needs of a diverse population.*<sup>9</sup> Within the national policy framework, the integration process is targeting only recognized refugees and persons under subsidiary protection, as well as, under certain conditions, other persons who have established close links with Macedonian citizens and registered residence. This means that once an asylum claim has been decided upon and status has been granted, the local integration can officially start. This Strategy does not include asylum seekers whose applications are pending or rejected. The Government considers that the experience of the asylum seekers before they are granted certain status affects the level of their integration in many ways; but they can solely enjoy the benefits stipulated within the LATP, until their status is finally determined. Integration, in full respect according to the national policy, can happen only when the person is granted refugee status or subsidiary protection status, so they can make plans for their future, including plans for employment, housing and integration in the Macedonian society.

Despite its restrictions in terms of beneficiaries, the Strategy itself is a comprehensive document that should not be read in isolation. Its true function can only be achieved if viewed in parallel with the broader reforms applied to the field of migration, monitoring relations, decentralization, social inclusion, and other key services of public character in the country. This means that the legal framework for its implementation is composed not just from the Asylum and Temporary Protection Act, but as well from many others such as the Alien Act<sup>10</sup>, the Alien Employment Act<sup>11</sup>, the Citizenship Act<sup>12</sup>, Social Protection Act<sup>13</sup>,

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9 UNHCR Executive Committee, Conclusion on Local Integration, No. 104 (LVI) – 2005, preamble and (k), Available at: <http://www.unhcr.org/4357a91b2.html> (Accessed 02.03.2016).

10 *Official Gazette of the Republic of Macedonia*, nos. 35/2006, 66/2007, 117/2008, 92/2009, 156/2010, 158/2011, 84/2012, 13/2013, 147/2013, 148/2015 and 217/2015.

11 *Official Gazette of the Republic of Macedonia*, nos. 70/2007, 5/2009, 35/2010, 148/2011, 84/2012, 148/2013, 38/2014 and 150/2015.

12 *Official Gazette of the Republic of Macedonia*, nos. 67/1992, 8/2004, 98/2008, 158/2011 and 55/2016.

13 *Official Gazette of the Republic of Macedonia*, nos. 79/2009; 36/2011; 51/2011; 166/2012; 15/2013; 79/2013; 164/2013; 187/2013; 38/2014; 44/2014; 116/2014; 180/2014; 33/2015; 72/2015; 104/2015; 150/2015; 173/2015; 192/2015 and 30/2016.

Family Act<sup>14</sup>, Child Protection Act<sup>15</sup>, Act on Employment and Insurance in case of unemployment<sup>16</sup>, Primary Education Act<sup>17</sup>, Secondary Education Act<sup>18</sup>, Higher Education Act<sup>19</sup>, Citizens' Associations and Foundations Act<sup>20</sup>, Public Gatherings Act<sup>21</sup>, Administrative Procedure Act<sup>22</sup>, Administrative Disputes Act<sup>23</sup>, etc.

The local integration process within the Macedonian society encompasses three main elements. One aims at anchoring and mainstreaming the persons granted asylum in the national welfare and protection system, which includes health care services and social protection. The second provides for a developmental aspect of integration through specifically tailored projects aiming at supporting the self-reliance of persons granted international protection by addressing their needs in housing, employment, education and vocational training. The third element offers legal assistance to help integrating refugees in obtaining a legal status in the country that enables their full integration in their new society – citizenship through naturalization or permanent residence.<sup>24</sup>

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14 *Official Gazette of the Republic of Macedonia*, nos. 80/1992, 9/1996, 38/2004, 33/2006, 84/2008, 67/2010, 156/2010, 39/2012, 44/2012, 38/2014, 115/2014, 104/2015 and 150/2015.

15 *Official Gazette of the Republic of Macedonia*, nos. 23/2013, 12/2014, 44/2014, 144/2014, 10/2015, 25/2015, 150/2015, 192/2015 and 27/2016.

16 *Official Gazette of the Republic of Macedonia*, nos. 37/1997, 25/2000, 101/2000, 50/2001, 25/2003, 37/2004, 4/2005, 50/2006, 29/2007, 102/2008, 161/2008, 50/2010, 88/2010, 51/2011, 11/2012, 80/2012, 114/2012, 39/2014, 44/2014, 113/2014, 56/2015, 129/2015, 147/2015, 154/2015 and 27/2016.

17 *Official Gazette of the Republic of Macedonia*, nos. 103/2008, 33/2010, 116/2010, 156/2010, 18/2011, 42/2011, 51/2011, 6/2012, 100/2012, 24/2013, 41/2014, 116/2014, 135/2014, 10/2015, 98/2015, 145/2015 and 30/2016.

18 *Official Gazette of the Republic of Macedonia*, nos. 44/1995, 24/1996, 34/1996, 35/1997, 82/1999, 29/2002, 40/2003, 42/2003, 67/2004, 55/2005, 113/2005, 35/2006, 30/2007, 49/2007, 81/2008, 92/2008, 33/2010, 116/2010, 156/2010, 18/2011, 42/2011, 51/2011, 6/2012, 100/2012, 24/2013, 41/2014, 116/2014, 135/2014, 10/2015, 98/2015, 145/2015 and 30/2016.

19 *Official Gazette of the Republic of Macedonia*, nos. 35/2008, 103/2008, 26/2009, 83/2009, 99/2009, 115/2010, 17/2011, 51/2011, 123/2012, 15/2013, 24/2013, 41/2014, 116/2014, 130/2014, 10/2015, 20/2015, 98/2015, 145/2015, 154/2015 and 30/2016.

20 *Official Gazette of the Republic of Macedonia*, nos. 52/2010, 135/2011 and 55/2016.

21 *Official Gazette of the Republic of Macedonia*, nos. 55/1995, 19/2006, 66/2007 and 152/2015.

22 *Official Gazette of the Republic of Macedonia*, no. 38/2005, 110/2008 and 51/2011.

23 *Official Gazette of the Republic of Macedonia* no. 62/2006 and 150/2010.

