



Challenges and perspectives in the process of migration management on the territory of **Montenegro**



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FOREWORD

*This document emerged as a direct **result of experience, field work and information** gained by the NGO Legal Center Podgorica during 2020/21 by providing free legal aid to various categories of migrants, within the project “**My lawyer - free and professional legal aid for an effective access to rights for migrants**”, supported by the European Union.*

The main goal of the project was to contribute to the improvement of the migration management system in Montenegro in line with international human rights standards, i.e. improvement of the status of migrants, persons seeking or granted international protection and readmitted persons in access to rights and services, in accordance with domestic laws and international human rights standards.

*The basic goal of this document is to map key challenges in the application of existing legal solutions concerning migration management policies in Montenegro, and to provide recommendations to relevant Montenegrin institutions to improve the implementation of regulations, and thus the position of migrants and their enjoyment of all guaranteed rights. Specifically, this document focuses on two groups of migrants: **a) asylum seekers/ persons under subsidiary protection**, and **b) returnees under the Readmission Agreement**, i.e. problems in the processes of their protection, integration, reintegration and realization of basic rights guaranteed by the existing law regulations.*

INTRODUCTION

Montenegro, as well as other countries in the Western Balkans, has been recently facing a complex phenomenon of people on the move, i.e. migration, which is the result of various global events, such as armed conflicts, economic crises, but also easier movement and flow of people, information and traffic. In that sense, Montenegro, like other countries in the region, has recognized the importance of cooperation with countries in the region, the European Union and other international actors, but also the importance of establishing its own systemic approach to this problem, as well as developing specific policies, strategies, legislative framework and mechanisms that should, above all, enable efficient and comprehensive migration management.

Despite the numerous challenges that exist and are yet to come in achieving an effective migration policy, the migration system has continued to develop continuously. From year to year, significant improvements in legal and institutional framework are visible, as well as improvements in legislation and practice.

In July 2020, a temporary container settlement was opened in Božaj, near the Albanian border, which increased reception capacity by additional 60 places for accommodation of foreigners seeking international protection. Also, an agreement signed between Montenegro and the European Union on activities carried out by the European Border and Coast Guard Agency (FRONTEX) with the aim of combating illegal migration and cross-border crime, as well as strengthening border line security, entered into force.

Due to rationality and further improvement of migration policy, activities have been undertaken to develop a new strategic document that addresses both migration policy and readmission through the Draft Strategy on Migration and Reintegration of Returnees in Montenegro, for the period 2021-2025, with the

Action Plan for 2021 and 2022¹.

Although modest, the results of the work of the Directorate for Integration of Foreigners Granted International Protection and Reintegration of Returnees Following the Readmission², a newly formed body within the Ministry of the Interior of Montenegro, are particularly encouraging regarding the performance of tasks related to the provision of assistance and support to foreigners granted international protection and Montenegrin citizens after their return to Montenegro in the process of their integration or reintegration.

There is a clear tendency to improve and strengthen legal and institutional capacities and cooperation at all levels between state, local, non-governmental and international organizations in the field of migration, asylum and border management.

Progress in fulfilling recommendations in the field of migration, asylum and border management was also stated in the report of the European Commission from October 2020³. In this report, as in some previous ones, fewer and fewer problems have been identified in the area of asylum policy. Key issues are recognized in other areas of migration. "Developing international cooperation in the field of readmission, raising the capacity to process networks of migrant smugglers, increasing reception capacity and improving the system of collecting data on migrants" are the main recommendations of this report to Montenegro to effectively address challenges and risks of mixed migration.

Despite the evident improvement of legislation and practice in the field of international protection and migration, there is room for further development and improvement of the system. Effective implementation of migration regulations in practice, definition, development, and implementation of sustainable and effective integration policies for foreigners granted international protection and reintegration of returnees, improving the system of collecting, exchanging and managing data on returnees and other categories of migrants - are key areas that Montenegro should improve in the coming period.

