**DRAFT**

Pursuant to Article 45, Paragraph 1 of the Law on Government (Official Gazette RS, No. 55/05, 71/05 − correction, 101/07, 65/08, 16/11, 68/12 – CC, 72/12, 7/14 – CC and 44/14),

The Government hereby adopts

# STRATEGY FOR COMBATING IRREGULAR MIGRATION IN THE REPUBLIC OF SERBIA FOR THE PERIOD 2018-2020

##  INTRODUCTION

The Strategy for Combating Irregular Migration 2018-2020 (hereinafter: the Strategy), is an important strategic document of the Republic of Serbia, which will help increase the regularity of migration flows, and successful migration management at the borders and on the territory of the Republic of Serbia. The Strategy has been developed in response to the identified need to approach the issue of irregular migration in an organised and coordinated manner, with respect for the security needs and development interests of the Republic of Serbia and its citizens, on one hand, and the need to respect universal human rights and freedoms, in the context of migration, on the other. By adopting and implementing this Strategy, the Republic of Serbia will continue the trend of improving its migration management policy, which has been developing dynamically ever since the 1990ies.

Furthermore, this Strategy is part of the efforts to further harmonize government policies and legislation with the European Union (EU) acquis communitarian, and thus support the process of negotiations for acceptance of the Republic of Serbia as EU member. The issue of irregular migration holds a prominent position in the documents regulating the accession of the Republic of Serbia to the EU, because of previous experience with an increased number of Western Balkan citizens seeking asylum in EUmember states after the visa regime liberalisation with these countries, as well as because of the experience with an increased influx of migrants from Asian and African countries into the EU member states through the Western Balkan route[[1]](#footnote-2). The National Programme for the Adoption of the Acquis Communautaire(NPAA), lists a number of activities that need to be undertaken in the period 2016-2018, to improve legislation, institutional framework, data collection and exchange, and human and technical capacities related to the prevention of irregular migration, assistance to irregular migrants and the reintegration of returnees under readmission agreements (p. 1050-1051)[[2]](#footnote-3). The adoption of the Strategy will help improve the position of the Republic of Serbia in further negotiations with the EUwithin Chapter 24, Justice, freedom and security. In the Action Plan for the Chapter 24 Justice, freedom and security, representing the main framework of action for the Government of the Republic of Serbia in this area, and in particular the Ministry of Interior (MoI), which is the lead Ministry within the Negotiating Group,and other competent institutions, provides a set of activities focusing on the prevention of irregular migration and support to irregular migrants staying on the territory of the Republic of Serbia. Also, irregular migration is mentioned in the very introduction to the key strategic document in this area, the Migration Management Strategy**[[3]](#footnote-4)**, where it is highlighted that “planned and organised migration management entails monitoring external and internal migration movements and implementing activities that will lead to encouraging regular and suppressing irregular migration”.[[4]](#footnote-5)

The starting point for the development of the Strategy is the Strategy for Combating Illegal Migration in the Republic of Serbia for the period 2009-2014.[[5]](#footnote-6) A systematic evaluation of this Strategy has not been done, but a careful review may lead to the conclusion that this strategy, in light of the realistically described issues in the area of irregular migration at the given moment and based on a gap analysis and a SWOT analysis, set adequate aims, objectives and planned activities that should have resulted in a sustainable and efficient system of combating irregular migration. The main issue related to this strategy is that it was not implemented in a systematic or coordinated manner. In 2015, within the mission of the Technical Assistance and Information Exchange instrument (TAIEX)[[6]](#footnote-7), experts from EU member states conducted an assessment of the Strategy for Combating Illegal Migration.[[7]](#footnote-8) A recommendation was presented within the assessment that in the Republic of Serbia, a holistic and integrated Strategy-related system should be developed in a long-term perspective, which, in relation to migration, should result in the development of only one Draft Strategy for the entire system of migration (migration, asylum and social integration). In accordance with this recommendation, the Strategy for Combating Irregular Migration for the period 2018-2020 of the Republic of Serbia lays down its policy for establishing an efficient system for combating irregular migration as an integral part of the overall migration management system, by identifying strategic objectives, laying down essential measures in the process of establishing and attaining sustainability and efficiency of the system for combating irregular migration and defining the basic methodology for achieving objectives, thus setting a framework for the development of the action plan, taking into account the objectives and activities defined in other relevant strategies, primarily the Migration Management Strategy, the Integrated Border Management Strategy in the Republic of Serbia 2017-2020[[8]](#footnote-9) and the Strategy for the Reintegration of Returnees Under Readmission Agreements.[[9]](#footnote-10)

The main foundation for this Strategy can be found in the Republic of Serbia Constitution[[10]](#footnote-11), which stipulates that the Republic of Serbia shall protect the rights and interests of its citizens abroad (Art. 13), and guarantee foreigners in the Republic of Serbia the rights provided in the Constitution and the Law, except for the rights under the Constitution and the Law pertaining exclusively to the citizens of the Republic of Serbia (Art. 17). The general framework of the Strategy is provided in the Universal Declaration of Human Rights, stating that “everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (Art. 2). “Everyone has the right to leave any country, including his own, and to return to his country” (Art. 13, Para. 2). Everyone has the right to seek and enjoy asylum from persecution, unless they are prosecuted for crimes of non-political nature (Art. 14). “No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality” (Art. 15).

In accordance with the general legal framework and the Law on Migration Management[[11]](#footnote-12), Articles 7 and 8 define the general principles important for this Strategy. The principle of the protection of rights requires that migration management be based on the protection of rights of persons in the process of migration, with respect of, to the highest extent possible, the specific nature of their needs and interests, by the Republic of Serbia. “The principle of compliance with ratified international agreements and universally adopted rules of international law in the area of migration, requires that migration management be implemented in compliance withthe ratified international agreements and universally adopted rules of the international law in the area of migration.”

With respect to the complexity and multidimensional nature of the issue of irregular migration, an interagency working group was established for the Development of the Draft National Strategy for Combating Irregular Migration in the Republic of Serbia for the period 2018-2020, with the Corresponding Action Plan, gathering together representatives of different government institutions important for combating irregular migration: Ministry of Interior (MoI), Commissariat for Refugees and Migration (CRM), Republic Public Prosecutor’s Office, Ministry of Defence (MoD), Ministry of Justice, Security Information Agency , Ministry of Foreign Affairs (MFA), Republic Secretariat for Public Policies, Customs Administration, Ministry of Labour, Employment, Veteran and Social Affairs (MoLEVSA), Ministry of Finance, Ministry of Health and Ministry of Trade, Tourism and Telecommunications. International Organisation for Migration (IOM) has provided technical support for the development of the Strategy, and administrative support was provided by the Border Police Directorate of the MoI. The establishment of the interagency working group additionally supported activity 1.1.4 of the Action Plan for Chapter 24Justice, freedom and security in the negotiations for the acceptance of the Republic of Serbia as EU member – Improve the mechanism of coordination and monitoring of tasks performed by government agencies implementing the legislation in the area of migration.[[12]](#footnote-13) Furthermore, another recommendation of the TAIEX mission is implemented in this way, from the assessment of the Strategy for Combating Illegal Migration – Improve cooperation between relevant institutions included in the migration system and avoid overlapping of responsibilities.

## Main Definitions[[13]](#footnote-14)

With the intent to conceptualise this Strategy focusing on the unification of policy in the area of migration management, the terms used here are those defined either in the Law on Migration Management or in some other relevant law of the Republic of Serbia, or, if they do not appear in the laws, then they are taken from the Migration Management Strategy or a relevant international charter or convention.

The use of the adjective ‘irregular’ instead of ‘illegal’ referring to migration and migrants, is in accordance with the tendency in global and European migration management policy to improve the protection of the basic rights of migrants and avoid stigmatization and incrimination of migrants moving differently to established rules and procedures.[[14]](#footnote-15)

## LEGAL AND STRATEGIC FRAMEWORK

## International legal framework

International legal framework for the adoption of this Strategy consists of various conventions of general type, regulating fundamental human rights of all, including migrants, special conventions related to the rights of specific groups, such as children, women or racial minorities, which define the prohibition of discrimination and abuse of these groups, as well as special conventions related to phenomena closely connected with irregular migration, such as the smuggling of migrants or trafficking in human beings.

The relevant international conventions are: Universal Declaration of Human Rights[[15]](#footnote-16), International Covenant on Civil and Political Rights[[16]](#footnote-17), International Covenant on Economic, Social and Cultural Rights[[17]](#footnote-18), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)[[18]](#footnote-19), United Nations Convention on the Rights of the Child[[19]](#footnote-20), United Nations Convention against Transnational Organized Crime[[20]](#footnote-21) and Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children[[21]](#footnote-22), Protocol against the Smuggling of Migrants by Land, Sea and Air[[22]](#footnote-23), Convention on the Right to Sea, Convention for the Safety of Life at Sea (SOLAS)[[23]](#footnote-24) and Convention on Maritime Search and Rescue.[[24]](#footnote-25)

State parties to these instruments have the obligation to report on meeting commitments under the above-mentionedconventions.

Over the recent years, the international community has been giving greater attention to irregular migration. National Governments of the most common destination countries have been implementing different policies on irregular migration. United Nations (UN) and other international organisations have been making an effort to encourage improved coordination of policies in this area, as well as to apply the principle of non-incrimination of irregular migrants within the policies for suppressing irregular migration and treating them with the protection of their human rights. At the Global Migration and Development Forum in 2010, The Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Global Migration Group (GMG) issued a joint statement expressing concern for the situation in relation to the respect of the human rights of migrants that find themselves in an illegal situation and calling to end incrimination of these migrants (UN, 2012). Later in 2013, the High-Level Dialogue on International Migration and Development called on governments to protect the human rights of migrants in illegal situation (UN General Assembly, 2013).

In response to the refugee and migrant crisis that escalated in 2015, the UN started an initiative to reach a global compact with the aim to plan future obligations and activities and share responsibilities on the global plane in relation to the issue of mass movements of people, caused by conflicts and fear of persecution or poverty and insecurity in migrants’ countries. This resulted in the adoption of the so-called New York Declaration for Refugees and Migrants[[25]](#footnote-26), which was unanimously adopted by 193 UN Member States on 19 September 2016, at the beginning of the 71st Session of the UN General Assembly in New York. The Declaration provides for negotiations on two separate documents – global compact on refugees and global compact on migration, which should be adopted by the end of 2018. The global compact on migration envisages the establishment of a framework for safe, orderly and regular migration with the aim to regulate global management and coordination of international migration.

### 3.2 Harmonization of the Republic of Serbia policy in the area of irregular migration with EU policy

Since 1999. the EU has been developing joint immigration policy for Europe. EU legal framework regulating action in the case of irregular migration is part of several legal instruments. The instruments implemented in the aspect of the arrival of migrants are focused on border management and prevention of irregular migration through cooperation with the countries of origin and transit. EU immigration policy competences are initially defined in articles 79 and 80 of the Treaty on the Functioning of the EU.[[26]](#footnote-27)

EU policy toward irregular immigration is directed at the prevention and reduction of irregular immigration, by preventing entry into the EUarea and the tools of the policy of return, in a way which is fully in accordance with the protection of the human rights of migrants. Preventing and reducing irregular migration and trafficking in human beingsis one of the four pillars of the EUmigration policy presented in the document The Global Approach to Migration and Mobility – GAMM).[[27]](#footnote-28)The other three pillars are: legal migration and mobility, international protection and the external dimension of asylum policy and maximising the development impact of migration and mobility.

In the context of increased immigration pressures, EU policy towards irregular migration has been elaborated under the title “Reducing the incentives for irregular migration”, as the first pillar of improved migration management in the 2015 EC Communication, European Agenda on Migration.[[28]](#footnote-29)This approach identifies three areas of activity to reduce incentives for irregular migration: a) addressing the root causes of irregular and forced displacement in third countries and through financial and political support to development programmes in these countries and the intelligence system on the safety, b) the fight against smugglers and traffickersthrough the cooperation with third countries, enhancing investigations and improving the legislative framework and c) improving the procedures for the return of irregular migrants in third countries if they meet the requirements in relation to human rights.

A general framework of this policy is presented in the European Convention for the Protection of Human Rights and Fundamental Freedoms[[29]](#footnote-30), Council of Europe Convention on Action against Trafficking in Human Beings[[30]](#footnote-31), and the mentioned GAMM strategic document, and in the legislative framework of EUpolicy in the area of irregular migration it has been transposed throughseveral directives and regulations on migration, starting with the 2006 Schengen Borders Code to later directives regulating the entry and stay of foreigners for study and employment purposes. Domestic legislation is either harmonised with these regulations, or it is underway (Action plan for Chapter 24Justice, freedom and security – Report on the Implementation of Activities, July-December 2016):

* Working Group for the development of the Law on Foreigners has been established, Draft Law on Foreigners transposing Directive 2009/50/EC, Directive 2011/98/EU, Directive 2003/86/ЕC, Directive 2003/109/ЕC, Directive 2011/51/EC, Directive 2005/71/ЕC, Directive 2004/114/ЕC, Directive 2014/36/ЕU, 2014/66/EU, 81/2004/ЕC, Directive 2002/90/ЕC, Directive 2004/82/ЕC, Directive 2008/115/ЕC, Framework Decision 2002/946/JHA, Directive 2009/52/ЕC has been developed. Tablesshowing harmonization of the Draft Law with included EUDirectives have been developed. In December 2016, the final Draft Law on Foreigners was sent to the regular procedure of seeking opinions from competent ministries and other government bodies. The adoption of the Law on Foreigners is expected by the end of 2018.
* Draft amendments to the Law on Employment of Foreigners is under development, which is harmonized with Directive 2009/52/EC, Directive 2004/38/EC, Directive 2001/55/EC, Directive 2013/33/EC, Directive 2003/109/EC, Directive 2004/81/EC, Directive 2011/95/EC, Directive 2004/114/EC, Directive 2014/36/EU and Directive 2011/51/EU.
* New draft Law on Asylum has been developed, which is fully harmonized with Directive 2013/32/EU, Directive 2011/95/EU, Directive 2013/33/EU, Directive 2001/55/EC and draft by-laws have been developed in accordance with this law. The Law on Asylum is expected to be adopted by the end of 2018.
* New multi-annual Strategy for Integrated Border Management in the Republic of Serbia for the period 2017-2020 and Action Plan for its implementation have been adopted.
* Draft amendments to the Criminal Code have also been adopted, in accordance with European Union acquis Communautaire, by adding Article 350a, providing for more severe punishment for human smuggling.

The development of the Strategy for Combating Irregular Migration in the Republic of Serbia for the period 2018-2020, represents an addition to the said activities, with the aim to create a comprehensive migration management system, as recommended in the above-mentioned TAIEX expert report.

## 3.3 Legal and strategic framework for combating irregular migration in the Republic of Serbia[[31]](#footnote-32)

### 3.3.1 Laws

The relevant legal framework defining the status and rights of irregular migrants identifying actors in combating irregular migration and defining their competencies and procedures is consisted of:

* Republic of Serbia Constitution
* Law on Migration Management
* Law on the Protection of the State Border[[32]](#footnote-33) - by the time the Strategy is adopted, the Law on Border Control will also have been adopted
* Law on Foreigners[[33]](#footnote-34)
* Law on Asylum[[34]](#footnote-35)
* Ordinance on more detailed conditions for refusing entry of foreigners to the Republic of Serbia[[35]](#footnote-36)
* Criminal Code[[36]](#footnote-37) and
* Agreement between the Republic of Serbia and the European Union on the Readmission of Persons Residing without Authorisation[[37]](#footnote-38) and bilateral readmission agreements with other countries

### 3.3.2 Programmes and strategies

The policy for combating irregular migration is elaborated to the level of concrete activities through a number of programmes, national strategies and action plans. These public policy documents define objectives, institutions responsible for the activities and sources of funding for the implementation of certain aspects of the policy for combating irregular migration that this strategy is to bring together and supplement so that it constitutes an organised unity. The following are the most important relevant public policy documents:

* National Programme for the Integration of the Republic of Serbia into the European Union (NPI)
* Migration Management Strategy
* Strategy for Combating Illegal Migration in the Republic of Serbia for the period 2009-2014[[38]](#footnote-39)
* Integrated Border Management Strategy in the Republic of Serbia 2017-2020 and Action Plan
* Strategy for the Reintegration of Returnees under the Readmission Agreement[[39]](#footnote-40)
* Chapter 24 Justice, freedom and securityin EU accession negotiations[[40]](#footnote-41) and Action Plan for Chapter 24
* Response Plan in the Case of an Increased Influx of Migrants

## 3.3.3 Institutional framework for migration management and the suppression of irregular migration in the Republic of Serbia

The area of migration management is in its nature multi-sectoral, therefore various aspects of migration can be found under the competencies of different ministries and other government agencies. The Ministry of the Interior (MoI) and Commissariat for Refugees and Migration (CRM) have the broadest scope of tasks in migration management. Also, the competencies of the Ministry of Labour, Employment, Veteran and Social Affairs (MoLEVSA) are significant in the domain of protection of unaccompanied minors or minors separated from guardians.