24 Overview of the National Action Plan for Integration of Refugees and Foreigners, Ministry of Labor and Social Policy.

The National Action Plan of the Ministry of Labor and Social Policy<sup>25</sup> proposes measures for ensuring integration of the refugees and persons granted subsidiary protection, such as financial aid for, activities for reducing vulnerability and encouraging self-support of the persons, campaigns for informing the refugees about their rights and responsibilities, facilitating their access to the services. In terms of community engagement and development, the above mentioned plan emphasizes the importance of the integration process in all societal spheres and the mixing with the domicile population. In respect to this, “*the integration process does not end with the decision of the target group to integrate into the local environment, or with the provision of development assistance – the process of naturalization is equally important, so it should be provided adequate support.*”<sup>26</sup>

Once the Strategy for Integration was adopted, the Ministry of Labor and Social Policy, in partnership with UNHCR in 2009, established the Center for Integration of Refugees and Foreigners responsible for facilitating the integration process of the beneficiaries in fields such as: housing, health care, education, employment, social protection and community development. In addition, the Center was responsible for preparing appropriate individual integration programs<sup>27</sup>. This Center plays a crucial role in achieving results related to the local integration process. Its activities are targeting two main fields of work: provision of advice, information and practical support to beneficiaries, enabling their access to state services and social benefits; and supports the implementation of specific projects which target specific integration activities that are not covered by regular state services. Besides refugee counseling and practical assistance in accessing state services, the Centre also conducts information campaigns when necessary. The Centre is a focal point for integration related information and coordination for state ministries and agencies, as well as local and international non-governmental partners. Since its establishment in 2009, according to information provided from the Center, over 6.000 beneficiaries have been provided direct assistance and those are refugee families, taking part in the local integration, mostly under the Social Protection Act, Health Insurance Act and Alien Employment

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25 National Action Plan of the Ministry of Labor and Social Policy, Strategy for Integration of Refugees and Aliens in RoM 2008–2015, available at <http://www.mtsp.gov.mk/dokumenti.nspx> (accessed 04.04.2014).

26 National Action Plan of the Ministry of Labor and Social Policy, Strategy for Integration of Refugees and Aliens in RoM 2008–2015, available at: <http://www.mtsp.gov.mk/dokumenti.nspx> (accessed on 04.04.2016).

27 Strategy for Integration of Refugees and Foreigners in the Republic of Macedonia, available at [http://mtsp.gov.mk/WBStorage/Files/strategija\\_begalci.pdf](http://mtsp.gov.mk/WBStorage/Files/strategija_begalci.pdf) (accessed 04.04.2016).

Act. The Centre for Integration extends access to benefits arising from specifically created integration programs.

Important to note is that even though the integration of refugees and persons granted subsidiary protection is as such arranged through the central authority- the Ministry of Labor and Social Policy and the Center for Integration working in the capital, according to Article 11 of the Asylum and Temporary Protection Act, the principle of local contribution implies an obligation of the local self-government units to accept the responsibility for accommodating persons recognized the right to refugee and persons granted subsidiary protection depending on their economic development and the number of their inhabitants, on which the Government of the Republic of Macedonia will decide.

### **III REALISATION OF RIGHTS FORMING AN INTEGRAL PART OF REFUGEE INETGRATION**

In order to access support to sustain their integration in Macedonia, refugees and persons granted subsidiary protection have to formally submit application within the office of the Center for Integration. The next step is the development of the Family Integration Plan, developed together with the refugee family. The Plan consist of assessing gaps and outlining activities addressing the issues important to the family during the integration process. The family integration plan should offer concrete action points across integration sectors (employment, education, housing, health insurance, social protection) and thus forms the basis for the individual implementation, monitoring and evaluation of the integration activities.

As provided for by Articles 50–57 of the Asylum and Temporary Protection Act, persons granted refugee status and persons granted subsidiary protection have the same rights and duties as Macedonian nationals with the exception of the right to vote, to engage in professions where it is prescribed by law that the person should be a national, or to be subjected to military draft. They may exercise the right to movable and immovable property; engage in wage-earning activities and professions, enjoy the right to social protection, health care, education, etc. In accordance with Art. 59 and Art. 60 of the same law, persons granted subsidiary protection are equal to nationals in relation to the exercise of the right to social protection, health services and accommodation. As regards other rights, their situation is equal to aliens with a residence permit.

## 1.1. Right to work

As a rule, the employment of immigrants in the Republic of Macedonia is considered to be the most complex issue in the social integration process. This is mostly due to the limited influence of the state structures on employment opportunities of immigrants/refugees in the free labor market. Regarding access to the labor market, the issues of employment of immigrants are entirely regulated. Immediate family members of an alien with the residence permit in the territory of Republic of Macedonia and persons recognized the right to refugee are entitled to apply for a personal work permit, whereby they acquire the rights regarding job applications equal to those enjoyed by the domicile population.

*The recognized refugees shall exercise the right to work pursuant to this Law and the regulation for employment and work of aliens<sup>28</sup>.* In the case of application of restrictive measures for employment of aliens, the same will not be applicable for the recognized refugees, coming from a state towards these measures are directed, if the person granted refuge meets one of the following conditions:

- Resides for at least three years in the territory of the Republic of Macedonia;
- Is married to the citizen of the Republic of Macedonia; and,
- Has one or more children who are citizens of the Republic of Macedonia.

Refugees' access to the formal labor market is equal to Macedonian citizens once they obtain personal work permit issued by the State Agency for Employment. The Center for Integration assists refugees in applying for personal work permits and assists them in extending the validity in procedures conducted by the Employment Agency. As part of the Family Integration Plans, the Center assesses skills, acquired work experience and recommends employment activities; and refers interested beneficiaries to state and non-state partners providing employment support. Refugees are also targeted by the state active measures for employment and have access to UNHCR supported income generation and vocational training grants.

Vocational trainings are entirely provided through projects developed by CSOs in close cooperation with the Center for Integration. According to data provided by RECES Skopje (CSO providing vocational trainings)<sup>29</sup>, in 2015, 6 people received vocational training and 5 subsidized employment. In 2014,

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28 Article 56 from the Asylum and Temporary Protection Act (Labor Legislation and Social Security Rights).

29 More information concerning the work of this organization can be found on [www.recs.org.mk](http://www.recs.org.mk).

11 received vocational training, 10 took part in lifelong learning programs and 1 benefited from subsidized employment, all of them Kosovars.

Even though access to employment is granted by law, it is extremely difficult for refugees to exercise it in practice due to language barriers, cumbersome administrative procedures, and the already high national unemployment rate (27.3 per cent at the time of writing). As a result, persons granted international protection generally remain unemployed and dependent on financial assistance provided under Social Protection Act<sup>30</sup>.

## 1.2. Right to education

In the field of education, Macedonian legislation consists of legal acts governing the education process, starting from pre-school, all the way to higher education. Since 2010, refugee children have had opportunity to enroll in the state pre-school educational facilities that are run by the Ministry of Labor and Social Policy. In 2012–2014, the Center for Integration completed field campaign visiting all families with the pre-school children, assisted parents with enrollment procedures and helped organize medical examination needed for the application process.

The Primary Education Act<sup>31</sup> provides for primary education of foreign nationals and stateless persons under the conditions laid down in the act, i.e. under the same conditions as the children with Macedonian citizenship. The right and the relative obligation to attend primary education apply to every child who resides in Republic of Macedonia and are based on the provisions of the Constitution of Republic of Macedonia, which set forth free of charge and compulsory primary education. It is quite common for refugees and immigrants, finding themselves in a new environment, to encounter serious difficulties, of technical and psychological nature as well. Hence, the efforts aimed at their integration in the educational process will yield positive results in terms of their further overall integration in the social mainstream. In the period 2004–2007, around 250 pupils from the refugee population (Kosovo caseload) regularly attended school. These children attended school regularly, which marked the beginning of the activities for their overall integration

<sup>30</sup> UN High Commissioner for Refugees (UNHCR), The former Yugoslav Republic of Macedonia As a Country of Asylum– Observations on the situation of asylum-seekers and refugees in the former Yugoslav Republic of Macedonia, August 2015, page 19, [accessed 4 April 2016].