General flow of migration and access to the territory

¹ <https://www.gov.me/dokumenta/38214cec-7412-498d-9f8e-484e02ee1c78>

² "The Directorate for Integration of Foreigners Granted International Protection and Reintegration of Returnees upon Readmission performs activities related to the accommodation of foreigners who have been granted asylum, subsidiary or temporary protection and assistance in integration into society; coordination in exercising legally prescribed rights of foreigners who have been granted asylum or subsidiary protection (learning the Montenegrin language, history and culture, social protection, health care, education, humanitarian aid, legal aid, financial aid, work, family reunion, etc.); providing support for inclusion in social, economic, cultural life; providing support for the implementation of initiated programs and plans for permanent resolution of refugee status; providing assistance in the reintegration of returnees upon readmission; implementation of national, regional and international documents for resolving refugee issues; cooperation with the United Nations High Commissioner for Refugees, Red Cross of Montenegro and other organizations and institutions; performing other tasks within the scope of the Directorate"- Rulebook on Internal Organization and Systematization of the Ministry of the Interior.

³ https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/montenegro_report_2020.pdf

In most cases, Montenegro is primarily a transit country to migrants on their way to one of the countries of Western Europe. Migrants continue to enter predominantly from Albania, outside border crossings, on the usual Turkey-Greece-Albania-Montenegro route. They pass through Montenegro without a long delay and no real interest and intention to seek and gain international protection in Montenegro.

According to individual testimonies of migrants, there were no serious obstacles in accessing Montenegrin territory. No cases of violence or inhumane treatment of migrants were reported. Physical injuries (scratches, sprains, bruises) noticed on a number of migrants are the consequence of several hours of hard walking, not some kind of violence against them. No action contrary to the principle of non-refoulement⁴ was recorded.

Due to more restrictive asylum policies in the European Union, the risks of smuggling and human trafficking, as well as other forms of exploitation and violation of the human rights of migrants, are increasing. Montenegro is a transit country for many migrants, and most people do not intend to stay longer on its territory but only pass through it. The situation not only leads to increased activities of criminal groups in smuggling migrants from Montenegro across the Adriatic Sea towards Italy and Bosnia and Herzegovina, but also carries additional risks, primarily the risk of becoming victims of human trafficking. Undoubtedly, unaccompanied children are at greatest risk. These illegal activities are mainly carried out by citizens of the countries that migrants come from, and sometimes by the migrants themselves. They have support from local associates and helpers, and the situation is additionally worrying because an increasing number of Montenegrin citizens are among them. The transfer of money to migrants from abroad is done in certain cases, according to the statements of the migrants themselves, with the mediation and support of Montenegrin citizens who withdraw money from commercial banks or post offices, thus abusing and exploiting the position of migrants. In December 2020, Montenegrin police prevented the smuggling of 40 migrants from Turkey⁵ by sea, who were heading from Montenegro to Italy. Cases of breaking up smuggling activities indicate that such actions take place in the field and that the risk of this phenomenon is significant.

Despite the challenges posed by the crisis caused by corona virus pandemic, Montenegro has managed to meet minimum standards in the areas of reception, care, accommodation, legal and health care for migrants transiting through the country. In the conditions of pandemic, that made the transit route of migrants extremely complex and threatening for their health and preservation of human rights, Legal Center, in partnership with Caritas Montenegro, launched an activity of providing humanitarian support to migrants. 70 packages of humanitarian aid were provided, which were distributed through the local non-governmental organization "Bona Fide" to migrants who transit through the territory of the

⁴ Art. 11 of the Law on International and Temporary Protection of Foreigners, and art. 116 of the Law on Foreigners

⁵ <http://www.rtcg.me> › vijesti › hronika › zbog-sverca-migranata pritvor do 30 dana

municipality of Pljevlja in an attempt to cross the border to BiH⁶.

Access to the procedure for granting international protection

People in need of international protection and persons whose reasons for leaving the country of origin are not related to protection move side by side across the territory of Montenegro. Early identification and timely information of persons who may wish to apply for protection, as well as referral to competent institutions, is an important precondition for effective access of these persons to the procedure for granting international protection.