The following institutions are also actors under this Strategy:

* Republic Public Prosecutor’s Office (RPPO)
* Prosecutor’s Office for Organised Crime (POOC)
* Ministry of Justice (MoJ)
* Ministry of Defence (MoD)
* Security Information Agency (SIA)
* Ministry of Foreign Affairs (MFA)
* Ministry of Public Administration and Local Self-Government (MPALSG)
* Ministry of Finance, Customs Administration (MoF)
* Ministry of Health (MoH)
* Ministry of Education, Science and Technological Development (MESTD)

In the Ministry of Interior – Police Directorate, specialised units have been formed for combating irregular migration, with the Border Police Directorate, Regional Border Police Centres, Criminal Investigation Police Directorate – SBPOK (Unit for Combating Organised Crime), Belgrade Police Department – Directorate for Foreigners and Regional Police Departments.

The Ministry of Interior and Republic Public Prosecutor’s Office signed a Memorandum of Understanding, in the area of combating human smuggling, with the aim to establish more efficient cooperation between the police and the prosecutor’s office, to suppress human smuggling, conduct investigations and intensify information-sharing with police services in the region and EUROPOL. Based on the MoU, in late 2016, the Task Force on Combating Human Smuggling was established. It is consisted of experienced police officers from the Border Police, SBPOK and Police Department Belgrade, as well as the representatives of the Prosecutor’s Office for Organised Crime.

Since the summer 2016, Joint Forces of the Serbian Army and the Ministry of Interiorhave been active on the Serbian state border, with the task to prevent illegal border crossings and migrant smuggling.

The Commissariat for Refugees and Migration (CRM) acts in accordance with the Law on Migration Management. It fulfils tasks related to: proposing programmes to develop system of measures directed at families of foreigners illegally residing on the territory of the Republic of Serbia and proposing programmes for support to voluntary return of foreigners residing illegally on theterritory of the Republic of Serbia to their country of origin, keeping records in the area of its competencies and establishing databases, as well as providing data to other actors in the system; monitoring the implementation of migration policy measures, coordination and organisation of primary reception and cooperation with host communities and is responsible for operational implementation of planned activities in the field, as well as for successful reintegration of returnees. Since the great influx of refugees during 2014 and 2015, in addition to regular centres for accommodation of asylum seekers, 14 temporary centres for the accommodation of a large number of asylum seekers and migrants have also been under the jurisdiction of the CRM.

In June 2015, the Government of the Republic of Serbia established the Working Group on Mixed Migration Flows, which played a significant role in the successful response to the great migration wave that passed through Serbia that year. Several other bodies have been established by the Government of the Republic of Serbia, with competencies in the area of migration management. In the area of the prevention of irregular migration, the following bodies have a significant role[[41]](#footnote-42):

* Coordination Body for Migration Monitoring and Management is in charge of directing the work of the ministries and special organisations for the purpose of defining migration policy objectives and priorities and monitoring and managing migration;
* Council for Combating Trafficking in Human Beings;
* Centre for Human Trafficking Victims Protection, operating as social protection institution;
* Commission for monitoring the visa-free travel scheme in the European Union is in charge of reviewing issues related to the increase in the number of ‘false asylum seekers’ in European Union countries coming from the territory of the Republic of Serbia and proposing to the Government considerations and decisions in relation to the measures directed at the reduction of the number of false asylum applications;
* Council for Integration of Returnees under the Readmission Agreement.

##  OVERVIEW OF TRENDS AND EFFECTS OF IRREGULAR MIGRATION IN THE REPUBLIC OF SERBIA

In the context of migration movements around the European Continent, Western Balkans is an important area, which, on one hand is the region of origin of migrants, and on the other, because of its geographic position, it is simultaneously a significant transit area used by migrants from Asia and parts of North Africa (especially Turkey, the Middle East, parts of Central Asia and North Africa), attempting to reach EU territory. This was particularly apparent in 2014 and 2015, when the mixed migration flows over the territories of the Western Balkans culminated, and when the Western Balkan route took over the first place in the number of illegal border-crossings from the Eastern Mediterranean route.[[42]](#footnote-43)

Serbia is one of the countries the most effected by migrant crisis, considering it is on the Western Balkan migration route, strategically positioned between Macedonia and EU member states, Hungary and Croatia, with a border thatis, in its large part, difficult to defend. Since 2015, there have been several new and amended regulations in the EU and Balkan countries with regards to the rules of entry and border closing, which has affected the number of migrants passing through Serbia.[[43]](#footnote-44)

In recent years, all this has to a great extent influenced the issue of irregular migration being taken as a serious political issue of international importance and to making governments in the region include migration management and, particularly, the prevention of irregular migration among the top priorities on their agendas. This has beenstrongly supported by requests from EU countries, which are typical migrant destinations, to lead a coordinated joint policy on the issue and for the Western Balkan countries to adapt their legislation and judicial andpolicing practices to EU standards.

The overview of EU policy in combating irregular migration has shown that the activities have been directed at three risk-generating moments/locations, carried by these movements: 1) in the countries from which migrants start their journey towards the EU, 2) at external borders and 3) within EU territory, when migrants have already managed to enter irregularly. There are two groups of challenges for the governments to respond to in order to successfully prevent irregular migration in all three instances:

1. The first group of challenges is related to migrants and their movement, i.e. to the number and structure of migrants in terms of status (share of irregular in the total number of migrants) and related risks (smuggling, trafficking in human beings and other criminal offences), origin and destination (countries they come from and move towards) and vulnerabilities (children, unaccompanied minor children, women, victims of trafficking in human beings, etc.)
2. The second group of challenges is related to requirements to adapt thelegal and political frameworks to the variable character of migration on one hand, as well as to the change inthe political situation in the region and the world, on the other.

Related to the first level of action, in terms of the activities focusing on risk hotspots in the countries of origin of irregular migrants, Serbia has no financial or political capacities to lead the policy of supporting development in these countries, but can conform to EU policy, harmonize regulations and cooperate with the EU on foreign policy, exchange of information and joint operational action to protect security and prevent irregular migration. Regarding the second and third levels of action, combating irregular migration on the borders towards neighbouring countries and within its own territory, Serbia has so far in practice already demonstrated the capacity to react adequately and efficiently, also to sudden migration waves, to engage the necessary resources and coordinate activities between various institutions to, on one hand protect its interests, and on the other provide the necessary assistance and protect the fundamental rights of migrants.However, addressing the ‘migrant issue’ requires considerable engagement of the country’s resources, both financial and human and technical, which imposes the need to introduce more efficient and effective management in this area. Measures for deterring migrantsfrom illegal entry to the territory of Serbia, reception and protection of refugees, increased health and social support to vulnerable migrant categories, and combating migrant smuggling required a reorganisation of competent services, additional training of employees, increased number of executors, procurement of advanced technologies to uncover the attempts of illegal border crossings, increased cooperation between the police and prosecutor’s offices in the region, etc. A large part of these costs was covered by international donations, but there have been significant allocations from the Budget of the Republic of Serbia.

With a view of the above, and for the purpose of designing relevant, efficient and effective policy for the prevention of irregular migration, it is necessary to analyse migration flows, legal and political frameworks and available human and financial resources.[[44]](#footnote-45) Considering that Serbia is the country of transit and temporary stay of migrants, but still to a great extent also the country of origin of irregular migrants, the above-mentioned phenomena should be analysed here from both of these aspects.

### 4.1 Irregular migration trends outside Serbian borders[[45]](#footnote-46)

Compared to the record levels of irregular migration in 2015, the number of detections on the outside borders of the EU was reduced by 93% in Q4 2016. The number of illegal border-crossings, primarily from Serbia to Hungary and Croatia, accounted for 75% of what was reported in the previous quarter, and only 1% of the level of Q4 2015”.[[46]](#footnote-47)On the other hand, growth was again detected on the Eastern Mediterranean route, and in Q4 2016, the level of irregular migration was more than twice as high as one year before (FRAN[[47]](#footnote-48) Q4, 2016). These findings show that the general migration pressure has significantly declined, but it is higher than could be said based on movements toward Serbian borders, so over the coming period an instable trend can be expected with occasional increase of irregular migration flows toward Serbia.Such a finding points to the need to develop a Resource Mobilization Plan to combat irregular migration both at the border and within Serbian territory in case of mass influx of migrants.

#### 4.2 The implementation of Readmission Agreements

Readmission Agreements represent an important instrument in combating irregular migration, which was identified by the competent authorities of the Republic of Serbia, so bilateral agreements have been signed with neighbouring countries. The agreements cover both the issues of returning Republic of Serbia citizens and of taking over third country nationals or stateless persons that crossed to the territory of another country directly after staying or transiting over the territory of the Republic of Serbia. With the aim of combating irregular migration, it is particularly important to strengthen the role of the Republic of Serbia as the requesting country in the readmission procedure with neighbouring countries.

The issue of irregular migration has a prominent place in the Action Plan for Chapter 24 Justice, freedom and securitywithin subsection on migration, recommendation 1.5: “Continued good implementation of readmission agreements with European Union member states and finalization of the network of bilateral agreements with all neighbouring countries compatible with readmission agreements between the European Union and third countries. A similar arrangement should be made with Kosovo” recommending to continue with good implementation of readmission agreements, and for this reason this issue is not the focus of activities in this Strategy. Serbia needs to continue the good trend in the implementation of the Readmission Agreement. Focus should be on its implementation.In 2016, when the Action Plan for Chapter 24 Justice, freedom and securitywas adopted, such an agreement was in place with the EU and another 11 countries. In terms of the implementation of Readmission Agreements with the EU, so far 19 implementation protocols have been signed and Readmission Agreements with Turkey and Ukraine are pending.

The implementation of Readmission Agreements produces effects of reduced number of Serbian citizens seeking asylum in EU countries. Review of EUROSTAT data shows that over the past several years there have been variations in the number of submitted asylum applications, the number of pending applications, the number of requests for returning Serbian citizens and consent to these requests. It is important that in 2016, there has been a considerable drop in the values of all of the above indicators. The number of Serbian citizens seeking asylum for the first time in the EU dropped to below 10,000, which had not happened since 2010. In 2016, this number was 8,890. If we add to this data that the number of cases of asylum seekers from Serbia waiting has been decreasing continuously month by month and that it was only 345 in May 2017, we can conclude that the number of asylum seekers from Serbia in the EU has reduced significantly. This trend has been further strengthened by the 2013 amendments to the Criminal Code, in the sense of extending criminal liability for the offence “enabling abuse of accessing right to asylum in a foreign country” (Art. 350a).

In terms of the reintegration of returnees according to readmission agreements, there are no recent data collected in a systematic manner but based on the profile of returnees it may be concluded that reintegration has been with difficulty. Namely, the highest percentage of returnees in Serbia according to Readmission Agreements are Roma, which is also the social group with the highest share of socially excluded citizens. In addition, Migration Profile states that the educational structure of returnees is very unfavourable, and the share of persons with income under 1%. This indicates that there is urgent need to strengthen the programmes of reintegration of returnees under the Readmission Agreement, in order to prevent repeated attempts of irregular migration towards EU countries. The NPAA, second revision (2016), states that the signing of the Readmission Agreement with the EU, Republic of Serbia has committed to undertake measures for the reintegration of returnees. The CRM, based on the Law on Migration Management, adopts annual programmes for reintegration of returnees funded from the Republic of Serbia budget. These programmes include activities with the aim to improve housing conditions and economic empowerment of returnees. In addition, CRM in cooperation with other competent agencies and services, provides urgent support to returnees immediately after the return to the country, including temporary accommodation for persons in need.

The report on the implementation of the Action Plan for Chapter 24Justice, freedom and security (July-December 2016) states that the system for monitoring reintegration has been improved, by adding new indicators to the Migration Profile, enabling regular analysis. Furthermore, budget funds were earmarked in 11 LSG units for reintegration programmes. It is important to mention that these funds are regularly provided in the CRM’s annual budget and spent based on the annual plan adopted by the Government.

### 4.3 Irregular migration trends at the Republic of Serbia border

Migration trends at the Serbian border are much more affected by the action of Serbian institutions than the developments in conflict zones from which the majority of irregular migrants come. In this respect, a higher quantity of data on migration on the borders and the territory of Serbia is available. It is a well-known fact that there is no unified system in the flow of data on irregular migration, i.e. that a unique method for collecting and presenting data that would be based on one definition and set of indicators used by all stakeholders involved in migration management and monitoring has not been established.However, a fortunate circumstance in Serbia is that for several years now, CRM has been publishing the Migration Profile, an analytical publication on major migration trends with a harmonised structure which enables monitoring changes in trends over the years.

General trends of irregular migrant flows into Serbia and realistic assessment on their intent to stay in Serbia can be assessed through the data on the number of expressed intent to seek asylum and number of actual applications for asylum. The number of persons that expressed intent to seek asylum decreased in 2016 after the closure of the Western Balkan Route but has still not dropped back to the level before the outbreak of the migrant crisis. On the other hand, the number of those seeking asylum is low, but has grown steadily over the years – with the total number of asylum seekers in 2016 nearly four times as high as in 2013.[[48]](#footnote-49)It can be concluded from this trend that after the closing of the Western Balkan Route, the migration pressure decreased considerably, but it still has not reached the level before the escalation of conflict in Syria. The persistence of irregular migration is not only the result of the prolonged conflicts in Syria, Iraq and Afghanistan, but also the consolidation of migration models and routes and therefore activities on combating irregular migration must be broadened in scope and coordinated.

In 2016, according to the Ministry of Interior, a total of 6,050 irregular migrants were detected. The number of illegal crossings on the green border dropped suddenly after May 2015, and as of February 2016 when it dropped to under 500 cases per month, and in November and December 2016, to under 100 cases per month.[[49]](#footnote-50) Based on this we can conclude that irregular migrations mirrored the changes in the volume of the overall migration flow and that it peaked in the spring of 2015, and that the number, with slight variations, dropped to under one hundred crossings on the green border in late 2016. However, such a reduction in the number of illegal crossings cannot only be attributed to the reduced influx of migrants from the Middle East and Africa, but also enhanced security measures implemented in 2016.Since they were established in July 2016 until April 2017, Joint Army and Police Forces detected over 20,000 migrants attempting to illegally cross the state border, and prevented 121 attempts of human smuggling, apprehending 139 smugglers.[[50]](#footnote-51) This information is indicating the need to enhance the activities of security forces and judiciary both in approach to smugglers and in the cooperation with the police and public prosecutor’s offices of other countries on the route from the migrants’ countries of origin to the countries of destination. In this context, it would be good to add here that in 2016, the perpetrators of this offence were predominantly the citizens of Serbia (80.8%). As for smuggled persons, after the great wave of Syrian refugees decreased, the structure of their share in smuggling changed, so in 2016, most often smuggled persons were the citizens of Afghanistan, Syrians were second, Pakistani third and Iraqis fourth.

The analysis of the trend of identification of irregular migrants at the borders toward neighbouring countries shows that a significant change occurred in 2016 in relation to previous years. The pressure at the borders with Bulgaria, Hungary and Macedonia has dropped distinctively (by over 80%), but the borders with Croatia, Romania and Montenegro have seen an increase in the number of detected irregular migrants. This finding confirms the conclusion that preventive measures at the borders with Macedonia, Bulgaria and Hungary, through where the main wave came in 2015, were successful, but also that irregular migrants that have been stranded in Serbia are now looking for alternative routes to exit towards the EU. For this reason, we can conclude that the Strategy should respond not only to the challenges of irregular migration as a general phenomenon, butalso to sudden migration waves, i.e. to predict the system’s response in case of influx of a high number of migrants. This is also in part provided in the Recommendation 1.4 in the Action Plan for Chapter 24Justice, freedom and security, which says: “propose an evaluation mechanism assessing the accommodation capacity for irregular migrants on a continuous basis with the possibility to boost capacity in the short term, if necessary”. It should be noted here that the Government of the Republic of Serbia has defined policy measures for the situation of a sudden influx of migrants presented in the document Response Plan in the Case of an Increased Influx of Migrants, adopted in September 2015. This policy measure is presented in more detail in the section on combating irregular migration on the territory of Serbia.