<sup>31</sup> *Official Gazette of the Republic of Macedonia*, nos. 103/2008, 33/2010, 116/2010, 156/2010, 18/2011, 42/2011, 51/2011, 6/2012, 100/2012, 24/2013, 41/2014, 116/2014, 135/2014, 10/2015, 98/2015, 145/2015 and 30/2016.

in our society. Courses in the mother tongue (mainly Roma or Albanian) are organized in cooperation with the Ministry of Education and Science. Many of the refugee children attending primary school are beneficiaries of scholarships provided by the City Red Cross- Skopje.

In terms of the Secondary Education Act<sup>32</sup>, which provides for free and compulsory secondary education, starting from 2008/2009, person granted refuge and persons granted subsidiary protection can acquire secondary education under equal conditions as Macedonian nationals. Secondary education in public secondary schools is free. Discriminations based on gender, race, color, national and social origin, political and religious beliefs, property and social status are not allowed. Language of tuition at public secondary schools will be one of the international languages.

During the period 2012–2013, when the preparation of the Individual integration plans was in place, the Center for Integration assessed the refugees' level of completed formal education, as well as the knowledge of Macedonian language. Following this assessment, formal cooperation between this Ministry and the Ministry of Education and Science was established in creating adult education learning curricula to combine finalization of at least 8-grade primary school, literacy courses and basic Macedonian language<sup>33</sup>.

In practice, however, one of the main obstacles for integration is the fact that language-learning opportunities are not offered by the State. In the previous period, language courses were offered only by the City Red Cross or other civil society organizations, which as such are largely dependable on available project funding. In addition, no specialized state-developed programs are in place to facilitate access to education for refugee children and others granted international protection.

### 1.3. Right to health care

In terms of Article 54 of Asylum and Temporary Protection Act, the person granted refuge is entitled to basic health care services, until the acquisition of the capacity provided under the Health Insurance Act; same as for Macedonian nationals. Health insurance is available to all refugees as prescribed by the Health Insurance Act<sup>34</sup>. The Health Insurance Fund is responsible for

<sup>32</sup> *Official Gazette of the Republic of Macedonia*, 44/1995, 24/1996, 34/1996, 35/1997, 82/1999, 29/2002, 40/2003, 42/2003, 67/2004, 55/2005, 113/2005, 35/2006, 30/2007, 49/2007, 81/2008, 92/2008, 33/2010, 116/2010, 156/2010, 18/2011, 42/2011, 51/2011, 6/2012, 100/2012, 24/2013, 41/2014, 116/2014, 135/2014, 10/2015, 98/2015, 145/2015 and 30/2016.

<sup>33</sup> More available in a Brochure, Ministry of Labor and Social Policy of the Republic of Macedonia, Center for Integration, supported by UNHCR Office in Skopje, Skopje, 2013.

<sup>34</sup> As regards the rights in the labor legislation, healthcare, pension and invalid insurance, the recognized refugees have equal treatment as the citizen of the Republic of Macedonia”,

providing insurance while the Ministry of Labor and Social Policy is charged with granting insurance fees to refugees so as to enjoy this right. As of October 2012, following an informative campaign from the Center for Integration, 342 holders (588 beneficiaries)<sup>35</sup> were granted full access to the state funded health system. Currently, 189 families are benefiting the health care services in Macedonia<sup>36</sup>, large number of them Kosovars. The ones that are at the same time receiving social welfare can benefit free of charge health services<sup>37</sup>, covered by the Health Insurance Fund of the Republic of Macedonia.

#### 1.4. Right to social assistance

In terms of Social Protection Act<sup>38</sup>, all persons granted refugee status and persons granted subsidiary protection are entitled to basic social protection, permanent social protection, nursing care and one-off financial aid. The access to and enjoyment of the social rights are equal to the ones Macedonian citizens enjoy. The Centers for Social Work are responsible for social protection management of the cases and the Centre for Integration is obliged to provide adequate information and support to refugees in preparing and submitting their application for social assistance<sup>39</sup>. The Center for Integration updates the social-protection database that assists the Ministry and the CSW to manage cases and coordinates monthly payments arising from social protection rights. Occasionally, the Center for Integration provides additional support, such as distribution of clothes or other humanitarian items.<sup>40</sup>

Given the present state in the field of social rights, only persons with humanitarian protection, victims of human trafficking, persons recognized the right to refugee and persons granted subsidiary protection as well as aliens habitually residing in Macedonia have full access to social rights. In terms of Article 53 of the Asylum and Temporary Protection Act, the person

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Article 56 line 3 from LATP (Labor Legislation and Social Security Rights).

35 More available in a Brochure, Ministry of Labor and Social Policy of the Republic of Macedonia, Center for Integration, supported by UNHCR Office in Skopje, Skopje, 2013.

36 Information received from the Centre for Integration of Refugees and Foreigners during an interview.

37 Primary, Secondary and tertiary health treatments.

38 *Official Gazette of the Republic of Macedonia*, nos. 79/2009; 36/2011; 51/2011; 166/2012; 15/2013; 79/2013; 164/2013; 187/2013; 38/2014; 44/2014; 116/2014; 180/2014; 33/2015; 72/2015; 104/2015; 150/2015; 173/2015; 192/2015 and 30/2016.

39 Information received from the Centre for Integration of Refugees and Foreigners during an interview.

40 More available in a Brochure, Ministry of Labor and Social Policy of the Republic of Macedonia, Center for Integration, supported by UNHCR Office in Skopje, Skopje, 2013, page.10.

granted the right to refugee, from the day of decision recognizing the refugee status, is entitled to social protection rights same as Macedonian nationals enjoy, as prescribed by Social Protection Act. The right to financial aid can be exercised through the local Social Welfare Centers for a period of one or two years. After that period, the persons granted the right to refugee are entitled to all social protection rights equal to the Macedonian nationals.

In terms of Article 47 of the Social Protection Act, the amount of welfare allowance for its beneficiary is 2.334 MKD denars<sup>41</sup> (hereinafter: base amount). For each family member this base amount is raised with the coefficient 0.37, but up to 5 members. This amount of welfare allowance is usually in line with the costs of living for the previous year, which are published by the State Statistic Office in January of the current year and area base amount for the social assistance for the following year<sup>42</sup>.