Since the establishment of the independent asylum system in 2007 and ending in 2020⁷, a total of 16,032 foreigners have applied for asylum, i.e. granting

Year	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Number of asylum applications	3	7	20	9	239	1529	3554	2312	1611	335	849	3104	1921	539

Table 1 Number of applications for granting international protection

international protection in Montenegro.

Applicants for international protection are mostly male. Out of the total number of foreigners who applied by the end of December 2020, 14,661 (91%) were men and 1,371 (9%) were women. Observed by age structure, 866 minors also applied for international protection, out of which 31 were unaccompanied. In the process of migration, according to the existing data⁸, more than 18,000 children are reported as missing on the territory of Europe.

The number of expressed intentions and submitted applications for granting international protection decreased by over 65% compared to 2019. Thus, in the period from 1.1 - 31.12 2020, 2,829 foreigners expressed their intention to submit an application for granting international protection. This represents a significantly smaller number compared to the same comparative period in 2019, when 7,978 foreigners expressed their intention to apply for international protection.

As was the case in previous years, the expression of intent, which in much smaller numbers results in the submission of applications for international protection, is only used for the purpose of temporary legalization of residence and provision of accommodation in one of the Reception Centers.

In 2020, 539 foreigners formally applied for international protection to the Directorate for Asylum. However, foreigners who apply for international protection

⁶ <https://www.facebook.com/105252900878170/posts/-Caritas-Crne-Gore>

⁷ Data obtained from the Ministry of the Interior – Directorate for Asylum, on request, via email azilmne@t-com.me, on 7.05.2021.

⁸ <https://missingchildreneurope.eu/children-in-migration/>

do not have a real intention to participate in the proceedings. In most cases, they do not respond to the invitations of the Directorate for Asylum to the first hearing, they leave the Reception Center without notice so, as a consequence of such actions, the proceedings on submitted applications are suspended in over 90% of cases. In 2020, 43 hearings were held. Out of 539 submitted applications for granting international protection, 488 cases were concluded by suspension (424 proceedings were suspended by December 1, 2020, and another 64 in the first months of 2021).

Proclamation of coronavirus pandemic on March 26, 2020 and introduction of strict epidemiological measures, which included a ban on movement, restriction and suspension of certain activities, social distancing, etc., also had a restrictive effect on the possibility of access to and implementation of the procedure for granting international protection. Despite limitations in the work of the Directorate for Asylum and other institutions caused by the coronavirus pandemic, the process for granting international protection was carried out to a significant extent, with full respect for the rights of foreigners seeking international protection.

The continuous development of the system for granting international protection, improvement of legal framework and development of practice are evident. However, due to the non-existence or negligibly small number of certain cases in practice, it is not possible to examine and assess the quality of numerous relations and solutions regulated by the Law on International and Temporary Protection of Foreigners. It has been noticed that the practical application of law deviates in some segments from the prescribed procedure, while technical conditions have not yet been met or created for the implementation of certain provisions, so foreigners seeking international protection still cannot use certain rights.

One of the rights that is still not fully available to foreigners seeking international protection is **the right to work**⁹ despite all efforts to find adequate solutions¹⁰. This privileged right is not recognized as an exception in the Law on Foreigners, which is a basic regulation in the field of work and employment of foreigners, in the way it is done in relation to asylum seekers and foreigners under subsidiary protection¹¹. According to the current Rules of the working booklet, foreigners seeking international protection cannot obtain a working booklet from the competent municipal labour secretariats. The response of the Secretariat for Social Welfare in Podgorica¹² of 19 April this year states that: *"It is not possible to issue a working booklet to foreigners who have applied for international protection in Montenegro because those persons do not have any proof of identity, they do not have a personal identification number, which is a basic condition for entering personal data in the register of issued working booklets which is kept electronically (the program does not allow the processing of the working booklet without the entered ID number)."* Determining competent municipality where the request for

⁹ Article 70 of the Law on International and Temporary Protection of Foreigners

¹⁰ Article 5, paragraph 2 Law on Mediation in Employment and Rights during Unemployment, "Official Gazette of Montenegro", No. 024/19 of April 22, 2019