#### CHANGES IN THE LEGAL AND INSTITUTIONAL FRAMEWORKS RELEVANT FOR COMBATING IRREGULAR MIGRATION AT THE REPUBLIC OF SERBIA BORDER

At the moment of drafting this Strategy, 10 years have passed since the signing of the Agreement on visa facilitations and Agreement between the Republic of Serbia and the European Union on Readmission of Persons Staying Illegally. This Strategy sums up a period of intensive work on thepromotion of migration management policy and its harmonization with EU policy in this area. The overview of the harmonization of laws in the NPAA, second revision (2016) shows that in the area of irregular migration, Republic of Serbia was partially harmonized with the provisions of the Council Directive 2002/90/EC, defining the facilitation of unauthorised entry, transit and residence, and in this respect steps were taken to extend the Criminal Code to include broader criminal liability for the committed offence “unauthorized crossing of the state border and human smuggling” of the person facilitating or enabling illegal entry or stay of a foreigner, without any material gain for self or other (Art. 350), Council Directive 2004/82/EC on the obligation of carriers to communicate passenger data and the European Parliament and Council Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals.The Criminal Code is partially harmonized with the Council Framework Decision 2002/946/JHA on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence, so it is necessary to broaden the criminal liability to legal entities and persons responsible within the legal entity for the committed offence “unauthorised crossing of the state border and human smuggling, as well as proscribing sanctions for legal entities within themeaning of the provisions of the said act.

In the latest report on the implementation of the Action Plan for Chapter 24 Justice, freedom and security (July-December 2016), it can be seen that the harmonization of the legal and institutional frameworks relevant for migration management with the EU acquis Communautaireis an important part of the negotiations on Chapter 24 Justice, freedom and security. In addition to the mentioned amendments to the legislative framework by end of 2016, the following activities have been implemented based on the recommendations of this Action Plan:

1. Improving the mechanisms of coordination on monitoring the tasks performed by government agencies implementing legislation in the area of migration. Activity under way, Technical Working Group for Monitoring and Managing Migration actively participated in the development of the Republic of Serbia Migration Profile for 2015. The implementation of several projects related to migration is under way, bringing together a number of stakeholders at the government level.
2. Training Plan and Action Programme in the area of legal and irregular migration. Activity implemented, trainings of police officers on procedure in cases of illegal stay, forced removal, placement of individuals in the Detention Centre and issuing decisions on return conducted. Training for identification and detection of false and forged documents conducted.
3. Equipment enabling the establishment of a Central Data Base for Foreigners procured.

### 5.1 Irregular migrants on the territory of the Republic of Serbia

Movements of irregular migrants within the territory of the Republic of Serbia represent another challenge before the policy of prevention of irregular migration. Their prolonged status is the result of insufficiently efficient implementation of the Law on Foreigners and/or Labour Law[[51]](#footnote-52) and the process of identification on Serbian territory. It should be noted here that these are not only migrants from Syria, Afghanistan and Pakistan, prevailing in the mixed migration flows, but also the citizens of neighbouring countries doing seasonal work in the Republic of Serbia. This again points to **the importance of harmonizing legislation towards punishing employers for employing irregular migrants, which is in accordance with the recommendations of Action Plan for Chapter 24 Justice, freedom and security.**

Data show that in 2016, 101 persons were returned to the country of origin, and between 1 January and 31December 2017, 234 persons were returned through the programme of assisted voluntary return (AVR). Another way to assess trends in this area is through data on issued measures to persons illegally residing in the Republic of Serbia. While the number of persons with cancelled residence increased by more than three times between 2013 and 2015, and then in 2016 decreased by over one-half, the number of persons removed from the territory of the Republic of Serbia was reduced to a mere 164 in the period 2013-2016.[[52]](#footnote-53)These data show that the return of irregular migrants to the country of origin or the country of transit is a general problem and that this policy instrument for regulating irregular migration in the Republic of Serbia should be considerably improved.

#### 5.2 Vulnerable migrants

A special issue related to the phenomenon of forced migration is an increased share of vulnerable migrant categories, such as minors, elderly persons, persons with disabilities, victims of human trafficking and smuggling. Adequate approach to these migrant categories requires additional engagement of financial and human resources, accommodation capacities and organised solutions. Migration Profile data enable the monitoring of the share of minors among the persons that have expressed intent to apply for asylum and also the share of unaccompanied minor children (UMC) among all minors that intended to apply for asylum. In this case it is also notable that the number of minors suddenly dropped in 2016, but actually more important data is that their relative share among the persons that expressed intent to seek asylum increased steadily since 2013. On the other hand, the share of UMCs among the minors that expressed intent to apply for asylum dropped suddenly with the great migratory wave and after it to a mere 180.[[53]](#footnote-54)

This data shows that the migration boom in 2015 was based largely on a high share of children in migration (twice as many as two years before), and these were children travelling with parent/s or guardian/s. A conclusion can be drawn from this about additionally increased vulnerability of the category of potentially irregular migrants. Although the number of minors among irregular migrants dropped significantly in 2016, the fact should be noted that their relative share in this population increased, which suggests that there is still need to provide protection to this vulnerable category of migrants.

Victims of trafficking in human beings (THB) are another particularly vulnerable category among irregular migrants. However, according to data of the Centre for Human Trafficking Victims Protection (CHTVP), citizens of the Republic of Serbia are predominantly the victims.[[54]](#footnote-55)

Smuggled migrants are another vulnerable category included in the form of irregular migration that presents a crime, sometimes including organised crime. Data show that in 2015, in relation to 2014, the number of criminal charges brought, the number of resolved criminal cases, the number of perpetrators and the number of smuggled persons increased significantly. In 2016, there was a decrease in the value of all 4 mentioned indicators, but they were higher than in 2014 for all indicators. Therefore, with the great wave of migrants in 2015, the number of cases of human smuggling increased.

#### 5.3 Changes in the legal and institutional frameworks relevant for combating irregular migration on the territory of the Republic of Serbia

The Republic of Serbia should adopt a law approving residence to irregular migrants willing to cooperate with competent authorities, in accordance with the Council Directive 2004/81/EU on the residence permit issued to third-country nationals who are victims of trafficking in human beings. Also, relevant regulations need to be submitted by the Ministry for European Integration, so that the European Commission can determine the level of harmonization with the European Parliament and Council Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals (the so-called Return Directive).

The Republic of Serbia has partially harmonized its legislation with the provisions of the Council Directive 2009/52/EU providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals. In the legislation, there is no provision related to employers employing irregular migrants, but the Labour Law contains general provisions punishing illegal employment. The new Law on Employment of Foreigners provides punitive measures for employers employing foreigners contrary to the provisions of the Law, or foreigners without approved temporary or permanent residence permit (irregular migrant). The Law on Employment of Foreigners[[55]](#footnote-56) provides for inspection control over whether the conditions have been met for the employment of foreigners provided by the Labour Inspectorate. Furthermore, in addition to the fines, the protective measure of ban on business activity of such an employer for a certain period of time is also provided in case of employing irregular migrants. The Law on Employment of Foreigners does not provide for criminal liability of employers in case of employment of irregular migrants.

With the aim to prepare for the implementation of the European Parliament and Council Regulation 862/2007/EC, CRM has since 2010 been regularly preparing the Migration Profile of the Republic of Serbia. Data presented in the Migration Profile is gradually being harmonized with the requirements of the above-mentioned Regulation and statistics on migration and international protection.

Regarding the institutional setting for combating irregular migration on its territory, Serbia has stated that its human resources, infrastructure and equipment should be adapted to face the challenges imposed by irregular migration. The capacity of the Detention Centre (144 beds) is not enough for migration pressures that Serbia is currently facing, so additional capacities should be created, having in mind the needs of vulnerable groups. It is necessary to establish anevaluation mechanism, in order to continue with the capacity assessment. Arrangements should also be made that will enable the increase in capacities in the short term, especially when Serbia becomes member of the EU.[[56]](#footnote-57)

In the latest report on the implementation of the Action Plan for Chapter 24Justice, freedom and security (July-December 2016), the following completed activities are included:

1. Assessment of needs for accommodationin the Detention Centre made. However, additional capacities have not been provided in line with this assessment, because of the lack of financial resources, so the deadline for implementation was moved to Q2 2017.
2. Expanding accommodation capacities for UMCs. Activity finalised by extending the capacities of the facilities in Belgrade and Niš and building a new facility in Subotica.
3. Raising the capacities of staff in the system of accommodation of irregular migrants and preparation in case of sudden influx of a high number of irregular migrants. Activity finalised by organising a set of trainings for staff in centres for accommodation, Centres for Social Work and other relevant services, and training plan for police officers developed.

With the aim of urgent and coordinated action, on 6 June 2015, the Government of the Republic of Serbia established the Working Group on Mixed Migration Flows, at the ministerial level, with the task to monitor the issues of mixed migration flows and provide proposals of measures to address the issues identified and harmonize the approaches of competent government agencies and other organisations and institutions dealing with the issue of mixed migration flows. On 4 September 2015, the Government of the Republic of Serbia adopted a Response Plan in case of increased number of migrants on the territory of the Republic of Serbia for the period October 2016 – March 2017, defining the main directions of response, measures and activities to be undertaken to provide migrants with adequate protection during winter. In December 2016, the revised Response Plan in case of increased number of migrants on the territory of the Republic of Serbia for the period April-December 2017 was adopted.

The competent authorities of the Republic of Serbia have prepared for the reception of a large number of migrants in accordance with the Response Plan. The September 2015 Response Plan provides for accommodation capacities for 3,000 persons. In October 2015, after the Leaders’ Meetingonthe Western Balkan Migration Route, the Republic of Serbia expressed willingness to provide accommodation for 6,000 persons. At the beginning of the migrant crisis and when the Western Balkans Route opened in mid-2015, the Republic of Serbia had five Asylum Centres (Banja Koviljača, Bogovađa, Sjenica, Tutin and Krnjača), with total capacity of 810 beds. In this period, they were 75% full. In February 2017, 17 centres were operational (5 permanent asylum centres and 12 reception centres) with total capacity of 6,900 beds. Out of these, 5,600 beds in solid buildings and 1,300 in rub halls. Putting up rub halls in locations closer to Northern borders was a response to increased needs in the situation of mass influx of migrants with the aim of urgent reception and protection. In mid-July 2017, 18 centres were operational (5 permanent Asylum Centres and 13 Reception Centres) accommodating5,100 persons.

## PROBLEM STATEMENT

In the context of the above analysis of the trends of irregular migration, situation with legal and institutional frameworks for prevention and the level of available resources, members of the Working Group for the development of the Draft Strategy made a SWOT analysis (Annex 3). Based on the elements of strengths, weaknesses, opportunities and threats listed in this analysis, several summary conclusions could be drawn on the existing policy for combating irregular migration:

1. **Strengthening regional communication and local institutions** contributes to relevance. Numerous legislative framework elements are harmonized with the appropriate EU framework and clearly directed against the elements fostering irregular migration: smugglers, irresponsible employers, inefficient control, poor information flow, weak international cooperation. The main infrastructure has been established, necessary for combating irregular migration and helping migrants, and the political framework for action in that direction, through the process of harmonization with the policy and activities of EU institutions in this area. However, there are still issues affecting the relevance of such policy, and the major one is the inability to have a more direct influence on the source of the issue – conflicts and economic crisis in the regions from which irregular migrants arrive. An issue which is within the reach of domestic institutions is higher impact of organised criminal groups on irregular migration flows. This requires additional redirecting of activities and resources to international cooperation in uncovering these groups and their method of operation and to the coordination of operational activities on the borders with neighbouring countries.
2. **Coordination and faster mobilisation.** From the aspect of effectiveness, the policies for combating irregular migration in Serbia can also essentially get a positive mark. This is confirmed primarily by the increased number of deterred irregular migrants at the border, the increase of accommodation capacities and the higher number of migrants in the programme of support and the broader spectrum of services of their social inclusion. However, this issue is still a big one and a considerable burden on the financial and institutional capacities of Serbia, and the main reason is that available resources are insufficient to address the issue of this scope, especially in the periods of ‘tidal waves’. During the workshops for the development of the Strategy, it was stressed that for this aspect of irregular migration a particular problem is the weak coordination with external stakeholders, especially numerous NGOs, which often duplicate activities on one objective or approach the problem in a fragmentary manner and a limited reach, which reduces the total effect of implemented activities.
3. **Efficient use of available resources**. The financial and technical assistance of foreign governments and international organisations has been very important, because through the strengthening of technical and human capacities, the efficiency of activities on the prevention of irregular migration, trafficking in human beings and migrant smuggling has been significantly increased, as well as the assistance to vulnerable categories of migrants, passing through or stranded in Serbia, but the level of engagement of national institutions is crucial. This assessment primarily relates to engaged human resources, because many of the results achieved rest on a great enthusiasm and overtime work of police officers, CRM staff, migrant centres staff, professionals in Centres for Social Work, civic activists and volunteers. The situation with financial resources is somewhat less ideal. It could be said that organisational weaknesses of an emerging system lead to a decline in coordination, which result in unplanned allocation of resources, with excess resources in one segment and shortage in others. The lack of coordination with external actors can also be felt here, with frequent duplication of activities and invested resources.

### 6.1 Main problem, causes and effects

Based on the data on irregular migration trends in the Republic of Serbia and the legal and institutional response to it, as well as summary evaluation of the policy for combating irregular migration, a number of issues have manifested[[57]](#footnote-58):

* Lack of staff in the CRM, MoI and centres and facilities for the accommodation of UMCs, involved in combating irregular migration;
* Lack of training (primarily lack of knowledge of the languages of majority groups of migrants) and lack of motivation of police officers working on the border, their frequent rotation in the field;
* Lack of capacities for accommodation of vulnerable migrants;
* Lack of modern, hi-tech equipment for combating human smugglers;
* Difficult implementation of returns to the countries of origin and transit, both because of non-existing diplomatic relations with some countries from which a number of migrants come, and the access of certain neighbouring countries not adhering to the rule on the implementation of readmission agreements;
* Lack of readmission of agreements with certain countries;
* Unclear status of persons ordered to leave the country, which cannot be done because the situation in the country of origin does not allow it, or it is not possible to determine the identity of the migrant, there is no oversight of the implementation of this measure;
* Unregulated work of some NGOs with migrants – providing services for which they are not licensed and not coordinating their activities with competent government bodies, which in some areas duplicates resources, and in some they are insufficient, which is also making it difficult for the government to fulfil its obligations;
* Limited data exchange between government bodies and other stakeholders because of the Law on Personal Data Protection[[58]](#footnote-59);
* Migrants do not seek protection in Serbia, their aim is to move on to EU;
* Extreme fluctuations in the number of migrants, difficult planning of activities and resources and the configuration of terrain on Serbian borders suitable for irregular entry, with many migrants attempting to enter.

Further analysis has led to a conclusion that these issues cause a more general systemic phenomenon, which has also been recognised as the main issue in countering irregular migration in the Republic of Serbia, which is the lack of systemic response to the issue of irregular migration.

The path towards identifying the causes of the lack of a systemic response to the issue of irregular migration is complex. Three main categories of causes can be identified as the root:

1. Causes connected to available resources (human, infrastructural, financial);
2. Causes related to adopting and implementing appropriate legislation enabling efficient regulation of the status of irregular migrants; and
3. Causes related to high pressures on the border by the migrants wishing to pass through Serbia on their way to EU.

At the first level, the issue of the lack of a systemic response to irregular migrations causes the following direct effects:

* Difficult funding of activities on border protection;
* Slow communication between government bodies and other actors dealing with irregular migration;
* Difficult return of migrants to the countries of origin and transit;
* Increased number of cases of migrant smuggling;
* Insufficient available resources for occasional migration waves;

The effect of this is threatened sustainability of existing efficiency in preventing irregular entries and adequate accommodation of the people affected, longer stay of irregular migrants and increased number of irregular migrants in relation to the period before 2014, which ultimately leads to increased costs for preventing irregular migration, prolonged vulnerability of migrants and unused development opportunities of migration, as well as increased risk to the security of the country.

## AIMS AND OBJECTIVES

The Vision of the Strategy for Combating Irregular Migration is orderly, safe, regular and responsible migration of people*.*The vision of the Strategy for Combating Irregular Migration comes from the norms and values defined in international human rights and migrant rights conventions and protocols, which were signed by the Republic of Serbia.

On the other hand, the presented problem analysis indicates that the issue of irregular migration persists in the Republic of Serbia, which does not lead to a satisfactory degree of orderliness of migration of people and poses risks to migrants’ safety.

From the gap between this Vision and the description of the situation of irregular migration in the Republic of Serbia the following strategic

Aim can be derived: Systemic response to irregular migration developed with the protection of security and economic interests of the Republic of Serbia and its citizens, as well as the guaranteed rights of migrants.