## 1.5. Right to housing

The Ministry of Labor and Social Policy provides temporary and long term housing solutions for refugees. As a temporary measure, according to the Integration Program, through the CSW and the relevant Ministry, monthly financial aid covering costs for rent and utilities is provided to refugees living in private accommodation and houses. According to the Program for Integration of the persons granted international protection in the Republic of Macedonia for 2015<sup>43</sup>, the amount of financial aid for renting accommodation or individual residential building or its part, for a single person is 4,000 MKD denars, for a family of two to four members up to 5,000 and for a family of five or more members to 6,000 MKD denars. The financial aid for utilities (electricity, heating, water and waste disposal) for a single person is 1,500 MKD denars, for a family of two to four members 2,000 MKD denars and for a family of five or more members to 2,500 MKD denars.

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41 Equals to 37.8 Euros.

42 In a situation in which the growths of the living costs for the previous years are negative, there is no aligning with the base amount. The right to social welfare shall be paid as a difference between the determined amount of social welfare and the total revenues on all grounds of all household members. The amount of the social welfare is determined depending the period of utilizing the right, especially, in the first 3 years – in the amount of 2.334 denars, and upon of the third year, in amount of 50% from the determined amount.

43 *Official Gazette of the Republic of Macedonia*, 23/2015, brought as a bylaw from the Ministry of Labor and Social Policy.

During this process, the Center for Integration assists with provision of lease agreement. As a long term solution, the Ministry cooperates with the government and non-governmental partners to provide housing or assist refugees who own houses to conduct minor renovations to improve basic living conditions.<sup>44</sup>. Under a Sub-Agreement between the Ministry of Labor and Social Policy (MLSP) and UNHCR Skopje in 2014 the construction of 20 social flats in the vicinity of the Reception Centre for Asylum Seekers was conducted<sup>45</sup>, granted to 20 refugee/subsidiary protection families. In addition, 6 refugees-own houses were renovated. As a result, 20 families (SP/REF), total of 117 persons received social accommodation<sup>46</sup>.

The right to housing is accordingly stipulated within Article 52 of the Asylum and Temporary Protection Act, providing persons recognized the right to refuge with the accommodation according to the principle of local contribution. These persons are provided with an appropriate flat or financial aid necessary for provision of accommodation facilities until they secure their own financial means but for a maximum period of two years from the day of decision recognizing the refugee status. The Minister of Labor and Social Policy prescribes the criteria and the manner of use of appropriate flat for accommodation or financial aid necessary to provide premises for accommodation of the refugee. Should the recognized refugee refuse the allocated accommodation facilities in the municipality, he loses the right to housing and they may settle in another municipality of their own choice at their own expense<sup>47</sup>.

## 1.6. Right to citizenship

The Strategy for Integration in its broader sense encourages the authorities to promote naturalization of the persons granted refugee status and persons granted subsidiary protection by granting them citizenship where possible. Moreover, the National Action Plan not only promotes community

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44 On average 120 families benefit from monthly financial assistance for rent and utilities. Data for the period 2012–2014, Brochure, Ministry of Labor and Social Policy of the Republic of Macedonia, Center for Integration, supported by UNHCR Office in Skopje, Skopje, 2013, page. 14.

45 UN High Commissioner for Refugees (UNHCR), Country Update, 1 January – 31 March 2013, Available at: <http://www.unhcr.org/50f3db1c9.pdf> (accessed 29.02.2016)

46 The main criteria for distribution, were factors such as degree of vulnerability– single parents and beneficiaries of social protection.

47 Article 52 of the Asylum and Temporary Protection Act, *Official Gazette of the Republic of Macedonia*, no. 49/2003, 66/2007, 142/2008, 146/2009, 166/2012, 101/2015.

engagement and multicultural activities, but also proposes measures aimed at facilitating the process of naturalization.

In terms of Article 7-a of Citizenship Act<sup>48</sup>, a person recognized the right to refuge may be granted citizenship of the Republic of Macedonia by naturalization, if from the recognition of refugee status until the submission of the application for citizenship he has been legally and permanently living in the territory of the Republic of Macedonia for at least six years and if he is at least 18 years of age; has accommodation and a permanent source of income in the amount enabling material and social security in accordance with the requirements determined by law; has knowledge of the Macedonian language to the level that he can communicate with the environment; has not been prohibited to reside in the Republic of Macedonia and his admission into citizenship of the Republic of Macedonia does not pose threat to the national security or defense of the Republic of Macedonia. In practice, however, refugees still face many challenges in the process, including issuance of ID documents required for submission of application. According to data provided by MYLA for the period from 2013–2015, only 5 persons have been granted citizenship on the basis of this article, all of them refugees coming from Kosovo.

As for persons granted subsidiary protection, Article 7 of Citizenship Act can be applied. An alien who has personally submitted an application for admission into citizenship of the Republic of Macedonia may acquire citizenship of the Republic of Macedonia by naturalization, if meets the following requirements: has reached 18 years of age; to have been legally and habitually residing in the territory of the Republic of Macedonia for at least eight years until the submission of the application; has provided accommodation and a permanent source of income in the amount that provides material and social security, under conditions prescribed by law; has not been punished in the Republic of Macedonia and in the state of his nationality with at least one-year sentence of prison for acts which are prosecuted ex officio and which are punishable in accordance with the law of the Republic of Macedonia; there is no criminal proceeding instigated against him in the Republic of Macedonia and in the state of his nationality; he is fluent in the Macedonian language to the extent that he can easily communicate with the environment; has not been prohibited to reside in the Republic of Macedonia; his admission into citizenship of the Republic of Macedonia does not pose threat to the national security and defense; signs

48 *Official Gazette of the Republic of Macedonia*, nos. 67/1992, 8/2004, 98/2008, 158/2011 and 55/2016.

an oath that he will be a loyal citizen of the Republic of Macedonia and has a release from his former citizenship or proves that he will obtain it if admitted into citizenship of the Republic of Macedonia<sup>49</sup>.

According to data provided by Macedonian Young Lawyers Association (MYLA), most of the successful naturalization processes of persons granted subsidiary protection in the period from 2012 to 2015 have been carried out in accordance with Article 4 of the Act on Citizenship acquisition on the basis of origin of the Citizenship Act<sup>50</sup>, meaning that the majority of them were children from mixed marriages between a refugee and a Macedonian national. In total, 56 persons obtained Macedonian citizenship. However, no person granted subsidiary protection was able to obtain citizenship under Article 7. In the long run, the process of integration does not draw to a close with the acquisition of citizenship. As the title itself indicates it is a process, and a lasting one.

## 1.7. Right to family reunification

Upon request, the members of the nucleus family of the persons granted refugee status and persons granted subsidiary protection shall be entitled to international protection<sup>51</sup>. As prescribed by law, persons considered members of nucleus family are the spouses, if the marriage had been stipulated prior to the arrival in the Republic of Macedonia, and the underage children who are not married, as well as the parents of the underage children, if the underage children have been granted asylum. The principle of family reunification does not apply if the reasons for exclusion are due to national security threat or if the persons are nationals of another state which can grant them protection. The process is initiated by a request of the person granted asylum. The family reunification procedure has not been used so far as no applications have been submitted.