¹¹ Art. 67 Law on Foreigners ("Official Gazette of Montenegro", No. 12/2018)

¹² No: 14-037/21-26/1

issuing working booklet will be submitted is also a problem for these people. Foreigners seeking international protection have the right of temporary residence in Montenegro, but not the right of permanent residence, on the basis of which the competence of the municipal body for issuing a working booklet¹³ is determined. The procedure of issuing working booklets is carried out in accordance with the Rules of the working booklet¹⁴. The Rules have been applied since January 1983 and dates back to the time of the SFRY, so they have been irrelevant to the labour-legal and social reality for a long time. In practice, the Directorate for Asylum is submitted a *“request with data on persons who have acquired the right to work, within nine months from the date of submission of the request, if the request has not been decided upon, so that their ID number is determined in the procedure before the competent organizational unit of the Ministry, according to their place of residence, after which the Directorate for Asylum issues a certificate on the submitted application for international protection which, among other things, contains information of a certain identification number”*.¹⁵ For foreigners seeking international protection in accordance with applicable regulations¹⁶, the determination of identification number is not provided. In the Employment Agency records of unemployed persons in 2019 and 2020, there was one person who is a foreigner seeking international protection¹⁷.

Foreigners seeking international protection on the territory of Montenegro are not paid **compensation for public transport costs**. Although guaranteed by law¹⁸, this right is not exercised in practice. For the purposes of the procedure for granting international protection, foreigners are provided with transportation in another way. However, legal solution has a number of advantages over the existing practice and should be implemented consistently. Rulebook on rules of stay and house rules in the Reception Centre¹⁹ may prescribe the manner in which the amount of compensation for public transport costs (transport costs in departure and return) is determined for the purposes of the procedure for granting international protection.

The Ministry of the Interior has the obligation **to issue a document** to a foreigner **within three days on the prescribed form**, proving that he or she has submitted an application for international protection, which will serve as his/her residence permit in Montenegro until the decision on the application for international protection²⁰ becomes final. The issuance of these documents did not start even after 3 years from the beginning of the application of the Law on International and Temporary Protection. Instead, according to long-term practice, certificates on the submitted

¹³ Article 5, paragraph 1 The rules of the Working Booklet (“Official Gazette of SRCG”, No. 1/83 and 54/2001).

¹⁴ “Official Gazette of SRCG”, No. 1/83 i 54/2001

¹⁵ Directorate for Asylum, response to the inquiry via email from June 3, 2021

¹⁶ Art. 5 and art. 6 Rules on the appearance and content of forms and the manner of issuing documents for a foreigner who has applied for international protection, an asylum seeker and a foreigner under subsidiary protection (“Official Gazette of Montenegro”, No. 72 of 1 November 2017, 115/20)

¹⁷ Decision of the Employment Agency number: UPI No. 06-100/12-21 dated 21 April 2021

¹⁸ Article 64 of the Law on International and Temporary Protection of Foreigners

¹⁹ “Official Gazette of Montenegro”, No. 61/2017 and 40/2019

²⁰ Art.71 of the Law on International and Temporary Protection of Foreigners

application for international protection are issued although their form, content or obligation to issue them is not prescribed by law. However, *“as these persons do not pay the fee for the form, since it does not contain the registration number, these persons are issued, as a transitional solution, in order to economize the procedure with legal grounds in the Law on Administrative Procedure, a certificate on the basis of which they have had full access to all their rights for almost a full decade²¹”*. In legal transactions, there is also a certificate issued by the police to foreigners who have expressed their intention to submit an application for international protection although the law does not prescribe the form, content and obligation to issue such a certificate²².