This Aim should lead to establishing better links among stakeholders, primarily government authorities, in combating irregular migration and supporting migrants, as well as to a better utilization of resources for addressing the issue. The establishment of a systemic response to irregular migration would enable consideration of the problem as a whole, more efficient action towards its causes and finding adequate solutions to occasional waves of intensive migration movements.

Specific objectives of the Strategy are also directed towards identified areas/moments of the generation of the problem of irregular migration. The analysis has identified the following 3 objectives:

**Objective 1:** Reduced pull factors for irregular migrants within the territory of the Republic of Serbia

Lack of a systemic response to irregular migration, reflected in insufficiently effective control at border crossings, difficulties in border surveillance, persistence of migrant smugglers, low penalties for offences generated by irregular migration, impeded communication and data exchange with the countries of origin, inconsistent implementation of the law regulating the status of migrants and other stakeholders, cumulatively present pull factors for irregular migrants. Migrants should be deterred from irregular movement or efficiently introduced to the regular status depending on their own decisions related to future status. A set of activities focusing on the deterrence of irregular migrants at the border has been provided in the Integrated Border Management Strategy. The activities of border control, prevention of trafficking in human beings and smuggling of irregular migrants are particularly important, as well as those related to inter-agency cooperation in border management, exchange of information at the local, regional and central levels with neighbouring countries and participation in joint operations organised by international organisations and initiatives.

Focus of this Strategy is on supplementing and the implementation of legal provisions related to the status of foreigners on the territory of the Republic of Serbia. This objective relates to migrant smuggling, illegal employment of irregular migrants, illegal stay of foreigners, illegal renting of accommodation to irregular migrants and other legally punishable offences supporting the irregular status of migrants. In order to achieve a systemic response to the issue of irregular migration and raise the effectiveness of policy in this area, specific activities within this objective refer to horizontal networking of stakeholders in the system and regular information sharing with the public and the migrants on the measures taken to maximize success of transitioning migrants to the regular status, regardless of whether it is the approval of stay based on some legal grounds, or initiating the procedure of return.

**Objective 2:**Capacities of human resources in the area of combating irregular migration systemically improved

As well as Objective 1, this Objective is also mainly covered by the measures and activities provided in the Integrated Border Management Strategy, and the Strategy for the Prevention and Suppression of Trafficking in Human Beings, Especially Women and Children and the Protection of Victims, for the period 2017 – 2022. Human resources management in the area of irregular migration will be in line with the current and projected situation in this area: the number of migrants on the territory of the Republic of Serbia, the number of asylum seekers, the number of expressed intents, risk analysis, i.e. anticipation of migration flows, and the jobs will be filled either by engaging new police officers and civil servants, or by transferring staff to new positions, with respect to financial and other parameters.

This measure will cover all staff working on combating irregular migration, not onlypolice officers combating irregular migration, but the resources in regional centres and border police stations, as well as staff in other relevant entities outside the Ministry of the Interior. This is because in the process of combating irregular migration, in addition to operational work and migrant processing, some activities related to first contact, establishing identity, profiling, identification of vulnerable categories of migrants, detention, arrest, registering, reporting and execution of other police authorities are performed by police officers in border police stations. Strengthening the capacities of human resources in this area will be a harmonized action at the local, national and regional levels, with the aim to better coordinate planned activities.

Staff training in this area will be improved through: 1. An evaluation system, which will be used to monitor knowledge and training needed to perform the activities of combating irregular migration, which will serve as grounds for needs analysis for further staff training and 2. International cooperation through education and exchange of experiences, which will include continuous monitoring of changes in the laws and practices of European countries, with the aim to achieve European standards in migrant treatment.

**Objective 3:** Support provided in the system of protection, particularly for vulnerable groups of irregular migrants

On their migration route, irregular migrants find themselves in the situation of violations of basic human rights and difficult access to safe movement and accommodation, food and social services. Even before their final status has been resolved, it is possible to improve their living conditions. Vulnerable categories (minors, especially UMCs, sick and elderly people, victims of human trafficking and smuggling, etc.) are in a particularly difficult situation. This objective refers to various social services protecting the human rights of irregular migrants.Since the majority of activities leading to this objective has been planned or already implemented within Action Plan for Chapter 24 Justice, freedom and security, this Strategy places the focus on providing the standard of the service, particularly for vulnerable migrants, as well as to planning the capacities in case of mass influx of irregular migrants. In this way, activities implemented within other action plans are supplemented, thus forming a comprehensive system of protection of irregular migrants in the Republic of Serbia.

**Objective 4:**Irregular migrants returned to the country of origin and country of transit

As Objective 1, this Objective is in good part covered by measures and activities provided in the Integrated Border Management Strategy. This Objective primarily relates to the measures of control in the area of the freedom of movement, including the return of individuals. These measures include:

* enhancing cross-border cooperation with neighbouring countries;
* enhancing control of movement and stay of foreigners:
* efficient implementation of measures related to readmission (return and re-reception);
* introducing compensatory measures;
* blocking alternative routes, particularly with Bosnia and Herzegovina and Montenegro.

The part that is not covered by the Integrated Border Management Strategy is the Assisted Voluntary Return (AVR) of irregular migrants, which is why this Strategy focuses on it. This form of the return of migrants is mostly known in Serbia as the return of the citizens of the Republic of Serbia from EU countries. Assisted voluntary return of the citizens of the Republic of Serbia, with 85% Roma and the issue of their reintegration is largely covered by measures and activities of the Strategy for Social Inclusion of Roma Men and Women in the Republic of Serbia, so this issue will not be covered by the Strategy for Combating Irregular Migration.

This form of return of third country nationals from the Republic of Serbia is implemented far less, because there are no agreements in place on such return or direct diplomatic relations with important countries of origin of irregular migrants, such as Afghanistan and Pakistan. AVR brings advantages to both the country of destination and the country of origin, but also the migrant him/herself, in case the country of origin is assessed as safe. This objective relates to improving the conditions for the implementation of this mechanism of moving the migrants from irregular toward regular status. It should be noted that this issue is also partly covered by existing public policy documents. Namely, Action Plan for Chapter 24 Justice, freedom and securityalready envisages the adoption of the Draft Law on Asylum and Temporary Protection and Draft Law on Foreigners (the laws are in parliamentary procedure, the discussion was initiated on 6 March 2018), which will provide more precise conditions for implementing the AVR procedure, and this Strategy focuses on motivating irregular migrants for assisted voluntary return and improving cooperation with the countries of origin on this issue.

## 7.1 Alternative options

Alternative options were also considered in course of the formulation of measures to achieve these objectives. Some examples of these are: physical blocking of the border, which was evaluated as practically not feasible because of the configuration of terrain; improving living conditions of potential false asylum seekers in Serbia, which is financially not feasible; integration of migrants and using their demographic potentials for development of Serbia, which was assessed as not feasible because they are not interested in staying in Serbia, and our labour market does not demonstrate the need for this type of workforce.

For the given reasons, as well as because of the existence of a developed legal and strategic framework in this area already defining the general direction of the Republic of Serbia policy, the proposed group of measures/activities is the only one realistically implementable from the aspects of financial, political and technical feasibility.

## IMPLEMENTATION

### 8.1 Responsible Institutions

Institutions of the Republic of Serbia are responsible for migrants’ access to and the protection of human rights of migrants, as well as for the security and development of the country. The protection of the border and the territory and the protection of migrants are complex tasks that require the engagement of government institutions and bodies in several different areas. For the implementation of this Strategy to be effective and efficient, intensive inter-agency cooperation and adequate coordination is required. Other stakeholders also have roles in the implementation of this Strategy, including the civil and private sectors. This is why inter-sectoral cooperation is also necessary.

The implementation of activities provided in this Strategy are led by the Working Group established for the development of this Strategy, extended by representatives of market, tourist, tax, traffic and labour inspections. In addition, the Working Group for the implementation of the Strategy also includes representatives of the Ministry of Public Administration and Local Self-Government, Office for Cooperation with Civil Society and Ministry of Construction, Transport and Infrastructure. The Working Group can form a smaller group that will be in charge for operational work on the implementation of the Strategy. The Minister of Interior will issue a decision on establishing/renaming the Working Group for the development of the Strategy as the working group for its implementation. It is important to present the objectives and activities of the Strategy to local self-governments also, because a number of activities will be implemented and coordinated at the local level.

Government authorities designated in the Action Plan as competent for the implementation of activities, shall implement the activities included in the Action Plan. TheyThey will be responsible forsuccessful implementation of activities. Will be responsible forsuccesfull implementation of activities. In case when several bodies are in charge of some activity, the body listed as first in the Action Plan shall take the leading role and coordinate the work of other partners.

### 8.2 Coordination, monitoring and reporting

Action Plan (AP) for the implementation of the Strategy for Combating Irregular Migration for the period 2018-2020 is an integral part of this Strategy.

The Working Group for the Implementation of the Strategy (WG)will be responsible for monitoring the progress of the implementation of this Strategy and AP. WG will establish a mechanism for continuously collecting individual reports from all responsible public authorities. Institutions responsible for the implementation of the Strategy and AP will submit to the WG semi-annual reports on implemented activities. As needed and upon request by the WG, responsible institutions will submit additional reports and information. Other relevant reports will be collected continuously, such as the reports by the Ombudsman, expert analyses, and reports by CSOs working with migrants.

The WG will meet quarterly, and more often as needed. This group will prepare semi-annual reports with the evaluation of the progress in the implementation of the Strategy and submit them to the Government.

In order to evaluate the effects of the implementation of the Strategy and adjust its implementation accordingly, two evaluations will be conducted: one at the end of 2018 and one in mid-2020. The WG will prepare a final report evaluating the achievements in the implementation of this Strategy and submit it to the Government no later than 31 July 2021.

1. **FINAL PART**

This Strategy shall be published in the Official Gazette of the Republic of Serbia.

# ACTION PLAN FOR THE IMPLEMENTATION OF THE STRATEGY FOR COMBATING IRREGULAR MIGRATION FOR THE PERIOD 2018-2020

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| **Aim** – Systemic response to irregular migration developed with the protection of security and economic interests of the Republic of Serbia and its citizens, as well as the guaranteed rights of migrants.Outcome indicator: Reduced share of irregular migrant statuses in the total number of irregular migrants |
| **Objective** | **Expected result by 2020** | **Indicator and source of verification** |
| **1. Reduced pull factors for irregular migrants on the territory of the Republic of Serbia** | The proportion of issued sanctions for performing illegal activities involving irregular migrants in the total number of irregular migrants increased by 100% | The number of issued sanctions (sentences, administrative measures and measures according to administrative procedure)for illegal actions that include irregular migrants, total number of irregular migrantsJudicial statistics, reports from the Ministry of Labour, Employment, Veteran and Social Affairs (MoLEVSA), Tax Administration, Ministry of Interior  |

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| **Relevant activities provided in other action plans** |
| Changes of relevant legislative and strategic frameworksAction Plan for Chapter 24 Justice, freedom and securityActivity 1.1.1 Develop draft amendments to the Law on ForeignersActivity 1.1.2 Develop draft amendments to the Criminal Code in accordance with the acquis CommunautaireActivity 1.1.3 Develop draft amendments to the Law on Employment of ForeignersActivity 4.2.2. Adopt new multi-annual Strategy for Integrated Border Management and Action PlanAction Plan for the Strategy for Integrated Border Management in the Republic of Serbia for the period 2017-2020Measure 3.1.1Activity Law on Foreigners (employment of illegal migrants and other) |
| Activities on increased border securityAction Plan for Chapter 24 Justice, freedom and securityRecommendation 4.3 Propose measures for improving the protection of outside borders by improving operational cooperation with neighbouring countries and propose steps for effective prevention of cross-border traffic via alternative routes (activities 4.3.1-4.3.9 on improving the protection of outside borders by improving operational cooperation with neighbouring countries and propose steps for effective prevention of cross-border traffic via alternative routes)Strategy for integrated border management in the Republic of Serbia for the period 2017-2020:Activities under measures 1.2.1.-1.2.3. focusing on state border surveillanceActivities under measure 2.3. focusing on strengthening capacities for identificationActivities under measure 3.1.2. Implementing operational measures with the aim to control the legality of stay of foreigners |
| Activities on improving cooperationAction Plan for Chapter 24 Justice, freedom and security1.1.4 Improve the mechanism of coordination and monitoring of tasks performed by government authorities implementing legislation in the area of migration Strategy for integrated border management in the Republic of Serbia for the period 2017-2020Activities under measure 2.2. directed at strengthening inter-agency and international cooperation  |

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| **Measure/Activity** | **Competent authority** | **Due date** | **Resources/source of funding** | **Activity indicator** | **Source of verification** |
| * 1. Amend Art. 350 of the Criminal Code to: a) add cumulative effect in sentencing and b) punish aiding human smuggling even without material benefit
 | MoJPartners: MoI | 6 months after the adoption of the Strategy | No additional funds required | Amendments to the Law adopted and under implementation | Official Gazette of the Republic of Serbia, judicial statistics |
| * 1. Ensure normative framework regulating transport in order to enable punishing legal entities and drivers for transporting irregular migrants
 | MoJPartners: Ministry of Construction, Transport and Infrastructure (MCTI) | 12 months after the adoption of the Strategy | No additional funds required | Analysis of existing normative framework conducted and recommendations for changes formulated  | MoJ report  |
| * 1. Ensure more efficient inspection and control of employment, providing accommodation and transport to increase identification of irregular migrants
 | MPALSGPartners: MoLEVSA, MCTI | 2018 | No additional funds requiredEquipment from IPA funds | Analysis and relocation and resource optimisation plan developed for more effective implementation of inspection  | MPALSG report |
| Inspections by relevant ministriesPartners: inspections at the level of LSGs and local migration councils | Continuous | No additional funds required | Project for increased control and number of inspection reports for providing services to irregular migrants developed | MPALSG report |
| * 1. Harmonize the work of CSOs with government policy in the area of migration
 | Office for the Cooperation with the Civil Society and WG membersPartners: CSOs | Continuous | No additional funds required | Developed plan for CSO engagement in combating irregular migration, Communication Strategy | Office for Cooperation with Civil Society report, Communication Strategy Implementation Report |
| * 1. Ensure horizontal networking of government agencies
 | CRMPartners: MoI, MoD, MoLEVSA | Continuous | No additional funds required | Government agencies involved in combating irregular migration implement activities in coordination | Reports of the WG for Strategy implementation |
| * 1. Improve communication and increase information sharing with the public and migrants about activities on combating irregular migration
 | Government authorities WG members Partners: IOM, EU Delegation in the Republic of Serbia | Continuous | No additional funds required | The content and number of implemented WG activities (meetings, analyses, etc.)Increased number of joint releases, uniform messages | Reports of the WG for Strategy implementation |
| **Objective** | Expected Result 2020 | Indicator and source of verification |
| **2. Capacities of human resources in the area of combating irregular migration systemically improved** | Improved human resource capacities in the area of irregular migration and ensured competences of staff to respond to the issue | The number of implemented training, study visits and conferences reports, reports on plan implementation and reports on competent authority training programmes, annual reports produced by competent authorities |

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| **Relevant activities provided in other action plans** |
| Improve competences of staff working on combating irregular migrationAction Plan for Chapter 24 Justice, freedom and security:Activity 1.2.2 Develop and implement Training Plan and an Action Programme in the field of legal and irregular migration |
| Improve competences of staff working on combating irregular migrationIntegrated Border Management Strategy Action PlanMeasure 1.1.2 Strengthen administrative capacities, activity: add human resources to the Directorate for Veterinary Medicine and Directorate for Plant ProtectionMeasure 1.1.3 Harmonize with FRONTEX (Common Core Curriculum), activity: training needs assessment; train border police officers in accordance with the Frontex Common Core Curriculum; train border police on treatment of asylum seekers; improve the evaluation system of implemented training;Measure 1.4.1 Strengthen the risk analysis system, activity: add human resources to the Risk Analysis UnitMeasure 1.4.2 Strengthen the customs risk management system, activity: training for customs officers on the topic of risk indicators and modalities for perpetration of cross-border crimeMeasure 1.4.4 Establish training system for risk analysis, activity: develop training curricula and plans, train trainers, systematically train risk analysis officers Measure 2.1 Strengthen the capacities of competent agencies preventing cross-border crime, activity: train officers and exchange knowledge and best practices (national and international conferences, seminars, workshops, trainings), implement joint training for the Ministry of the Interior, Ministry of Finance, Customs Administration, Ministry of Agriculture and Environmental ProtectionMeasure 3.3.1 Implement the Police Cooperation Convention for South-East Europe, activity: implement join trainingMeasure 3.4.3 Train consular staff, activity: establish cooperation with the Ministry of Interior and train diplomatic and consular representation staff to identify false and fake travel documents and identify risk indicators among visa applicantsMeasure 4.4 Implement joint and specialized training, activity: analyse and update joint training programmes through training exchange, joint training in accordance with updated training programmeMeasure 4.7 Develop Annual Training Programme for phytosanitary inspectors, continuous training and refreshment training (Ministry of Agriculture and Environmental Protection)Measure 5.2 Cooperation with OLAF, activity: develop training plan in accordance with the amended IT Strategy related to full access to the EU Anti-Fraud Information System (AFIS) after accession to the EUImprove competences of staff working on combating irregular migrationThe Strategy for the Prevention and Suppression of Trafficking in Human Beings, Especially Women and Children and Victim Protection 2017-2022GOAL 3, activity: improve the capacities to strengthen partners’ competences, task 3. training implementation |