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49 Upon exception, if the foreign state does not give release or place such conditions for release from citizenship which are impossible for the alien to fulfil and at the same time, in order not to create existential or security problems to the alien and his/her family, he/she shall be admitted into citizenship of the Republic of Macedonia if makes a declaration that he renounce his foreign citizenship.

50 In total 29 people; following naturalizations by marriage in accordance to Article 9 from the Act on Citizenship-17 in number; under Article 12 from the same law, a child under 18 years of age acquires Macedonian citizenship if both his parents have acquired Macedonian citizenship by naturalization- 5 such cases.

51 Article 8 of the Asylum and Temporary Protection Act, *Official Gazette of the Republic of Macedonia*, no. 49/2003, 66/2007, 142/2008, 146/2009, 166/2012, 101/2015.

## IV CONCLUSION

Refugees are always perceived as newcomers that do not belong to the new community– either on the legal base, physical appearance, race, cultural and religious differences, or a combination of these elements. Such perceptions may trigger discriminatory practices, further deterioration of inter-ethnic relations, and weakening of social cohesion in the host communities. In this context, it is critically important that both actors in the integration process, refugees and the receiving society alike, become connected by sound and solid integration policy that will, in the long run, create framework to ease the concerns on both sides. MIPEX<sup>52</sup> researchers have concluded that ambitious integration policies do work, and that countries with “inclusive integration policies” tend to provide the best conditions for social cohesion, to the benefit of both newcomers and host community. Similarly, restrictive policies can lead to xenophobic attitudes and the inability to see the benefits of diversity.

Republic of Macedonia is currently in the process of preparing its new ten-year Strategy for Integration of Refugees and Foreigners (2016–2026). This strategy is being prepared in challenging times, when the country (similarly to the other Balkan countries) is facing massive everyday influxes of refugees, mostly coming from the Middle East and North Africa, who come from culturally different backgrounds than the ones previously admitted. In practice, persons granted international protection do not have the same integration possibilities or access to integration programs, mostly due to language barriers, and other previously mentioned factors, which affect the practical implementation of services.

Therefore, whilst preparing the new Strategy for Integration 2016–2026, the Government of the Republic of Macedonia shall offer a vision not just for arriving refugees, but for the Macedonian society as well. This policy document shall offer a framework for thinking about common community goals and provide guidelines and instruments to all parties concerned about how they can contribute. The strategy shall take into consideration asylum and migration policies that are already in place, but it shall as well reflect the dynamics that the current migration trends are having, and thus offer proactive integration policies. It shall primarily focus on refugees and their long-term residence, tools for their successful functioning in the society, and access to public facilities on an equal basis with Macedonian nationals. The new integration policies should by all means acknowledge the diversity and

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52 International Key Findings, Available at: <http://www.mipex.eu/key-findings> (Accessed 04.04.2016).

the realities that the Macedonian society is facing. It should include broader views, but secure that integration policies are tailored for the national context. The previous experience shows that adequate services can be provided solely with the generous support of international organization, but as well with the efforts and ideas invested by national CSOs. Precisely, CSOs are the ones that can largely influence the political climate and political outcomes, and may be important agents in combating exclusion, discrimination, and xenophobia. Special attention should be paid to the local agencies that are equal if not even more important actors in facilitating the local integration. In addition, religious institutions, trade unions, employers' organizations, the media, should be further explored as potential partners.

The measures undertaken in the socio-economic field of migration shall help refugees gain economic independence, i.e. such measures should aim at ensuring that refugees are not dependent on financial support they receive from the state. Only economically integrated refugees contribute to development of the host country rather than constituting a 'burden'. They become progressively less reliant on state welfare or humanitarian assistance and more able to support themselves, thus becoming fully integrated in the new society.



# Kingdom of the Netherlands





## ABSTRACT

*Refugees have been coming to the Kingdom of the Netherlands since World War I.<sup>1</sup> Their ethnic breakdown changed as the arenas of the armed conflicts moved away from Western and Central Europe. The Netherlands faced a large inflow of refugees in the 1990s. A record-high number of refugees fleeing the wars in the former Yugoslavia – 53,000 – arrived in 1994. The number of refugees from Afghanistan started rising in early 2000.<sup>2</sup>*

*A significant increase in the number of refugees from Syria was registered in the past four years, including 2016.<sup>3</sup> The number of submitted asylum applications and family reunification applications constantly grew over the course of this period.<sup>4</sup> An unprecedented inflow of refugees to the Netherlands, higher even than in 1994, was recorded in 2015 – around 60,000.<sup>5</sup> According to January-September 2015 statistical data, around 31% of the applicants were granted refugee status, 35% subsidiary protection, while nearly 3% were granted humanitarian protection.<sup>6</sup>*

*Within the EU, the Netherlands ranks fourth by the number of positive decisions in the first-instance. It is preceded by Bulgaria, Malta and Denmark.*

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- 1 “*Twice as many asylum seekers and following family members in 2015 as in 2014*”, Centraal Bureau voor de Statistiek, 2016. Available at: <https://www.cbs.nl/en-gb/news/2016/04/twice-as-many-asylum-seekers-and-following-family-members-in-2015-as-in-2014>.
  - 2 “*Substantial increase in asylum seekers*”, Centraal Bureau voor de Statistiek, 2015. Available at: <https://www.cbs.nl/en-gb/news/2015/05/substantial-increase-asylum-seekers>.
  - 3 “*Substantial increase in asylum seekers*”, Centraal Bureau voor de Statistiek, januari 2015; Steven Ammeraal et al, *Country Report-Netherlands*, Asylum Information Database, September 2015; “*Population growth fuelled by immigration*”, Centraal Bureau voor de Statistiek, January 2016; “*Protection in the Netherlands*”, VluchtelingenWerk Nederland, March 2016.
  - 4 *Substantial increase asylum seekers*”, Centraal Bureau voor de Statistiek, 2015; since the end of March 2014, the asylum seekers’ family members reuniting with them are no longer obliged to apply for asylum and receive residence permits on arrival. More at: <<https://www.cbs.nl/en-gb/news/2015/05/substantial-increase-asylum-seekers>>.
  - 5 “*Twice as many asylum seekers and following family members in 2015 as in 2014*”, Centraal Bureau voor de Statistiek, 2016. Children accounted for a third of registered asylum seekers in the Netherlands in 2015 (circa 18,000).
  - 6 Steven Ammeraal et al, *Country Report-Netherlands*, Asylum Information Database, 2015. The rejection rate in this period stood at 30%. More at: <[http://www.asylumineurope.org/sites/default/files/report-download/aida\\_nl\\_update.iv\\_.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_nl_update.iv_.pdf)>.