Integration of asylum seekers and foreigners under subsidiary protection - challenges and practice

The integration of asylum seekers and foreigners under subsidiary protection is the weakest part of the international protection system in Montenegro. The experience of competent authorities in the integration of this category of foreigners is rather modest. Resolving the legal status and integration of I/DPs from former Yugoslavia was in the focus of state authorities for a long time. The integration of asylum seekers has not been the subject of significant attention, except for organizations dealing with the problem. What characterizes the integration system is the lack of sustainable and effective strategic policies and designed programs in all areas and levels of integration. There have been no allocations from the budget for this area for years. All this, but also numerous other reasons, make it difficult to include the already small number of asylum seekers in the social community. The period of three years provided for the support of these persons is spent without concrete results. The system of international protection is such that it only produces a new layer of social cases²³. These are mainly persons who, even after many years of residence in Montenegro, are on the register of unemployed persons, and who are beneficiaries of social assistance. A number of them do not even speak the language, which is a serious obstacle to integration. Providing safe and continuous accommodation is always problematic. Inadequate information of asylum seekers and foreigners under subsidiary protection on the rights they are entitled to and the ways of exercising certain rights is evident. Integration is approached ad hoc, as one obtains international protection. It all comes down to improvisation and “intervention” when a problem arises. Coordination between state bodies, international organizations and NGOs providing support to these individuals is not at a satisfactory level. Each actor has its own policy of access to and support for these individuals without the knowledge and involvement of other actors. The Working Group on Asylum Policy, coordinated by the Ministry of the Interior, held only one joint meeting in 2020.

Out of the total number of foreigners (16,032) who applied for asylum in

²¹ Directorate for Asylum, response to the inquiry via email from June 3, 2021

²² Article 34, paragraph 8 of the Law on International and Temporary Protection

²³ “Three families and one individual are beneficiaries of material security. Four children are entitled to child allowance”. Response to the inquiry-email of the Directorate for Integration dated Jun 16, 2021.

Montenegro, in the period from 2007 to the end of 2020, only 86 persons or 0.54% were granted some form of protection. Asylum status was granted to 54 persons, while 32 persons were granted subsidiary protection. In the first half of 2021, the status of asylum seeker was approved for an additional 4 people. The reasons for such a small number of granted protections are multiple. They are primarily in the nature of migratory movement through the territory of Montenegro, which is of a transit character. There is also a lack of interest in obtaining protection due to a number of deterrent socio-economic and social factors, as well as a "hard" or restrictive asylum policy, which all together have a disincentive effect on migrants.

The integration of asylum seekers is a complex process, and Montenegro is at the beginning of that process, although 14 years have passed since the establishment of an independent asylum system. The national integration framework (legal, institutional, strategic) has been built in accordance with international documents and EU regulations, and guarantees a high level of rights to persons under international protection. Thanks to the efforts of the Directorate for Integration of Foreigners with Granted International Protection and Reintegration of Returnees upon Readmission, which is a newly formed body within the Ministry of the Interior, certain models of practical support to asylum seekers are being established and developed. The officers of the Directorate conduct the first interview with the persons who have received international protection and provide them with basic information on the available forms of support, provide them with accommodation, lead them through the institutions of the system in order to regulate personal documents, receive health care and exercise the rights they are entitled to by law.

Local self-government units are one of the key actors in the process of integration of persons under international protection. However, their role in the integration process is not sufficiently recognized. Most persons under international protection reside on the territory of the Capital city Podgorica. There were no asylum seekers or experience with them in most Montenegrin cities, so integration was not a problem. The draft of the new Strategy on Migration and Reintegration of Returnees in Montenegro, for the period 2021-2025, in the area of integration of asylum seekers, completely neglected the role of local self-governments. A unit of local self-government was recognized as one of the carriers only in one activity, in the part "Organizing workshops for actors in the field of integration that would deal with creating conditions for successful integration of asylum seekers and foreigners under subsidiary protection". The implementation of all other key activities in the field of employment, accommodation, education, health and social protection is the responsibility of state institutions, i.e. particular ministries, with relying on the financial support of traditional allies of international organizations. Corona virus pandemic has made foreigners with granted international protection even more vulnerable, because their position has worsened due to the health crisis and its effects. In order to overcome the challenges caused by the COVID19 pandemic, Legal Center, in partnership with Caritas Montenegro and Pharmacies "Meditas",

and in coordination with the Directorate for Integration of Foreigners with Granted International Protection and Reintegration of Returnees upon Readmission, provided and distributed 38 packages to 35 asylum seekers and foreigners under subsidiary protection in four municipalities (Podgorica, Bar, Kotor and Žabljak).