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| **Measure/Activity** | **Competent authority** | **Due date** | **Resources/source of funding** | **Activity indicator** | **Source of verification** |

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| 2.1. Ensure optimum structure of staff in line with the set maximum number of staff for the Ministry of the Interior | MoI | Continuous | MoI budget approved by the MoF | Rulebook on internal organisation and job classification in the Ministry of the Interior | SAP human resources application |
| 2.2. Fill the vacancies (new employment/redistribution) according to classified jobs | MoICRM | Continuous | No additional funds required | Increased number of staff working on irregular migration | Rulebook on internal organisation and job classification in the Ministry of the Interior |
| Q4 2018 | CRM budget approved by the MoF | Increased number of staff working on migrant reception and assisted voluntary return | CRM Report |
| 2.3. Improve competences of staff working on irregular migration | MoI,CRM,MoLEVSA | Continuous | No additional funds required | Developed MoI Training Plan | Report on implemented trainings |
| Continuous | No additional funds required | Developed CRM Training Plan | Report on implemented trainings |
| Continuous | No additional funds required | Number of staff attending planned trainings | Report on implemented trainings |
| Continuous | No additional funds required | Training evaluation reports | Evaluation Report |
| 2019 | No additional funds required | External training needs analysis prepared | Report on analysis conducted |
| 2020 | Additional donor funds required through different projects | Number of implemented external trainings in accordance with analysis recommendations Number of staff attending external training | Report on implemented project activities |

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| **Objective** | Expected Result 2020 | Indicator and source of verification |
| 3. Support provided in the system of protection, particularly for vulnerable groups of migrants | Ensured level of protection of human rights in accordance with EU minimal standards | Positive evaluation in the report of the OmbudsmanPositive evaluation in the European Commission progress report on Serbia |

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| **Relevant activities provided in other action plans** |
| Changes of relevant legislative and strategic frameworksAction Plan for Chapter 24 Justice, freedom and security:Activity 2.1.4.3. Adopt new Law on AsylumActivity 2.1.4.4. Develop by-laws in accordance with the new Law on AsylumActivity 2.1.5.1. Develop a by-law regulating the accommodation of beneficiaries of several types of international assistance |
| Improved accommodation and integration Action plan for Chapter 24 Justice, freedom and securityActivities 1.3.1.-1.4.3., 2.1.3.1.-2.1.3.5. and2.1.5.1.-2.1.5.3. on addressing accommodation needs and integration issues, with special focus on minors and other vulnerable groups |

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| **Measure/Activity** | **Competent authority** | **Due date** | **Resources/source of funding** | **Activity indicator** | **Source of verification** |
| 3.1. Harmonize existing capacities for accommodation of migrants in asylum centres and reception centres with European Asylum Support Office (EASO) standards | CRM | Q4 2018 for asylum centres2020 for reception centres | Service funded from the budget for asylum centres and by the European Commission for reception centresInfrastructure funded through projects | Infrastructure adapted, services provided, in accordance with EASO standards | CRM report |
| Q4 2018 | No additional funds required | Funds for infrastructure available through projects, in accordance with needs | CRM report |
| Continuous | No additional funds required | Regular training and monitoring | CRM report |
| Continuous | No additional funds required | Needs of vulnerable categories identified | CRM report |
| 3.2. Enhance the capacities for response in case of mass influx of irregular migrants | CRMPartners: MoI, MoLEVSA, MoPALSG, MoH, MoESTD and local migration councils | Q4 2018 | IPA fundsSupport to the National Asylum SystemRegional Support to Protection-Sensitive Migration Management in the Western Balkans and Turkey - Instrument for Pre-Accession Assistance (IPA II) | Training delivered for the development of the contingency plan | Printed handbook |
| CRMPartners: MoI, MoLEVSA, MoPALSG, MoH, MoESTD and local migration councils | Q4 2018 | IPA fundsSupport to the National Asylum SystemRegional Support to Protection-Sensitive Migration Management in the Western Balkans and Turkey - Instrument for Pre-Accession Assistance (IPA II) | Contingency plan developed in accordance with EASO standards | CRM report |

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| 2.3. Improve services for vulnerable categories of irregular migrants | CRM and each government body in its area of competence, with agreement of the WG for Strategy implementation | 2018 | IPA fundsSupport to the National Asylum SystemRegional Support to Protection-Sensitive Migration Management in the Western Balkans and Turkey - Instrument for Pre-Accession Assistance (IPA II) | Inter-sectoral procedures for identification and referral to adequate service providers for all vulnerable categories of irregular migrants | Printed handbook |
| 2018 | IPA fundsRegional Support to Protection-Sensitive Migration Management in the Western Balkans and Turkey - Instrument for Pre-Accession Assistance (IPA II) | All who have first contact with irregular migrants trained on the implementation of the procedure | CRM and MoI reports on project implementation |
| 2018 | No additional funds required | Service providers in the system trained for working with vulnerable migrant categories | Report of the WG for Strategy implementation |

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| **Objective** | Expected Result 2020 | Indicator and source of verification |
| **4. Irregular migrants returned to the country of origin and country of transit** | Share of irregular migrant returns to safe countries continuously growing | Number of returnsCRM Report |

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| **Relevant activities provided in other action plans** |
| Strengthening readmission mechanismsAction Plan for Chapter 24 Justice, freedom and securityActivities 1.5.1.-1.5.9. on increasing the number of readmission agreements and improving the implementation of agreements  |
| Cooperation in return programmes Action Plan of the Strategy for Integrated Border Management Measure 5.1 Strengthening cooperation with FRONTEX agency, activity Cooperation on return programmes  |

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| **Measure/Activity** | **Competent authority** | **Due date** | **Resources/source of funding** | **Activity indicator** | **Source of verification** |
| 4.1. Ensure availability of the role of consular representations of COs that are not present in the Republic of Serbia | MFAPartners: CRM, MoI | Continuous | No additional funds required | Statistics on persons (number and citizenship) provided with availability of consular representation services of the countries of origin | MoI report  |
| 4.2. Implement the signed Readmission Agreements (activity implemented within Action Plan for Chapter 24 Justice, freedom and security, recommendation 1.5) | MoIPartners: MFA | Continuous | Republic of Serbia Budget397,440 EUR for 2018 | The number of received requests for readmission of citizens of the Republic of Serbia, third country nationals and stateless persons.The number of responses to requests reviewed for readmission of citizens of the Republic of Serbia, third country nationals and stateless persons.The number of readmission requests sent | Statistical data on the number of requests received to take over Republic of Serbia citizens, third country nationals and stateless persons and number of responses to requests and number of requests for readmission sent by the Republic of Serbia. (Source: CRM report and report of the Directorate for Administrative Affairs – Department for the implementation of Readmission Agreements) |
| 4.3. Motivate migrants to enter AVR programme  | CRM | 2018 and on in accordance with the results | IOM Project | Number of reintegration assistance packages awarded | CRM report |
| 2018 | No additional funds required | Developed project plan for further financing of reintegration assistance packages | Project plan |
| 2018 and on | Regular budget funds and funds from MADAD funded project implemented by IOM | Continuously available information on AVR in reception centres and asylum centres in migrants’ languages | Printed promotional material on display in the centres |
| 4.4. Analysis of the situation in the countries of origin of irregular migrants | MoI – Asylum OfficePartners: MFA, CRM | Continuous | No additional funds required | Number of reports on the situation in the country of origin | Report of the Asylum Office |

# ANNEX 1

## Main definitions

With the intent to conceptualise this Strategy focusing on the unification of policy in the area of migration management, the terms used here are those defined either in the Law on Migration Management or in some other relevant law of the Republic of Serbia, or, if they do not appear in the laws, then they are taken from the Migration Management Strategy or a relevant international charter or convention.

The use of the adjective ‘irregular’ instead of ‘illegal’ referring to migration and migrants, is in accordance with the tendency in global and European migration management policy to improve the protection of the basic rights of migrants and avoid stigmatization and incrimination of migrants moving outside of established rules and procedures.[[59]](#footnote-60)

In line with the above, **for the purposes of this Strategy**, the following definitions shall be used:

**Migration** shall mean voluntary or forced departure from the country of origin or residence, to reside temporarily or permanently in the Republic of Serbia, and voluntary or forced departure from the Republic of Serbia to work temporarily or reside permanently in another country (external migration), as well as change of the place of residence within the territory of the Republic of Serbia, or forced change of place of residence within the Republic of Serbia (internal migration) (Law on Migration Management, Art. 2).

**Migrant.** IOM defines a migrant as any person who is moving or has moved across an international border or within a state away from his/her habitual place of residence, regardless of the person’s legal status, whether the movement is voluntary or involuntary, what the causes for the movement are, or what the length of the stay is.[[60]](#footnote-61)

Domestic legal and political frameworks are characterised by certain inconsistencies with the use of the main term of this Strategy – irregular migration. Namely, the term ‘irregular migration’ is used interchangeably with the terms ‘illegal’, ‘unlawful’ and ‘non-regular’ migration.

**Irregular migration** shall mean any movement of the population from one country to another, which is not in accordance with the valid regulations of the country of origin and the country of destination, as well as the stay in a certain country, contrary to valid regulations of this country (in the Migration Management Strategy, this is the definition for the term ‘non-regular’ migration, p. 32).

**Irregular migrant** shall mean the person who entered unlawfully a country that he/she is not a citizen of (entry outside of border crossing point, entry with forged or in other way illegal travel document) to stay or permanently reside. Persons that entered the country legally, but after the expiry of the legal stay have not left the country are equal to irregular migrants (in the Migration Management Strategy this is the definition of the term ‘non-regular migrant’, p. 32).

**Unlawful (illegal) entry[[61]](#footnote-62)** in the Republic of Serbia shall mean an entry (1) away from the place or time set for crossing the state border, (2) avoiding border control, (3) using someone else’s, invalid or false travel or other document, (4) providing untrue information to the border police, (5) at the time while a protective measure of removal of the foreigner from the territory of the Republic of Serbia, safety measure of expulsion of the foreigner from the country or measure of cancellation of residence are in effect (Law on Foreigners[[62]](#footnote-63), Art. 10).

**Unlawful (illegal) stay[[63]](#footnote-64)** in the Republic of Serbia shall mean the stay on its territory without a visa, residence permit or other legal grounds (Law on Foreigners, Art. 42).

**Return[[64]](#footnote-65)**is the process of returning foreigners, voluntarily or forcefully, to their country of origin or country of transit in accordance with bilateral agreements or readmission agreements, or to the country to which the foreigner is returning voluntarily and in which he/she will be accepted.

**Smuggling of migrants** shall mean enabling another to cross the Serbian border illegally or illegally stay in or transit through Serbia, with the intent to obtain benefit to oneself or other (Criminal Code, Art. 350). In the Protocol against the Smuggling of Migrants by Land, Sea and Air this is “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident” (Art. 3).

**Trafficking in Human Beings** shall mean a criminal offence using force or threat, by deceiving and maintaining deceit, by abusing authority, trust, relation of dependency, hardship of another, by holding their identification documents, or giving or receiving money or other benefit to recruit, transport, transfer, handover, sell, purchase, act as agent in sale, hide or keep another person, with the aim to exploit their labour, force them to labour, make them commit a crime, engage in prostitution or other types of sexual exploitation, begging, use for pornography, slavery or a similar relation, harvest organs or body parts or use in armed conflict (Criminal Code, Art. 388). Trafficking in human beings shall also include trade in minors for the purposes of adoption (Art. 389).

# ANNEX 2

## Legal and strategic framework for combating irregular migration in the Republic of Serbia

### Laws

**Republic of Serbia Constitution**, the highest legal act, stipulating that the Republic of Serbia shall protect the rights and interests of its citizens abroad (Art. 13), and guarantee foreigners in the Republic of Serbia, the rights provided in the Constitution and the Law, except for the rights under the Constitution and the Law pertaining exclusively to the citizens of the Republic of Serbia (Art. 17). In addition, a number of constitutional provisions regulating human and minority rights are important also for different categories of migrants, like the guaranteed human and minority rights (Art. 18), prohibition of discrimination (Art. 21), right to dignity and free development of individuals (Art. 23), right to life (Art. 24), right to inviolability of physical and mental integrity, i.e. prohibition of torture (Art. 25), prohibition of slavery, servitude and forced labour (Art. 26), right to freedom and security (Art. 27), obligation to treat humanely a person deprived of liberty (Art. 28), right to a fair trial (Art. 32), right to legal certainty in criminal law – prohibition of retroactive penalties, presumption of innocence, *non bis in idem*, etc. (Art. 34), right to citizenship (Art. 38), freedom of movement (Art. 39), freedom of thought, conscience and religion (Art. 43), prohibition of inciting racial, ethnic and religious hatred (Art. 49), right to asylum (Art. 57), right to health care (Art. 68), right to social protection (Art. 69), right to education (Art. 71).

The Constitution is followed by, in order of legal power, ratified international agreements (multilateral and bilateral) which must not be in contradiction with the Constitution, and Serbia is the signatory of all Conventions listed in the chapter on international laws, except for those on sea-related areas.

**Law on Migration Management** is an umbrella law regulating the area of migration management. Migration management, in accordance with the provisions of this law, means “collecting, analysing, processing, organising, exchanging, storing and protecting data relevant for migration management, developing indicators and data relevant for migration management, establishing a unified system and other mechanisms for data exchange in the area of migration, developing and proposing migration policy objectives and priorities and coordination of authorities performing tasks related to migration management, as well as contributing to other legally established mechanisms in the area of migration” (Art. 2). The law places under the competencies of the CRM, responsibilities related to proposing measures and policies directed at suppressing unlawful migration, as well as measures towards individuals and families illegally residing on the territory of the Republic of Serbia (Art. 10), but beyond that do not deal particularly with irregular migration.

**The Law on State Border Protection[[65]](#footnote-66)**provides foundation for legal regulation of border control and security in the Republic of Serbia. The law defines the objectives of the protection of state border, inter alia, including the prevention of illegal migration.

The law provides measures for the control and securing of the border, as well as the procedure of international border cooperation and record keeping, which is of high importance for successfully combating irregular migration. International border cooperation includes the activity of border police on the territory of a foreign country, cooperation with foreign border services, exchange of police liaison officers and exchange of information, i.e. the activity of foreign border police on the territory of the Republic of Serbia, based on international agreements (Art. 59). Articles 61 and 62 provide that border police are authorised to collect personal information from the persons subject to its exercise of power and enter this data and process it in records. Records are kept, inter alia, of individuals subject to border control, individuals denied the crossing of the border, individuals subject to identification procedure, as well as individuals that have violated the state border. This data may be shared with other authorities in accordance with the law, and with foreign authorities and under the conditions determined under an international agreement (Art. 63).

It is also relevant for combating irregular migration that the law also provides fines and prison sentences for natural persons moving along or across the border in an improper way or trying to cross it without the appropriate documents.

THE LAW ON BORDER CONTROL AMENDING THE LAW ON THE PROTECTION OF STATE BORDER IS IN PARLIAMENTARY PROCEDURE

**Law on Foreigners[[66]](#footnote-67)**defines various aspects of irregular migration. The law uses the term illegal instead of irregular migration, and areas regulated relate to: illegal entry, illegal movement and stay on the territory of the Republic of Serbia and conditions for cancellation of residence, expulsion and removal of foreigner.

Illegal entry in the Republic of Serbia is considered as entry away from the place or time set for crossing the state border, avoiding border control, using someone else’s, invalid or false travel or other document, providing untrue information to the border police, at the time while a protective measure of removal of the foreigner from the territory of the Republic of Serbia, safety measure of expulsion of the foreigner from the country or measure of cancellation of residence are in effect (Art. 10).

Illegal stay of foreigners is defined as the stay on the territory of the Republic of Serbia without a visa, residence permit or other legal grounds (Art. 42). This law provides that a foreigner illegally residing in the Republic of Serbia, must leave its territory immediately or within a set timeframe. It is considered that a foreigner has left the Republic of Serbia by entering another country to which he/she has been granted entry. A foreigner that has timely applied to extend temporary residence to permanent residence or asylum, may stay in the Republic of Serbia until the final decision on this application (Art. 42).