## I GENERAL OVERVIEW

Asylum issues, including the integration of individuals granted international protection in the Netherlands, are governed primarily by the 2000 Asylum Act (*Vreemdelingenwet*), which lays down both the legal status of aliens in the Netherlands and the general asylum procedure and the rights and obligations of people granted asylum.<sup>7</sup>

In principle, all aliens may apply for asylum either at the Central Reception Facility in Ter Apel, if they arrive by land, or at Amsterdam airport Schiphol if they arrive by air. Under the Aliens Act, border control officers shall not, save pursuant to a special direction issued by the Justice Minister, refuse entry into the Netherlands to aliens who indicate they wish to seek asylum.<sup>8</sup> The Aliens Police identify and register the asylum seekers at the Ter Apel Reception Facility (which entails search, photographing and fingerprinting them and the temporary seizure of all personal and other documents they have). At Schiphol, this is performed by the members of the Royal Gendarmerie (*Koninklijke Marechaussee*). Asylum applications are submitted after registration, both at the Ter Apel Facility and the reception centre at the airport. Upon registration, all asylum seekers are entitled to a six-day rest and preparation period, during which they are notified of their rights and extended medical aid.

Upon the expiry of the six-day period, the Immigration and Naturalisation Service conducts the first interview, by which the general asylum procedure is launched. The Service assesses all the facts relevant to establishing whether there are grounds for granting refugee protection in the Netherlands<sup>9</sup> and the asylum seekers are entitled to free legal aid extended by a lawyer appointed by the state. The procedure must be conducted with the assistance of an interpreter in a language the asylum seeker understands.

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7 Aliens Act (*Vreemdelingenwet*) of the Kingdom of the Netherlands of 23 November 2000, available in English at <http://www.legislationline.org/documents/action/popup/id/4680>.

8 *Ibid.*, Article 3.

9 Although the Netherlands does not distinguish between different categories of people granted asylum, the state grants asylum on one of the following grounds: 1) refugee status under the 1951 Convention Relating to the Status of Refugees or 2) subsidiary protection under Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and Article 15(c) of Directive 2004/83/EC of 29 April 2004. The Immigration and Naturalisation Service is under the obligation to approach the review of grounds subsidiarily. In the event the asylum application is upheld on subsidiary protection grounds, there is no possibility of appeal, because the rights of individuals granted asylum do not differ depending on the grounds on which they were granted such protection.

The general asylum procedure involves the establishment of facts on the merits of the asylum application at two interviews.<sup>10</sup> The Immigration and Naturalisation Service has to render a decision either upholding or rejecting the asylum application within eight days, or the deadline by which it must render its decision is extended (in which case the extended asylum procedure is initiated). The extended asylum procedure is initiated in the event it is clear within four days that the Service will be unable to decide on the application within the given deadline. In case the Service renders a negative decision on the application, the asylum seeker is entitled to lodge an appeal with the court with territorial jurisdiction within a week, but has to ask the court to issue an order staying the enforcement of the Service decision within 24 hours; otherwise, s/he may be forcibly removed before the court rules on the appeal.

As noted, the extended asylum procedure is initiated in the event the Immigration and Naturalisation Service needs more time to rule on an asylum application. The Service then has a six-month deadline to render its decision; this deadline may be moved once, by nine months. During that period, the asylum seeker is accommodated in a centre for asylum seekers under the jurisdiction of the Central Agency for the Reception of Asylum Seekers. (*Centraal Orgaan opvang asielzoekers*, hereinafter: COA).

In the event the Service rejects the application in the extended procedure, the asylum seeker is entitled to file an appeal with the court with territorial jurisdiction within four weeks. This appeal has suspensive effect.

In the event the Immigration and Naturalisation Service renders a positive decision on the asylum application in the general or extended asylum procedure, the successful asylum seeker is issued a temporary residence permit valid for five years.<sup>11</sup> Asylum seekers, who fulfil the requirements for integration in Dutch society upon the expiry of that period, are issued resident permits of indefinite validity.<sup>12</sup>

## II INSTITUTIONAL MECHANISMS FOR THE PROTECTION OF REFUGEES

The Dutch refugee integration system involves various mechanisms providing for the exercise of individual rights by people granted asylum. It may be

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10 The first interview is shorter, while the second interview is much more detailed and of greater relevance to a decision on the merits of the asylum application.

11 More is available at <https://ind.nl/EN/individuals/residence-wizard/asylum>.

12 *Ibid.*

concluded that the integration process begins as soon as an asylum seeker arrives in the Netherlands.

Several substantial and practical changes have taken place in the Dutch refugee integration system in the past few years, after the new rightist government took office. As opposed to the prior system, where the initiative for the integration of refugees was primarily left to the state, the existing system now requires of the individuals granted asylum to take the initiative themselves. Although this change in the refugee integration system should be interpreted as an element of a stricter migration policy in general – given that the integration system applies to aliens with permanent residence as well – the relevant institutional and other mechanisms can still be considered elements of a developed and adequate system for the integration of the people granted asylum in the Netherlands.

The Immigration and Naturalisation Service (*Immigratie en Naturalisatiedienst*), within the Dutch Ministry of Justice and Security, and the Central Agency for the Reception of Asylum Seekers (*Centraal Orgaan opvang asielzoekers*) are charged with the integration of refugees and migrants in general. The Immigration and Naturalisation Service (IND) is charged with status issues and issuing personal documents to asylum seekers, as well as the integration of people granted asylum in the Netherlands, while the Central Agency for the Reception of Asylum Seekers (COA) is tasked with providing accommodation both to asylum seekers and people granted asylum.

IND is the authority dealing with most issues regarding the status of aliens in the Netherlands, including asylum seekers and people granted asylum in the Kingdom. IND conducts the asylum procedure, issues temporary and permanent residence permits and conducts the immigrant integration tests in general.

COA is entrusted with the reception and accommodation of asylum seekers in designated institutions or municipal reception centres and covering the municipalities' costs, provision of intermediary services regarding the right to residence of aliens with residence permits on asylum grounds in facilities designated by municipal officials and performance of other activities related to the accommodation housing of asylum seekers<sup>13</sup> pursuant to a decision of the Ministry of Security and Justice.<sup>14</sup>

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13 The municipal authorities play a major role in accommodation, more in Section 1.5.

14 Article 3 of the Central Agency for the Reception of Asylum Seekers Act (*Wet Centraal Orgaan opvang asielzoekers*) of the Kingdom of the Netherlands of 19 May 1994, available in Dutch at [http://wetten.overheid.nl/BWBR0006685/geldigheidsdatum\\_05-02-2016](http://wetten.overheid.nl/BWBR0006685/geldigheidsdatum_05-02-2016).