Basic problems in relation to certain areas of integration

Right of residence: The Ministry of the Interior has not made a single decision to suspend the right of residence in practice so far although it is estimated that over 60% of foreigners granted international protection have left Montenegro in the meantime. There is no reliable information on persons who left the territory of Montenegro after obtaining the status. Since 2007, 90 protections have been granted, but 41 people are currently residing on the territory of Montenegro. It is assumed that 49 people left the territory of Montenegro a long time ago. There is information that some persons have returned to their countries of origin or have re-applied and even gained international protection in one of the EU countries, which is the reason to make a decision on the termination of international protection²⁴. In the previous practice, the Directorate for Asylum made a decision on the termination of refugee status in 2010.

Reporting the residence address: The sanction for violating this obligation is not provided by law. In practice, an asylum seeker cannot even register a residence address. This is not possible for technical reasons because electronic databases of registration and deregistration do not recognize this category of foreigners. Data on the residence address is not an integral part of the records that the Ministry of the Interior²⁵ is obliged to keep. The records of the Ministry of the Interior and the Police Administration that keep data on these persons do not contain data on their residence address. *"The Directorate for Asylum, through the Directorate for Integration of Foreigners Granted International Protection and Reintegration of Returnees upon Readmission, will check the last registered address of residence, to which invitations and letters are sent to the party. As this practice has recently been introduced, given the fact that all functions of the international protection system (reception, procedure and integration) are centralized in the Ministry of the Interior, verification procedures are underway and decisions on the outcome will be made accordingly²⁶".*

Issuance of identity and travel documents: It takes several months for identity and travel documents to be issued, which significantly slows down the access to other rights and the integration process. **An identity document** is the key to accessing other rights. As identity and travel documents are not issued immediately after gaining protection but with a delay, an asylum seeker cannot obtain a working booklet, health booklet, driver's license and social assistance. For example, the procedure for obtaining permits

²⁴ Art. 54 Law on International and Temporary Protection

²⁵ Art. 107 Law on International and Temporary Protection

²⁶ Response to the inquiry-email of the Directorate for Asylum dated 9 February 2021

for permanent and temporary residence of foreigners is much simpler and faster and is carried out in all Regional Units of the Ministry of the Interior by the municipality of residence of a foreigner. *“In the part of deadlines for deciding on applications for issuing documents, the Ministry shall make decisions in the shortest possible time, and at the latest within the deadline referred to in Article 114 of the Law on Administrative Procedure, which stipulates that the deadline for issuing and submitting decisions in administrative proceedings is 30 days from the day of initiating the procedure, which is applicable to these administrative proceedings, since documents are also decisions in these proceedings”*²⁷. In a practical sense, **travel documents** that are issued are useless, because they are not valid for crossing the border. With these documents, asylum seekers and foreigners under subsidiary protection cannot enter EU countries. These travel documents do not exist on the list of travel documents that Montenegro has notified to the EU as a valid document for crossing the state border, so it cannot be used to cross the state border²⁸. It is not possible to travel to Bosnia and Herzegovina²⁹ with these travel documents, since such cases have not been regulated by the legislation of Bosnia and Herzegovina, while a visa is required to enter the Republic of Serbia³⁰. Tariff number 13 of the Law on Administrative Fees³¹ prescribes that a fee in the amount of €25.00 is paid for the issuance of a travel document for refugees. In practice, the fee is not charged because, in most cases, asylum seekers do not have resources to bear the cost³² themselves.