**Criminal Code** recognises, inter alia, criminal offences of illegal crossing of the state border and human smuggling, forging documents, inducing to certify false content, and trafficking in human beings. Illegal crossing of the state border is prohibited under Article 350 of the Criminal Code. Trafficking in human beings is defined in Article 388, Article 389 prohibits trafficking in minors for adoption, and Article 390 holding in slavery and transporting enslaved persons.

The return of the citizens of the Republic of Serbia, third country nationals and stateless persons illegally residing in EU member states is regulated by the **Agreement between the Republic of Serbia and the European Union on the Readmission of Persons Residing without Authorisation**[[67]](#footnote-68)**, while in relation to other countries it is regulated by bilateral agreements.**

In the procedure of implementing a Readmission Agreement, the Ministry of Interior of the Republic of Serbia, Directorate for Administrative Affairs, Department for the Implementation of Readmission Agreements, as the competent authority for the implementation of Readmission Agreements, after the submission of requests for taking over citizens of the Republic of Serbia by competent foreign agencies, determines the nationality of the person from the request, in accordance with the timeframe provided in agreements and submits the response to the readmission request to the competent foreign agency. Also, after receiving the request to take over third country nationals and stateless persons, the Republic of Serbia makes a decision on the receipt of the third country national or stateless person that does not meet or no longer meets the valid criteria for entry, stay or residence of the requesting member country or country with which the Republic of Serbia has concluded a bilateral readmission agreement, if it has been proven or it is possible based on *prima facie* evidence to reasonably assume that there is the obligation to take them over.

### Public policy documents

**National Programme for the Integration of the Republic of Serbia into the European Union (NPI),**Chapter 3.24.2 Migration Control, highlights that Serbia is in this segment be committed to be part of the European policy and strategy for managing migration flows. One of the short-term priorities planned is to develop and adopt the Migration Management Strategy.

**Migration Management Strategy** is an umbrella strategy defining the main priorities and directions of action within a coordinated migration management. Three strategic objectives include: establish and apply mechanisms for comprehensive and consistent monitoring of migration flows in the Republic of Serbia, complete the strategic, legal and institutional frameworks for unified migration management and protect migrants’ rights.

**Strategy for Combating Illegal Migration in the Republic of Serbia for the period 2009-2014** provided developing the capacities and abilities of competent authorities, developing cooperation with partners and other stakeholders, developing the methodology for combating illegal migration, developing a system of measures for different categories of illegal migrants and establishing a national concept for combating illegal migration.

**Integrated Border Management Strategy in the Republic of Serbia 2017-2020** and Action Plan for the implementation thereof, define objectives and activities focusing on the security and permeability of the Republic of Serbia borders, with a view of European policy in the area and Action Plan for Chapter 24Justice, freedom and security. The Strategy also defines long-term objectives related to improving cooperation within and between border services with powers on the state border, as well as international cooperation, with the aim to attain a more efficient and effective method of border management.

**Strategy for the Reintegration of Returnees under the Readmission Agreement**provides for creating an institutional framework for the reintegration of returnees, creating conditions for initial reception and raising the capacities of local communities for their reintegration in the society, which should have a preventive effect on new cycles of irregular emigration.

**Chapter 24 Justice, freedom and security in the negotiations for Serbia’s accession to theEU**covers the issue of migration as one of the most important issues for justice, freedom and security in the Republic of Serbia. The screening for this Chapter includes the issue of irregular migration and it has found that a number of changes are necessary in the legislative and institutional frameworks to improve the prevention thereof.

**Action Plan for Chapter 24**Justice, freedom and security based on the above-mentioned results of the screening for Chapter 24 Justice, freedom and security, includes a number of activities in response to the screening recommendations. The Action Plan implementation report July-December 2016 indicates that out of the 24 planned activities related to migration, 15 were implemented (62.5%), which is much more than for the entire Chapter 24 (37.7%). Additionally, the implementation of 5 activities is under way (20.8%), and 4 have not been implemented (16.7%).

# ANNEX 3

## Full text of situation analysis and problem statement prepared to assist the development of the Strategy for Combating Irregular Migration in the Republic of Serbia for the Period 2018-2020

In the context of migration movements around the European Continent, Western Balkans is an important area, which, on one hand is the region of origin of migrants, and on the other receiving country for migrants[[68]](#footnote-69), and also, because of its geographic position, it is simultaneously a significant transit area used by migrants from Asia and parts of North Africa (especially Turkey, the Middle East, parts of Central Asia and North Africa), attempting to reach EU territory. This was particularly apparent in 2014 and 2015, when the mixed migration flows over the territories of the Western Balkans culminated, and when the Western Balkan route took over the first place in the number of illegal border-crossings from the Eastern Mediterranean route.[[69]](#footnote-70)

Serbia is one of the countries the most effected by migrant crisis, considering it is on the Western Balkan migration route, strategically positioned between Macedonia and EU member states, Hungary and Croatia, with a border that is, in its large part, difficult to defend. Since 2015, there have been several new and changedpractices in the EU and Balkan countries with regards to the rules of entry and border closing, which has affected the number of migrants passing through Serbia. For example, in January 2016, authorities in countries along the Western Balkan Route, starting with Macedonia and ending with Slovenia introduced the practice of allowing entry only to migrants expressing intent to seek asylum in Germany or Austria. In early 2016, the border between Macedonia and Greece was mainly closed for migrants, as an effect of daily quota for the reception of migrants introduced in Austria, letting through only Syrian and Iraqi immigrants.

In recent years, all this has to a great extent influenced the issue of irregular migration being taken as a serious political issue of international importance and to making governments in the region include migration management and, particularly, the prevention of irregular migration among the top priorities on their agendas. This has been strongly supported by requests from EU countries, which are typical migrant destinations, to lead a coordinated joint policy on the issue and for the Western Balkan countries to adapt their legislation and judicial and policing practices to EU standards.

The overview of EU policy in combating irregular migration has shown that the activities have been directed at three risk-generating moments/locations, carried by these movements: 1) in the countries from which migrants start their journey towards the EC, 2) at external borders and 3) within EU territory, when migrants have already managed to enter irregularly. There are two types of challenges for the governments to respond to in order to successfully prevent irregular migration in all these three moments:

1. The first group of challenges is related to migrants and their movement, i.e. to the number and structure of migrants in terms of status (share of irregular in the total number of migrants) and related risks (smuggling, trafficking in human beings and other criminal offences), origin and destination (countries they come from and move towards) and vulnerabilities (children, unaccompanied minor children, women, victims of trafficking in human beings, etc.)
2. The second group of challenges is related to requirements to adapt the legal and political frameworks to the variable character of migration on one hand, as well as to the change in the political situation in the region and the world, on the other.

Considering that Serbia has been trying to harmonize its regulations and policies with EU standards and practices, the above described approach to combating irregular migration is also relevant. Naturally, in terms of the activities focusing on risk hotspots in the countries of origin of irregular migrants, Serbia has no financial or political capacities to lead the policy of supporting development in these countries, but can conform to EU policy, harmonize regulations and cooperate with the EU on foreign policy, exchange of information and joint operational action to protect security and prevent irregular migration. In terms of combating irregular migration on the borders towards neighbouring countries and within its own territory, Serbia has so far in practice already demonstrated the capacity to react adequately and efficiently, also to sudden migration waves, to engage the necessary resources and coordinate activities between various institutions to, on one hand protect its interests, and on the other provide the necessary assistance and protect the fundamental rights of migrants. However, addressing the ‘migrant issue’ requires considerable engagement of the country’s resources, both financial and human and technical, which imposes the need to introduce more efficient and effective management in this area. Measures for deterring migrants from illegal entry to the territory of Serbia, reception and protection of refugees, increased health and social support to vulnerable migrant categories, and combating migrant smuggling required a reorganisation of competent services, additional training of employees, increased number of executors, procurement of advanced technologies to uncover the attempts of illegal border crossings, increased cooperation between the police and prosecutor’s offices in the region, etc. A large part of these costs was covered by international donations, but there have been significant allocations from the Budget of the Republic of Serbia.

With a view of the above, and for the purpose of designing relevant, efficient and effective policy for the prevention of irregular migration, it is necessary to analyse migration flows, legal and political frameworks and available human and financial resources.[[70]](#footnote-71) Considering that Serbia is the country of transit and temporary stay of migrants, but still to a great extent also the country of origin of irregular migrants, the above-mentioned phenomena should be analysed here from both of these aspects.

### Irregular migration trends outside Serbian borders

In terms of the situation outside Serbian borders, we can make conclusions based on the findings of Frontex (FRAN Q4, 2014), stating that “in the fourth quarter of 2016, the number of detections of illegal border-crossing between BCPs at the EC’s external borders dropped to the lowest level since the closure of the Western Balkan route and implementation of the EC-Turkey statement, which curtailed the unhindered migratory flow towards the EU and Schengen area. Compared with the record levels of irregular migration reported in 2015, the number of detections at the EU’s external borders in Q4 2016 decreased by 93%. In relation to the previous quarter, which saw a temporary and limited seasonal increase, the number of illegal border-crossings on all routes decreased by 17%. However, the situation varied between different irregular-migration routes leading towards the EU. At the EU’s external borders with Turkey, the migratory pressure remained roughly at the same low level as in the second quarter of 2016, when the implementation of the EU-Turkey statement and the closure of the borders in the Western Balkans substantially reduced the number of illegal border-crossings on this route. During the reference period, the number of illegal border-crossings, primarily from Serbia to Hungary and Croatia, accounted for 75% of what was reported in the previous quarter, and only 1% of the level of Q4 2015”.[[71]](#footnote-72) On the other hand, growth was again detected on the Central Mediterranean route, and in Q4 2016, the level of irregular migration was more than twice as high as one year before.**These findings show that the general migration pressure has significantly declined, but it is higher than could be said based on movements toward Serbian borders, so over the coming period an instable trend can be expected with occasional increase of irregular migration flows toward Serbia.**

As for irregular migrants from Serbia staying illegally on the territories of EU member countries, this phenomenon is largely subject to intervention of both destination countries and Republic of Serbia institutions. The results of the screening for Chapter 24 Justice, freedom and securitystate that it is necessary to further develop coordination between CRM, MoI and other administrative agencies, especially at the local level. **Serbia needs to continue the good trend in the implementation of the Readmission Agreement with the EU. Focus should be on its implementation.** Having in mind that a condition for entry in the free-visa scheme with EU countries was also the signing of Readmission Agreements, on 18 September 2007, the Republic of Serbia signed the agreement with the EU on returning persons staying illegally. Also, the number of bilateral agreements of this type has been increasing gradually, and in 2016, when the Action Plan for Chapter 24 Justice, freedom and security was adopted, such an agreement was in place with the EUC and another 11 countries. In terms of the implementation of Readmission Agreements with the EU, so far 19 implementation protocols have been signed, with the following countries: Italy, Slovenia, France, Hungary, United Kingdom, Austria, Malta, Slovakia, Germany, Romania, Bulgaria, Estonia, Czech Republic, Benelux countries, Cyprus, Greece, Sweden, Portugal, Spain. Bilateral readmission agreements were signed with the following 11 countries: Bosnia and Herzegovina, Denmark, Canada, Norway, Croatia, Switzerland, Macedonia, Moldavia, Albania, Montenegro and the Russian Federation (NPAA, second revision, 1047-1048). Readmission agreements with Turkey and Ukraine are pending.

However, **EUROSTAT data show that the problem persists:** in 2013, 11,385 Serbian citizens were returned from 28 EU member states with orders issued to leave the country, in 2014 this number was 9,490, in 2015 13,760, and in 2016 it again slightly dropped to 12,495.[[72]](#footnote-73) The report on the implementation of the Action Plan for Chapter 24 Justice, freedom and security states that a number of activities were finalised on strengthening the capacities for implementing readmission agreements and entering new agreements. In addition, steps were undertaken to supplement the Criminal Code in the sense of extending criminal liability for the offence “enabling abuse of accessing right to asylum in a foreign country” (Art. 350a).

### Irregular migration trends at the Serbian border

Migration trends at the Serbian border are much more effected by the action of Serbian institutions than the developments in conflict zones from which the majority of irregular migrants come. In this respect, a higher quantity of data on migration on the borders and the territory of Serbia is available. It is a well-known fact that **there is no unified system in the flow of data on irregular migration, i.e. that a unique method for collecting and presenting data that would be based on one definition and set of indicators used by all stakeholders involved in migration management and monitoring has not been established.** However, a fortunate circumstance in Serbia is that for several years now, CRM has been publishing the Migration Profile, an analytical publication on major migration trends with a harmonised structure which enables monitoring changes in trends over the years.

The general trends of migrant flows into Serbia and realistic assessment on the migrants’ intent to stay in Serbia can be assessed through the data on the number of expressed intent to seek asylum and number of actual applications for asylum. Namely, the existence of legal opportunities for forced migrants to be able to move through Serbia if they express intent to apply for asylum, which was a way to enable legal movement of migrants from the border to the asylum centres, has led to a sharp increase in the number of expressed intents. The number of persons that expressed intent to apply for asylum increased from 5,065 in 2013 to 579,518 in 2015, and in 2016, after the Western Balkans route was closed, it dropped down to 12,811.

However, regular migrants mainly used this opportunity not to reach asylum centres, but to move freely to the borders with Hungary and Croatia, where they tried to access the EU without permission. The proportion of those that really applied for asylum has always been small, and in 2015 it dropped even more significantly because of the large and sudden influx of migrants. The share of persons that applied for asylum among those that expressed intent dropped from 3 in 2013 to 0.1 in 2015, only to come back up to 4.5 in 2016 (the total number of actual asylum seekers in 2016 was 577, which is nearly four times more than in 2013).[[73]](#footnote-74)

A more detailed analysis shows that the origin of migrants has somewhat changed over time. Among the migrants that expressed intent to apply for asylum in Serbia in 2013, the majority were Syrian nationals, followed by Eritreans. In 2014 and 2015, Syrians still most commonly expressed the intent to apply for asylum, but in these years, there were more than 50% of such migrants. In both years, they were followed by Afghanis. In 2016, there was a considerable change, not only that the number of expressed intents to apply for asylum dropped below the 2014 level, but Afghanis came first, Iraqis second and Syrians third[[74]](#footnote-75). It can be concluded from this trend that after the closing of the Western Balkan Route, the migration pressure decreased considerably, but it still has not reached the level before the escalation of conflict in Syria. **The persistence of irregular migration is not only the result of the prolonged conflicts in Syria, Iraq and Afghanistan, but also the consolidation of migration models and routes and therefore activities on combating irregular migration must be broadened in scope and coordinated.**

The MoI is monitoring irregular migration using indicators meeting the criteria of the definitions used in this Strategy. The category of irregular migrants includes persons detected between two border crossings and at border crossing performing one of the following illicit actions:

* Avoiding border control
* Using someone else’s travel document
* Using forged travel document

In 2016, a total of 6,050 irregular migrants were detected. The number of illegal crossings on the green border dropped suddenly after May 2015, and as of February 2016 dropped to under 500 cases per month, and in November and December 2016, to under 100 cases per month.[[75]](#footnote-76) Based on this we can conclude that irregular migrations mirrored the changes in the volume of the overall migration flow and that it peaked in the spring of 2015, and that the number, with slight variations, dropped under one hundred crossings on the green border in late 2016. However, **such a reduction in the number of illegal crossings cannot only be attributed to the reduced influx of migrants from the Middle East and Africa, but also enhanced security measures implemented in 2016.**

With regards to the citizenship of identified irregular migrants in 2016, the structure was the same as in the case of expressing intent to apply for asylum: the majority were Afghanis (38.9%), followed by Iraqis (32%), Syrians (11%) and Pakistanis (6%).

The analysis of the trend of identification of irregular migrants at the borders toward neighbouring countries shows that a significant change occurred in 2016 in relation to previous years. Not only has there been a significant drop in the number of irregular migrants in relation to 2015, so it is now only 14.2% of the great influx of 2015, but this number is lower than in 2013. In addition, the directions of movement of irregular migrants have changed, so the pressure at the borders with Bulgaria, Hungary and Macedonia has dropped distinctively (by over 80%), but the borders with Croatia, Romania and Montenegro have seen an increase in the number of detected irregular migrants. This finding confirms the conclusion that preventive measures at the borders with Macedonia, Bulgaria and Hungary, through where the main wave came in 2015, were successful, but also that irregular migrants that have been stranded in Serbia are now looking for alternative routes to exit towards the EU. For this reason, we can conclude that the **Strategy should respond not only to the challenges of irregular migration as a general phenomenon, but also to sudden migration waves**, i.e. to predict the system’s response in case of influx of a high number of migrants. This is also in part provided in the Recommendation 1.4 in the Action Plan for Chapter 24Justice, freedom and security, which says: “Propose an evaluation mechanism assessing the accommodation capacity for irregular migrants on a continuous basis with the possibility to boost capacity in the short term, if necessary”. It should be noted here that the Government of the Republic of Serbia has defined policy measures for the situation of a sudden influx of migrants presented in the document Response Plan in the Case of an Increased Influx of Migrants, adopted in September 2015. This policy measure is presented in more detail in the section on combating irregular migration on the territory of Serbia.