### III REALISATION OF RIGHTS FORMING AN INTEGRAL PART OF REFUGEE INTEGRATION

#### 1.1. Right to work

The right to work of people granted asylum in the Netherlands is governed by the Aliens Employment Act.<sup>15</sup> The Netherlands has an extremely liberal policy compared to other EU member states – asylum seekers, who have not been issued residence permits in the Netherlands yet, are entitled to work, but maximum 24 working weeks over a twelve-month period.<sup>16</sup> The employers are under the obligation to apply for the asylum seekers' work licences. Only asylum seekers fulfilling the following requirements may be hired: they must have applied for asylum six or more months ago and a final decision on their application is still pending; the work they are to do is performed under general labour market conditions; and copies of their identity cards need to be submitted by their prospective employers.<sup>17</sup> Since asylum seekers who find work in this manner are entitled to stay on in the reception centres, they should cover part of the costs of their accommodation. People issued temporary work licences, including people granted asylum in the Netherlands, do not need to have special work licences.<sup>18</sup>

Various organisations in the Netherlands, such as the Foundation for Refugee Students (*Stichting voor Vluchtelings-Studenten*),<sup>19</sup> extend assistance to people granted asylum in finding jobs.

#### 1.2. Right to education

The right to education in the Netherlands is exercised during the asylum procedure. All children under 18 years of age are under the obligation to attend school<sup>20</sup> and the asylum centres have agreements with the nearby

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15 Aliens Employment Act (*Wet arbeid vreemdelingen*) of the Kingdom of the Netherlands of 21 December 1994, available in Dutch at: [http://wetten.overheid.nl/BWBR0007149/geldigheidsdatum\\_08-10-2012](http://wetten.overheid.nl/BWBR0007149/geldigheidsdatum_08-10-2012).

16 See Immigration and Naturalisation Service.

17 See Asylum Information Database, "Access to the Labour Market – Netherlands", Dutch Council for Refugees and European Council on Refugees and Exiles available at: <http://www.asylumineurope.org/reports/country/netherlands/access-labour-market#footnote2k0s7nrx>.

18 Aliens Employment Act, Articles 14 and 3.

19 See <https://www.uaf.nl/home/english>.

20 Article 3 of the Mandatory Education Act (*Leerplichtwet*) of the Kingdom of the Netherlands of 30 May 1968, available in Dutch at [http://wetten.overheid.nl/BWBR0002628/geldigheidsdatum\\_05-02-2016](http://wetten.overheid.nl/BWBR0002628/geldigheidsdatum_05-02-2016).

primary schools on attendance by both children seeking asylum and those granted international protection.<sup>21</sup> Children between 12 and 18 years of age attend class in international groups and transfer to Dutch schools when they master Dutch sufficiently.<sup>22</sup>

The COA offers various education programmes in the asylum centres, including Dutch language and culture classes, which are requisite for passing the integration test later. The programmes are available to all asylum seekers, regardless of the outcome of the extended asylum procedure.<sup>23</sup>

All aliens granted asylum must take the integration test, which may be set as the requirement for a permanent residence permit. People granted asylum must pass this test to have the state loans they are granted written off. Repeated failure to pass the test may result in the withdrawal of welfare. However, the obligation to pass the integration test may be waived in justified cases, especially when people with limited working capacity are at issue.<sup>24</sup>

The recognition of foreign diplomas and other school credentials is conducted by the Netherlands University Foundation for International Cooperation (NUFFIC) and the Cooperation Organisation for Vocational Education, Training and the Labour Market (SBB), which compare them against the Dutch curriculum. The procedure involves the determination of the authenticity of the diploma, the content of the curriculum, the acquired competences, the duration and purpose of the studies and the existence of any significant differences compared to the same education level in the Netherlands.

People granted asylum enrolling in a tertiary institution pay the same tuition fees as Dutch nationals. The non-government organisation Foundation for Refugee Students extends assistance in that respect and grants loans to refugees to help them cover their study costs.<sup>25</sup>

### 1.3. Right to health care

Asylum seekers are entitled to health care that should be of the same quality as the one extended to residents in the Netherlands from the moment they arrive. As soon as asylum seekers are admitted to the reception centres, the COA is

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21 The parents are also entitled to enrol their children in other schools, which have not concluded an agreement with an asylum centre.

22 More on COA's website: <https://www.coa.nl/en/asylum-seekers/living-at-an-asylum-seekers-centre/work-and-education>.

23 *Ibid.*

24 More on the Netherlands Government website, available in Dutch at <https://www.rijksoverheid.nl/onderwerpen/nieuw-in-nederland/vraag-en-antwoord/kan-ik-ontheffing-krijgen-voor-een-inburgeringsexamen>.

25 More on the Foundation and support to refugees at <https://www.uaf.nl/home/english>.

tasked with enabling them access to the health care system and informing them about the way the health care system works. All asylum seekers are registered in the Asylum Seekers Health Centre (*Gezondheids-centrum Asielzoekers*), the national network of general practitioners extending medical aid to asylum seekers, who refer them to specialist doctors if necessary.

People granted asylum, as well as asylum seekers and other residents in the Netherlands, are entitled to access the municipal health care services. Asylum seekers and people granted asylum are entitled to coverage of their health care costs by the state, and this regime mostly corresponds to the one applicable to Dutch nationals. The right to health care always exists in cases of urgent interventions, even where unsuccessful asylum seekers are at issue.<sup>26</sup>

#### 1.4. Right to social assistance

Asylum seekers in the Netherlands who cannot support themselves are provided with weekly “pocket money” to buy food and clothing. The amount of the pocket money is set against to the minimum welfare allowance Dutch nationals are entitled to but is lower, given that asylum seekers are provided with accommodation in the reception centres.<sup>27</sup> Asylum seekers, who can support themselves, do not have access to this regime.

Aliens granted asylum in the Netherlands may apply for social assistance under the same conditions as Dutch nationals.<sup>28</sup> In addition to welfare, they are also entitled to apply for loans up to 10,000 EUR with the Education Executive Agency (*Dienst Uitvoering Onderwijs*) of the Ministry of Education, Culture and Science to cover the costs of preparation for the integration test. They need not repay the loan if they pass the test.

#### 1.5. Right to housing

People granted asylum in the Netherlands are entitled to accommodation and housing which is, in principle, exercised in two stages: 1) they continue living in the asylum centres until the COA prepares housing for them in one of the municipalities; 2) they are provided with social housing in

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26 Aliens Act, Article 10.

27 As of 30 September 2015, the amount of pocket money stood at 246.90 EUR a month per single adult. See the Asylum Information Database, “Country Report: The Netherlands”, European Council on Refugees and Exiles and the Dutch Council for Refugees, November 2015, available at: <http://www.asylumineurope.org/reports/country/netherlands>, p. 52.