#### Vulnerable migrants

A special issue related to the phenomenon of forced migration is an increased share of vulnerable migrant categories, such as minors, elderly persons, persons with disabilities, victims of human trafficking and smuggling. Adequate approach to these migrant categories requires additional engagement of financial and human resources, accommodation capacities and organised solutions. Migration Profile data enable the monitoring of the share of minors among the persons that have expressed intent to apply for asylum and also the share of unaccompanied minor children (UMC) among all minors that intended to apply for asylum. In this case it is also notable that the number of minors suddenly dropped in 2016, but actually a more important finding is that their relative participation among the persons that expressed intent to seek asylum increased steadily since 2013, from 15.2% to 29.9% in 2015 and then 41.9% in 2016. On the other hand, the share of UMCs among the minors that expressed intent to apply for asylum dropped suddenly with the great migratory wave and after it. The number of UMCs went up from 598 in 2013 to 10,644 in 2015 and dropped in 2016 to only 180. The relative share dropped from 77.9% in 2013 to only 3.4% in 2016.[[76]](#footnote-77)

This data shows that the migration boom in 2015 was based largely on a high share of children in migration (twice as many as two years before), and these were children travelling with parent/s or guardian/s. A conclusion can be drawn from this about additionally increased vulnerability of the category of potentially irregular migrants. **Although the number of minors among irregular migrants dropped significantly in 2016, the fact should be noted that their relative share in this population increased, which suggests that there is still need to provide protection to this vulnerable category of migrants.**

Victims of trafficking in human beings (THB) are another particularly vulnerable category among irregular migrants. However, according to data of the Centre for Human Trafficking Victims Protection (CHTVP), **citizens of the Republic of Serbia are predominantly the victims.** During 2016, 55 victims of THB were identified. In relation to the previous year, more victims were identified with 37%. Out of 55 identified cases, only 4 were not originally from Serbia: one from Nepal, Afghanistan and Albania respectively, and one stateless person.[[77]](#footnote-78) CHTVP keeps special records for victims of THB among the migrant population. In 2016, there were 40 reports of suspicion on victim of THB, but two female victims were identified (one minor, one adult). For 29 boys ages 15 to 18 years, the CHTVP opinion was that they had not been exploited thus far, but there was evidence of extremely elevated risk that they would become victims of THB in destination countries. They were informed about the possible assistance and presented with their rights and opportunities, but they wanted to continue the journey.[[78]](#footnote-79)

Smuggled migrants are another vulnerable category included in the form of irregular migration that presents a crime, sometimes including organised crime. For monitoring this phenomenon, MoI uses the indicator of the number of criminal charges brought against the perpetrated offence of “illegal crossing of the state border and human smuggling” in accordance with Article 350 of the Criminal Code of the Republic of Serbia. Data show that in 2015, in relation to 2014, the number of criminal charges brought, the number of resolved criminal cases, the number of perpetrators and the number of smuggled persons increased significantly. In 2016, there was a decrease in the value of all four mentioned indicators, but they were higher than in 2014 for all indicators. Therefore, with the great wave of migrants in 2015, the significance of human smuggling increased.

Since they were established in July 2016 until April 2017, Joint Army and Police Forces detected over 20,000 migrants attempting to illegally cross the state border, and prevented 121 attempts of human smuggling, apprehending 139 smugglers.[[79]](#footnote-80) This **information is indicating the need to enhance the activities of security forces and judiciary both in approach to smugglers and in the cooperation with the police and public prosecutor’s offices of other countries on the route from the migrants’ countries of origin to the countries of destination**. In this context, it would be good to add here that in 2016, the perpetrators of this offence were predominantly the citizens of Serbia (80.8%), which is a drop of 10 percentage points in relation to 2015, when they participated with 91.3%. As for smuggled persons, after the great wave of Syrian refugees decreased, the structure of their share in smuggling changed, so in 2016, most often smuggled persons were the citizens of Afghanistan, with the share in the total number of smuggled person of 44.8%, Syrians were second with 14.2%, Pakistani third with 11.9% and Iraqis fourth with 11.7%.

#### Changes in the legal and institutional frameworks relevant for combating irregular migration at the Serbian border

At the moment of drafting this Strategy, 10 years have passed since the signing of the Agreement on visa facilitations and Readmission Agreement between the EU and Serbia. This Strategy sums up a period of intensive work on the promotion of migration management policy and its harmonization with EU policy in this area. The overview of the harmonization of laws in the NPAA, second revision (2016) shows that in the area of irregular migration, Republic of Serbia was partially harmonized with the provisions of the Council Directive 2002/90/EC, defining the facilitation of unauthorised entry, transit and residence, and in this respect steps were taken to extend the Criminal Code of the Republic Serbia to include broader criminal liability for the committed offence “unauthorized crossing of the state border and human smuggling” of the person facilitating or enabling illegal entry or stay of a foreigner, without any material gain for self or other (Art. 350), Council Directive 2004/82/EC on the obligation of carriers to communicate passenger data and the European Parliament and Council Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals. The Criminal Code is partially harmonized with the Council Framework Decision 2002/946/JHA on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence, so it is necessary to broaden the criminal liability to legal entities and persons responsible within the legal entity for the committed offence “unauthorised crossing of the state border and human smuggling, as well as proscribing sanctions for legal entities within the meaning of the provisions of the said EU act.

In the latest report on the implementation of the Action Plan for Chapter 24Justice, freedom and security (July-December 2016), it can be seen that the harmonization of the legal and institutional frameworks relevant for migration management with the EU acquis Communautaire is an important part of the negotiations on Chapter 24 Justice, freedom and security. In addition to the mentioned amendments to the legislative framework by end of 2016, the following activities have been implemented based on the recommendations of this Action Plan:

1. Improving the mechanisms of coordination on monitoring the tasks performed by government agencies implementing legislation in the area of migration. Activity under way, Technical Working Group for Monitoring and Managing Migration actively participated in the development of the Republic of Serbia Migration Profile for 2015. The implementation of several projects related to migration is under way, bringing together a number of stakeholders at the government level.
2. Training Plan and Action Programme in the area of legal and irregular migration. Activity implemented, trainings of police officers on procedure in cases of illegal stay, forced removal, placement of individuals in the Detention Centre and issuing decisions on return conducted. Training for identification and detection of false and forged documents conducted.
3. Equipment enabling the establishment of a Central Data Base for Foreigners procured.

### Irregular migrants on the territory of Serbia

Movements of irregular migrants within the territory of the Republic of Serbia represents another challenge before the policy of prevention of irregular migration. Their prolonged status is **the result of insufficiently efficient implementation of the Law on Foreigners and the process of identification on Serbian territory and/or insufficiently efficient implementation of the Labour Law.** It should be noted here that these are not only migrants from Syria, Afghanistan and Pakistan, prevailing in the mixed migration flows, but also the citizens of neighbouring countries doing seasonal work in the Republic of Serbia. This again points to **the importance of harmonizing legislation towards punishing employers for employing irregular migrants.**

Data show that in 2016, 101 persons were returned to the country of origin, and between 1 January and 15 July 2017, 117 persons were returned through the assisted voluntary return (AVR) programme. Another way to assess trends in this area is through data on issued measures to persons illegally residing in the Republic of Serbia. This is monitored through the number of persons issued the measure of cancelled residence and the number of persons issued protective measure of removal of foreigner from the territory of the Republic of Serbia.

As with the case of asylum seekers, with cancelled residence and removal from Serbian territory, there was a significant decrease in the number of persons in 2016. However, the trends with these two indicators are different. While the number of persons with cancelled residence increased by more than 3 times between 2013 and 2015 (from 4,772 to 15,306), and then in 2016 decreased by over one-half, between 2013 and 2016, the number of persons removed from the territory of the Republic of Serbia was the highest in 2014 (3,222 persons), only to drop by one-half in 2015 and was reduced to a mere 164 in 2016.[[80]](#footnote-81) The difference in trends for these two indicators shows that irregular migration management does not only depend on the number of such migrants and the force of occasional migration waves, but also on the choice of different operational approaches. Namely, it is evident that at the time of the great migration wave of 2015, the cancellation of residence was a measure applied much more often upon identification of irregular migrants than the measure of removal from the territory.

In the period 1 January – 31 December 2017, 7,505 migrants were discovered on the territory of the Republic of Serbia, 6,195 of whom expressed intent to seek asylum, while misdemeanour charges were brought against 1,310 persons. A total of 6,948 persons were intercepted trying to cross the state border illegally, with 2,678 caught trying to illegally cross the state border, while 4,270 gave up on trying after having seen the authorities securing the state border. In 2017, the Ministry of the Interior reported a brought charges for 163 criminal offences of illicit state border crossing and human smuggling incriminated by Article 350 of the Criminal Code, against 286 perpetrators, including a total of 1,976 smuggled persons. The majority of perpetrators of the said criminal offence were citizens of the Republic of Serbia: out of the total number of perpetrators (286), 235 were citizens of the Republic of Serbia (216 males and 19 females).

#### Changes in the legal and institutional frameworks relevant for combating irregular migration on the Serbian territory

The Republic of Serbia should adopt a law approving residence to irregular migrants willing to cooperate with competent authorities, in accordance with the Council Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings. Also, relevant regulations need to be submitted so that the European Commission can determine the level of harmonization with the European Parliament and Council Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals (the so-called Return Directive).

The Republic of Serbia has partially harmonized its legislation with the provisions of the Council Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals. In the legislation, there is no provision related to employers employing irregular migrants, but the Labour Law contains general provisions punishing illegal employment. The new Law on Employment of Foreigners provides punitive measures for employers employing foreigners contrary to the provisions of the Law, or foreigners without approved temporary or permanent residence permit (irregular migrant). The Law on Employment of Foreigners provides inspection control over whether the conditions have been met for the employment of foreigners provided by the Labour Inspectorate. Furthermore, in addition to the fines, the protective measure of ban on business activity of such an employer for a certain period of time is also provided in case of employing irregular migrants. The Law on Employment of Foreigners does not provide for criminal liability of employers in case of employment of irregular migrants.

With the aim to prepare for the implementation of the European Parliament and Council Regulation 862/2007/EC after EU accession, CRM has since 2010 been regularly preparing the Migration Profile of the Republic of Serbia. Data presented in the Migration Profile is gradually being harmonized with the requirements of the above-mentioned Regulation and statistics on migration and international protection.

Serbia has stated that its human resources, infrastructure and equipment should be adapted to face the challenges imposed by irregular migration. The capacity of the Detention Centre (144 beds) is not enough for migration pressures that Serbia is currently facing, so additional capacities should be created, having in mind the needs of vulnerable groups. It is necessary to establish the mechanism of evaluation, in order to continue with the capacity assessment. Arrangements should also be made that will enable the increase in capacities in short term, especially when Serbia becomes EU member.[[81]](#footnote-82)

In the latest report on the implementation of the Action Plan for Chapter 24 Justice, freedom and security (July-December 2016), the following completed activities are mentioned:

1. Assessment of needs for accommodation in the Detention Centre made. However, additional capacities have not been provided in line with this assessment, because of the lack of financial resources, so the deadline for implementation was moved to Q2 2017.
2. Expanding accommodation capacities for UMCs. Activity finalised by extending the capacities of the facilities in Belgrade and Niš and building a new facility in Subotica.
3. Raising the capacities of staff in the system of accommodation of irregular migrants and preparation in case of sudden influx of a high number of irregular migrants. Activity finalised by organising a set of trainings for staff in centres for accommodation, Centres for Social Work and other relevant services, and training plan for police officers developed.

With the aim of urgent and coordinated action, on 6 June 2015, the Government of the Republic of Serbia established the Working Group on Mixed Migration Flows, at the ministerial level, with the task to monitor the issues of mixed migration flows and provide proposals of measures to address the issues identified and harmonize the approaches of competent government agencies and other organisations and institutions dealing with the issue of mixed migration flows. On 4 September 2015, the Government of the Republic of Serbia adopted a Response Plan in case of increased number of migrants on the territory of the Republic of Serbia for the period October 2016 – March 2017, defining the main directions of response, measures and activities to be undertaken to provide migrants with adequate protection during winter. In December 2016, the revised Response Plan in case of increased number of migrants on the territory of the Republic of Serbia for the period April-December 2017 was adopted.

The competent authorities of the Republic of Serbia have prepared for the reception of a large number of migrants in accordance with the Response Plan. The September 2015 Response Plan provides for accommodation capacities for 3,000 persons. In October 2015, after the Leaders’ Meeting on the Western Balkan Migration Route, the Republic of Serbia expressed willingness to provide accommodation for 6,000 persons. At the beginning of the migrant crisis and when the Western Balkans Route opened in mid-2015, the Republic of Serbia had five Asylum Centres (Banja Koviljača, Bogovađa, Sjenica, Tutin and Krnjača), with total capacity of 810 beds. In this period, they were 75% full. In late December 2016, 17 centres were operational (5 permanent Asylum Centres and 12 Reception Centres) with the capacity of 6,000 persons accommodating 5,600. After the formal closure of the Western Balkan Route (March 2016), 200-400 migrants were staying in the centres.

In February 2017, 17 centres were operational (5 permanent asylum centres and 12 reception centres) with total capacity of 6,900 beds. Out of these, 5,600 beds in solid buildings and 1,300 in rub halls. Putting up rub halls in locations closer to Northern borders was a response to increased needs in the situation of mass influx of migrants with the aim of urgent reception and protection. After the formal closure of the Western Balkan route (March 2016), between 200 and 400 migrants were staying in the centres.

In May 2017, 18 centres were operational (5 permanent Asylum Centres and 13 Reception Centres) with accommodated 6,165 persons.

#### The implementation of Readmission Agreements

Readmission Agreements represent an important instrument in combating irregular migration, which have been identified by the competent authorities of the Republic of Serbia, so bilateral agreements have been signed with neighbouring countries. The problem of irregular migration has a prominent place in the Action Plan for Chapter 24 Justice, freedom and securitywithin activity 1.5, recommending continued good implementation of the Readmission Agreements with European Union member states, and for this reason the activities in this Strategy do not focus on this aspect. The agreements cover both the issues of returning Republic of Serbia citizens and of taking over third country nationals or stateless persons that crossed to the territory of another country directly after staying or transiting over the territory of the Republic of Serbia. With the aim of combating irregular migration, it is particularly important to strengthen the role of the Republic of Serbia as the requesting country in the readmission procedure with neighbouring countries.

In the meantime, the trend of submitting requests for returning Serbian citizens and compliance with these requests has varied, as well as the rate of positive responses to the requests. The number of requests for readmission submitted first increased in 2014 in relation to 2013, from 10,232 to 12,967 persons, followed by a drop to 9,495 in 2015 and 5,799 persons in 2016. The percentage of compliance to the requests to return Serbian citizens can be said to have increased in the same period, because after the drop in 2014 (from 74.8% to 62.7% compared to 2013) it increased to over 80% in 2015 and 2016 (more precisely, 84.1% and 83.9% respectively).[[82]](#footnote-83)

It is important to notice also that the number of Serbian citizens seeking asylum for the first time in the EU dropped in 2016 to below 10,000, which had not happened since 2010. In 2016, this number was 8,890. If we add to this the information that the number of cases of asylum seekers from Serbia waiting has been decreasing continuously month by month and that it was only 345 in May 2017, we can conclude that the number of asylum seekers from Serbia in the EU has significantly reduced.

In terms of the reintegration of returnees according to readmission agreements, there are no recent data collected in a systematic manner but based on the profile of returnees it may be concluded that reintegration has been made more difficult. Namely, in the 2015 Migration Profile, it says that “in 2015, the Roma population was represented with 82% in the total number of returnees under Readmission Agreements registered by the CRM, followed by returnees of Serbian nationality, with 10%. It can be concluded that the trend did not change in comparison with 2014.”. Numerous research on the position of Roma in Serbia have shown that among them there is the highest percentage of socially excluded citizens. Additionally, the Migration Profile finds that the educational structure of returnees is very poor, with only 11.6% with completed high school, college or university, and only 0.2% with the status employed or pensioner, respectively. This indicates urgent need to strengthen the programmes of reintegration of returnees under the Readmission Agreement, in order to prevent repeated attempts of irregular migration towards EU countries.

The NPAA, second revision (2016), states that the signing of the Readmission Agreement with the EC, Republic of Serbia has committed to undertake measures for the reintegration of returnees. The CRM, based on the Law on Migration Management, adopts annual programmes for reintegration of returnees funded from the Republic of Serbia Budget. These programmes include activities with the aim to improve housing conditions and economic empowerment of returnees. In addition, CRM in cooperation with other competent agencies and services, provides urgent support to returnees immediately after the return to the country, including temporary accommodation for persons in need.

The report on the implementation of the Action Plan for Chapter 24Justice, freedom and security (July-December 2016) states that the system for monitoring reintegration has been improved, by adding new indicators to the Migration Profile, enabling regular analysis. Furthermore, budget funds were earmarked in 11 LSG units for reintegration programmes.

## Problem statement

### *SWОT* analysis

At this point, the strengths and weaknesses of the system for combating irregular migration will be presented, as well as the opportunities and threats facing it.

|  |  |
| --- | --- |
| Strengths* There are institutions with defined competencies necessary for performing all the functions in the system
* There are competent human resources for performing all the functions in the system
* Continuous human resources development has been organised
* There is continuity in the coordination of migration management related activities (government level coordination body)
* There is basic infrastructure required for the activities
* There is stable basic funding
* Ability of organisational adaptation to shock (sudden influx of migrants)
 | Weaknesses* Insufficient financial resources
* Insufficient human resources
* Instable funding of advanced technologies
* Inflexible funding mechanisms, difficult to redirect funds to urgent needs
* Frequent rotations in operational teams
* Insufficient knowledge of civil servants outside the circle of those directly involved in irregular migration
* Pushing the issues of irregular migration to the background of other issues
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| Opportunities* High level of awareness of the importance of the issue among the majority of stakeholders in the system
* Considerable international financial and technical support
* Harmonization with EU policy and practice
* EU-Turkey Statement on returning irregular migrants from Greece and preventing new routes for migration toward the EU[[83]](#footnote-84)
* There is appropriate national legal framework established for the functioning of the system
* Policies and procedures for combating irregular migration have been defined (both proactive and reactive)
 | Threats* Continued conflicts in the Middle East and Africa
* Uncertainty of Turkey complying with the agreement made with the EU and detailed in the Statement made on 18 March 2016
* Impossible to reach agreement on return with Afghanistan and Pakistan
* Neighbouring countries not complying with bilateral agreements on the prevention of irregular migration
* Low awareness of citizens on security risks related to irregular migration and migrant smuggling
* Insufficient and irregular statistics, varying definitions
* Insufficient coordination with stakeholders, primarily NGOs
 |

### Main problem, causes and effects

Based on the data on irregular migration trends in the Republic of Serbia and the legal and institutional response to it, working group members for the development of this Strategy have identified the following central problem, its causes and effects.

**Lack of systemic response to the issue of irregular migration**

Insufficient capacity for accommodation of vulnerable migrants

Lack of high-tech equipment

Unclear status of persons ordered to leave the country, it cannot be effected, there is no oversight

Police officers lack training and motivation, frequent rotation in the field and lack of knowledge of the migrants’ languages

Insufficient number of people in the police, the prosecutor’s office and CRM

Unregulated work of NGOs, they provide services they are not licensed for

Migrants do not want protection in Serbia

Difficult to implement returns to the country of origin, fence at the border with Hungary

Configuration of the terrain at the border suitable for irregular entry, many migrants attempt to enter

High fluctuations in the number, difficult to plan activities

Limited data exchange between authorities because of the Law on Personal Data Protection органа због Закона о заштити података о личности

Insufficient financial resources, lack of mechanisms for unplanned additional expenses

Insufficiently developed human resources

Issues with legal solutions and application

High number of migrants wish to pass through Serbia

Difficulties in funding activities on protection of the state border

Increased number of irregular migrants in comparison with the period pre-2014

Occasional impacts of migration on available resources

Increased number of migrant smuggling cases

Slow communication between agencies

Difficulties in returning migrants

Prolonged stay of irregular migrants

Threats to sustainability of existing efficiency in preventing irregular migration and providing vulnerable migrants with adequate accommodation

Increased costs for the prevention of irregular migration

Long-term vulnerability of migrants, unused development opportunities

Increased risk to the safety of the country

1. This term primarily denotes the movement of migrants through Greece and Bulgaria, through Macedonia and Serbia into Hungary and Croatia, although statistics record movements also on all other borders in the region: between Romania and Serbia, Montenegro and Croatia, Montenegro and Serbia, Bosnia and Herzegovina and Serbia, etc. [↑](#footnote-ref-2)
2. <http://www.seio.gov.rs/upload/documents/nacionalna_dokumenta/npaa/NPAA_2016_revizija_srp.pdf> [↑](#footnote-ref-3)
3. Official Gazette RS, No. 59/09. [↑](#footnote-ref-4)
4. <http://www.rsjp.gov.rs/malodrvo/bazastrategija/2_javna_bezbednost/2_10_strategija_upravljanja_migracijama/2.10_strategija_upravljanje_migracijama.pdf> [↑](#footnote-ref-5)
5. Official Gazette RS, No. 25/09. [↑](#footnote-ref-6)
6. Technical assistance and information exchange instrument of the European Commission [↑](#footnote-ref-7)
7. JHA IND/EXP 57845 [↑](#footnote-ref-8)
8. Official gazette RS, No. 09/2017. [↑](#footnote-ref-9)
9. The Strategy for Combatting Human Trafficking in the Republic of Serbia expired in 2011. [↑](#footnote-ref-10)
10. Official Gazette RS, No. 98/06. [↑](#footnote-ref-11)
11. Official Gazette RS, No. 107/2012. [↑](#footnote-ref-12)
12. <http://www.bezbednost.org/upload/document/akcioni_plan_za_poglavlje_24_izvestaj.pdf> [↑](#footnote-ref-13)
13. Main definitions are presented in more detail in Annex 1 herein. [↑](#footnote-ref-14)
14. The use of the term ‘irregular migrant’ was recommended in 2006 by the Council of Europe’s Parliamentary Assembly (Council of Europe, Parliamentary Assembly, Resolution 1509, “Human Rights of Irregular Migrants”) and 2009 by the European Parliament (Paragraph 159, European Parliament resolution on the situation of fundamental rights in the European Union 2004-2008, 14 January 2009). [↑](#footnote-ref-15)
15. <http://www.poverenik.rs/images/stories/Dokumentacija/54_ldok.pdf> [↑](#footnote-ref-16)
16. Official Gazette SFRY – International Treaties, No. 7/1971. [↑](#footnote-ref-17)
17. http://www.ius.bg.ac.rs/prof/materijali/lubbra/PESK.pdf [↑](#footnote-ref-18)
18. Official Gazette SFRY – International Treaties, No. 11/1981. [↑](#footnote-ref-19)
19. [https://www.unicef.org/serbia/Konvencija\_o\_pravima\_deteta\_sa\_fakultativnim\_protokolima(1).pdf](https://www.unicef.org/serbia/Konvencija_o_pravima_deteta_sa_fakultativnim_protokolima%281%29.pdf) [↑](#footnote-ref-20)
20. Official Gazette SFRY – International Treaties, No. 6/2001. [↑](#footnote-ref-21)
21. Official Gazette SFRY – International Treaties, No. 6/2001. [↑](#footnote-ref-22)
22. Official Gazette FRY – International Treaties, No. 6/2001. [↑](#footnote-ref-23)
23. <https://treaties.un.org/doc/Publication/UNTS/Volume%201184/volume-1184-I-18961-English.pdf> [↑](#footnote-ref-24)
24. <http://www.imo.org/en/OurWork/Safety/RadioCommunicationsAndSearchAndRescue/SearchAndRescue/Pages/SARConvention.aspx> [↑](#footnote-ref-25)
25. Resolution A/RES/71/1 [↑](#footnote-ref-26)
26. [http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/551333/EPRS\_BRI(2015)551333\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/551333/EPRS_BRI%282015%29551333_EN.pdf) [↑](#footnote-ref-27)
27. <https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/communication_from_the_commission_1.pdf> [↑](#footnote-ref-28)
28. <http://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/communication_on_the_european_agenda_on_migration_en.pdf> [↑](#footnote-ref-29)
29. Official Gazette SCG – International Agreements, No. 9/03, 5/05 and 7/05-correction and Official Gazette RS – International Agreements, No. 12/10 [↑](#footnote-ref-30)
30. <http://www.paragraf.rs/propisi/zakon_o_potvrdjivanju_konvencije_saveta_evrope_o_borbi_protiv_trgovine_ljudima.html> [↑](#footnote-ref-31)
31. Provisions of the law and public policy documents are presented in more detail in Annex 2 herein. [↑](#footnote-ref-32)
32. Official Gazette RS, No. 97/2008 and 20/2015. [↑](#footnote-ref-33)
33. Official Gazette RS, No. 97/2008. [↑](#footnote-ref-34)
34. Official Gazette RS, No. 97/2008 and 20/2015. [↑](#footnote-ref-35)
35. Official Gazette RS, No.75/09 [↑](#footnote-ref-36)
36. Official Gazette RS, No.85/05, 88/05-correction, 107/05-correction, 72/09, 111/09, 121/12, 104/13, 108/14 and 94/16) [↑](#footnote-ref-37)
37. Official Gazette RS – International Agreements, No. 103/2007. [↑](#footnote-ref-38)
38. This Strategy has expired, but it is mentioned here because its objectives are the starting point for conceptualizing the Strategy for Combating Irregular Migration. [↑](#footnote-ref-39)
39. Official Gazette RS, No. 15/09 [↑](#footnote-ref-40)
40. The screening for this Chapter covers the issue of irregular migration and concludes that a number of changes are needed in the legislative and institutional framework in order to improve the prevention thereof. [↑](#footnote-ref-41)
41. IOM, 2011, PregledpravnogiinstitucionalnogokviraRepublikeSrbije u oblastiupravljanjamigracijama [↑](#footnote-ref-42)
42. FRONTEX, FRAN Q4, 2015; <http://frontex.europa.eu/assets/Publications/Risk_Analysis/FRAN_Q4_2015.pdf> [↑](#footnote-ref-43)
43. For example, in January 2016, governments in the countries on the Western Balkan Route, starting with Macedonia, and ending with Slovenia, introduced new regulations allowing entry only to those migrants expressing intent to seek asylum in Germany or Austria. In early 2016, the border between Macedonia and Greece was mostly closed for migrants as a result of a daily quota for the reception of migrants introduced in Austria, and only Syrian and Iraqi immigrants were allowed to pass through.  [↑](#footnote-ref-44)
44. To analyse migration-related risks at the central, regional and local levels, the Republic of Serbia uses FRONTEX Common Integrated Risk Analysis Model (CIRAM 2.0), (FRONTEX, Guidelines for Risk Analysis Units. Structure and tools for the application of CIRAM version 2.0, 2012). [↑](#footnote-ref-45)
45. More detailed analysis of the baseline situation can be found in Annex 3 herein. [↑](#footnote-ref-46)
46. <http://frontex.europa.eu/assets/Publications/Risk_Analysis/FRAN_Q4_2016.pdf> [↑](#footnote-ref-47)
47. FRONTEX Risk Analysis Network Quarterly Report [↑](#footnote-ref-48)
48. Source: Migration Profiles for 2013, 2014, 2015 and data of the Commissariat for Refugees and Migration for 2016. [↑](#footnote-ref-49)
49. Source: Border Police data [↑](#footnote-ref-50)
50. <http://www.mod.gov.rs/lat/10092/saopstenja-komande-zajednickih-snaga-vojske-i-policije-10092> [↑](#footnote-ref-51)
51. Official Gazette RS, No. 24/05, 61/05, 54/09, 32/13, 75/14, 13/17-CC,13/17 [↑](#footnote-ref-52)
52. Source: Migration Profiles for 2013, 2014, 2015 and data of the Commissariat for Refugees and Migration for 2016. [↑](#footnote-ref-53)
53. Source: Migration Profiles for 2013, 2014, 2015 and data of the Commissariat for Refugees and Migration for 2016. [↑](#footnote-ref-54)
54. From the interview with the Centre Director. [↑](#footnote-ref-55)
55. Official Gazette RS, No. 128/14 and 113/17 [↑](#footnote-ref-56)
56. <http://eupregovori.bos.rs/progovori-o-pregovorima/poglavlje-24/1562/2016/02/11/poglavlje-24---pravda-sloboda-i-bezbednost-.html> [↑](#footnote-ref-57)
57. The ‘tree of issues’ is presented in Annex 3. [↑](#footnote-ref-58)
58. Official Gazette RS, No.97/08, 104/09-other law, 68/12-CC and 107/12 [↑](#footnote-ref-59)
59. The use of the term ‘irregular migrant’ was recommended in 2006 by the Council of Europe’s Parliamentary Assembly (Council of Europe, Parliamentary Assembly, Resolution 1509, “Human Rights of Irregular Migrants”) and 2009 by the European Parliament (Paragraph 159, European Parliament resolution on the situation of fundamental rights in the European Union 2004-2008, 14 January 2009). [↑](#footnote-ref-60)
60. IOM, Glossary on Migration, International Migration Law Series No. 25, 2011, <https://www.iom.int/key-migration-terms>. [↑](#footnote-ref-61)
61. According to the new Law on Foreigners, the following is considered to be unlawful entry into the Republic of Serbia: 1) entry away from the place designated for the crossing of the state border; 2) entry avoiding border control; 3) entry without travel or other document used to cross the state border; 4) entry by using someone else's, invalid, or false or other document; 5) entry by providing false information to the border police; 6) entry at the time of duration of the protective measure of removal or safety measure of expulsion of foreigner, or measure of ban on entry. [↑](#footnote-ref-62)
62. Official Gazette RS, No. 97/2008. [↑](#footnote-ref-63)
63. According to the new Law on Foreigners, unlawful stay is the presence of foreigner on the territory of the Republic of Serbia, who does not fulfil or no longer fulfils the criteria for entry or further stay on the territory of the Republic of Serbia. [↑](#footnote-ref-64)
64. New Law on Foreigners. [↑](#footnote-ref-65)
65. Official Gazette RS, No. 97/2008 and 20/2015. [↑](#footnote-ref-66)
66. Official Gazette RS, No. 97/2008. [↑](#footnote-ref-67)
67. Official Gazette RS – International Agreements, No. 103/2007. [↑](#footnote-ref-68)
68. Around 10% of the population came to Serbia as forced migrants. [↑](#footnote-ref-69)
69. FRONTEX, FRAN Q4, 2015; <http://frontex.europa.eu/assets/Publications/Risk_Analysis/FRAN_Q4_2015.pdf> [↑](#footnote-ref-70)
70. To analyse migration-related risks at the central, regional and local levels, the Republic of Serbia uses FRONTEX Common Integrated Risk Analysis Model (CIRAM 2.0), (FRONTEX, Guidelines for Risk Analysis Units. Structure and tools for the application of CIRAM version 2.0, 2012). [↑](#footnote-ref-71)
71. <http://frontex.europa.eu/assets/Publications/Risk_Analysis/FRAN_Q4_2016.pdf> [↑](#footnote-ref-72)
72. <http://ec.europa.eu/eurostat/data/database> [↑](#footnote-ref-73)
73. Source: Migration Profiles 2013, 2014, 2015 and CRM data for 2016. [↑](#footnote-ref-74)
74. Source: Migration Profiles 2013, 2014, 2015 and CRM data for 2016. [↑](#footnote-ref-75)
75. Source: Border Police data [↑](#footnote-ref-76)
76. Source: Migration Profiles 2013, 2014, 2015 and CRM data for 2016. [↑](#footnote-ref-77)
77. Centre for Human Trafficking Victims Protection, *Osnovnistatističkiizveštaj o identifikacijižrtavatrgovineljudimaza 2016. godinu* [↑](#footnote-ref-78)
78. From the interview with CHTVP Director. [↑](#footnote-ref-79)
79. <http://www.mod.gov.rs/lat/10092/saopstenja-komande-zajednickih-snaga-vojske-i-policije-10092> [↑](#footnote-ref-80)
80. Source: Migration Profiles 2013, 2014, 2015 and CRM data for 2016. [↑](#footnote-ref-81)
81. <http://eupregovori.bos.rs/progovori-o-pregovorima/poglavlje-24/1562/2016/02/11/poglavlje-24---pravda-sloboda-i-bezbednost-.html> [↑](#footnote-ref-82)
82. Source: Migration Profiles 2013, 2014, 2015 and CRM data for 2016. [↑](#footnote-ref-83)
83. http://www.consilium.europa.eu/press-releases-pdf/2016/3/40802210113\_en.pdf [↑](#footnote-ref-84)