28 Asylum Information Database, Dutch Council for Refugees and the European Council on Refugees and Exiles, available at <http://www.asylumineurope.org/reports/country/netherlands/>.

the territory of a municipality in cooperation between the COA and the municipality identified as the one that is to take in the asylum seeker and his/her family.

Accommodation in asylum centres is organised in the following manner: like asylum seekers, persons granted asylum, but still awaiting housing in the territory of a municipality, are entitled to live in the asylum centres, where they are provided with accommodation suiting their individual needs. In most cases, between five and eight people are accommodated in separate centre units comprising a living room, several bedrooms, a kitchen and sanitary facilities.<sup>29</sup> They are under the duty to maintain order in their designated living quarters. Unaccompanied minors are accommodated in special children's residential groups, which are under round the clock supervision.<sup>30</sup>

Netherlands has a total of 84 reception centres, including "processing" centres, which can take in up to 24,850 people.<sup>31</sup> Given the increase in the number of asylum seekers in the Netherlands, people, who have been granted asylum but are still awaiting housing outside the centres, are entitled to stay with their relatives or friends if they have any.<sup>32</sup> As far as accommodation provided for people granted asylum in the Netherlands is concerned, individual municipalities are under the obligation to provide housing to people issued residence permits on asylum grounds. Such housing should be secured within 12 weeks from the day they are issued the permits.<sup>33</sup>

The state sets the housing quotas municipalities have to make available to residence permit holders every six months. The COA links the individual residence permit holders with the municipalities, which then provide them

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29 People accommodated in these institutions are provided with weekly pocket money for food, clothing and personal expenses. Although asylum seekers and persons granted asylum, who are still living in asylum centres, are to buy and prepare their own food, they are also entitled to breakfast and lunch in the centre, in which case the amount of their pocket money is reduced.

30 Since unaccompanied minors are accommodated separately from adults in the asylum centres, in the interest of their security, the centres in Drachten, Oisterwijk and Oude Pekela have separate facilities for the accommodation of unaccompanied minors. Unaccompanied minors may also be accommodated in the centre in Wageningen; *ibid*, p. 56.

31 As of 30 September 2015; *ibid*, p. 53.

32 Dutch Ministry of Security and Justice Decision No. 677862 of 10 September 2015.

33 See the Dutch Government website on accommodation of residence permit holders <https://www.government.nl/topics/asylum-policy/contents/housing-for-residence-permit-holders>.

with housing at the existing locations; if they lack such housing, they have to build new low-cost housing.<sup>34</sup> The residence permit holders must accept the offered housing; otherwise, they are no longer entitled to participate in the housing programme or to accommodation in a reception centre. Persons provided with municipal housing do not automatically become owners of the housing, but are entitled to buy it if they can afford to.

Although most residence permit holders are provided with housing in the town where their reception centre is located, they can also express the wish to be provided with housing in another region, where their family members are living or where they can be provided with the health care they need.

These people have to cover the costs of the assigned housing themselves; the vast majority of those who are unemployed receive state welfare sufficient to cover reasonable housing and living costs.

The eminent NGO Dutch Council for Refugees plays a major role in this respect. Through its well-established cooperation with the state authorities, it has been helping the successful asylum seekers adjust to their new way of life and live independent lives in the Netherlands.<sup>35</sup>

## 1.6. Right to citizenship

Aliens issued residence permits in the Kingdom of the Netherlands are entitled to apply for Dutch citizenship under the same circumstances as aliens with permanent residence in this country. Given that Dutch citizenship may be acquired on different grounds,<sup>36</sup> naturalisation is the way in which most people granted international protection in the Netherlands can acquire citizenship.

Aliens, who wish to apply for Dutch citizenship, need to file a special application with the Ministry of Justice and fulfil the following requirements: be over 18 years of age, have permanent residence in the territory of the Netherlands; have legally resided in that territory for at least five years; can be qualified as integrated (assimilated) in Dutch society; have a specific level of proficiency in Dutch; be familiar with the Dutch political and

<sup>34</sup> See the COA website on accommodation of residence permit holders, more on <https://www.coa.nl/en/asylum-seekers/accommodation-for-residence-permit-holders>.

<sup>35</sup> See the Dutch Council for Refugees website available in Dutch at <http://www.vluchtelingenwerk.nl/>.

<sup>36</sup> These requirements are laid down in the 1985 Dutch Citizenship Act (*Rijkswet op het Nederlanderschap*), available in Dutch at [http://wetten.overheid.nl/BWBR0003738/geldigheidsdatum\\_02-02-2016](http://wetten.overheid.nl/BWBR0003738/geldigheidsdatum_02-02-2016).

social systems; and be willing to take an oath of allegiance<sup>37</sup> (*verklaring van verbondenheid*).<sup>38</sup>

### 1.7. Right to family reunification

As far as exercise of the right to family reunification is concerned, the Dutch Aliens Act considers that the family comprises the spouse and underage children of the alien.<sup>39</sup>

The right to family reunification may be exercised by aliens issued residence permits on grounds of asylum or granted refugee status in the Netherlands. Persons to be issued residence permits on family reunification grounds need to apply for such permits within three months from the day of arrival in the Netherlands or when applying for such permits. The right to family reunification may also be exercised within the resettlement selection programme but is limited only to the family members who were known at the moment of selection, with a view to precluding abuse.<sup>40</sup>

Persons issued residence permits in the Netherlands on these grounds are entitled to live with the family member(s) they reunited with, including in the housing allocated by the municipalities.

## IV CONCLUSION

Despite the more stringent measures for the integration of the refugees in Dutch society, this system still provides an extremely well-developed mechanism of support enabling people granted refugee status to “stand on their own two feet” and adequately integrate in the social life of the Netherlands. The impression is gained that the paradigmatic framework emphasising the role of the refugees themselves in their integration – coupled with adequate support extended by the state and the non-government sector already during the asylum procedure – essentially facilitates the efficiency and ease of integration of people granted international protection in the Netherlands.

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37 Since people applying for Dutch citizenship declare they will respect the constitutional order of the Kingdom of the Netherlands, by giving a religious or non-religious version of the oath, the concept of “oath” should be interpreted more broadly, especially given the fact that the words “I swear” (*iz zweer*) are replaced by the words “I declare” (*ik verklaar*) in the non-religious version.

38 Dutch Citizenship Act, *supra* 37, Article 8.

39 Article 27(1(e)), Aliens Act.

40 See the UNHCR Resettlement Handbook, “Netherlands by the Government of the Netherlands”, UNHCR, available at <http://www.refworld.org/pdfid/52a0776c0.pdf>.

Given the major discrepancies in capacities and resources between Western Balkan countries and Serbia, on the one hand, and the Kingdom of the Netherlands, on the other, as well as the latter's decades-long experience in assisting refugees, the issue of the adequacy of applying the Dutch model in the local circumstances arises inevitably. Notwithstanding, specific elements of the model could, indeed, be applied in Serbia as well.



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