Accommodation: Providing accommodation is a serious problem and a real challenge for asylum seekers. Asylum seekers and foreigners under subsidiary protection are not given **accommodation** immediately upon delivery of the decision on international protection, but have to wait for accommodation for several days, until the Directorate for Integration, or they themselves, find a suitable apartment. Due to the impossibility to provide accommodation on time, immediately after obtaining protection, as provided by law, asylum seekers are deprived of the time of two years to which they have the right to housing. The problem with accommodation is that, for now, there are no apartments or houses that are in state property, which would be used to accommodate asylum seekers. The draft budget for 2021 requested funds for the payment of accommodation to foreigners with approved international protection. *Officials of the Directorate for the Integration of Foreigners Granted International Protection assist these persons in finding accommodation. Accommodation is currently paid by UNHCR for 5 people and one family*³³. Support does not include payment of utilities (electricity, water, public utilities), which is an additional problem and burden for these persons, most of whom are unemployed and are beneficiaries of social assistance. Foreigners under international protection face the real problem when the two-year term on housing expires, because they are not able to pay for the apartment themselves.

²⁷ Response to the inquiry-email of the Directorate for Asylum dated 9 February 2021

²⁸ Answer received on November 24, 2020 from the Embassy of the Republic of Croatia in Montenegro

²⁹ Letter no. 146-3-30-2-767—1/20, 24.11.2020 Embassy of Bosnia and Herzegovina in Podgorica

³⁰ Letter no. 146-3-30-2-767—1/20, 26.01.2020 Embassy of the Republic of Serbia in Montenegro

³¹ “Official Gazette of Montenegro”, No. 18/2019

³² Response to the inquiry-email of the Directorate for Asylum dated 9 February 2021

³³ Response to the inquiry-email of the Directorate for Integration from 16.6 2021

The right to assistance in integration into society: In this phase of the development of integration policy, the integration plan is reduced to a kind of record of whether one person has received all documents (identity and travel document, working and health booklet, etc.), social assistance, whether he or she has started a language course, included in the educational system, etc. The records are “filled” on the basis of data obtained by asylum seekers, NGOs and other actors in the integration process. Not all preconditions for the development of integration plans have been met yet. The first and basic precondition is certainly the lack of budget or financial support. Without financial support, the realization of the integration plan is not possible. Given the small number of asylum seekers, and the fact that it is about a new right prescribed by the new law from 2018, as well as the formation of the Directorate for Integration as a new body, experience in developing individual and group plans for integration is really modest and it is in the initial phase of development. Exercising rights that asylum seekers are entitled to – employment, social assistance, education – are the responsibility of other state bodies, so the development of plans and support in integration cannot be only the responsibility of the Ministry of the Interior. For successful implementation of integration plans, monitoring the implementation of plans, correction of plans, it is necessary to include experts in the field of employment, provision of social services, education, etc.

Inclusion in the labor market: Strategic documents in the field of employment do not recognize asylum seekers and foreigners under subsidiary protection as socially vulnerable categories due to poverty and social exclusion. In accordance with the available programs and employment opportunities, the Employment Agency of Montenegro provides modest support in the employment of this category of unemployed persons, with expressed cooperation and understanding of their needs and problems. The first, and for many years the only, employment program offered to foreigners granted subsidiary protection, is employment through public work “Let it be clean”, which includes work on maintaining public hygiene and waste disposal. The Employment Agency published a Public Call for the award of grants for self-employment on 12.7.2020, to which two foreigners granted international protection applied for the first time. A beneficiary from Bar, who was granted subsidiary protection, met the requirements and was awarded a grant for self-employment. These are positive examples that need to be further improved and developed. However, no special programs have been developed to employ persons who have been granted international protection. Existing employment programs are not tailored to persons granted international protection, both those without or with little formal education and those with a good general education. In 2020, *“12 foreigners granted international protection had jobs. A total of 5 persons have concluded an employment contract. The Directorate for the Integration of Foreigners Granted International Protection and the UNHCR assist them in finding employment. A couple of them found a job on their own. There are 18 people in the register of unemployed persons.”*³⁴ It is a common situation that asylum seekers and foreigners under subsidiary protection are removed from the register of unemployed persons for a period of six months, because they do not fulfill

the obligation to report regularly to the counselor.

Language learning and inclusion in the education system: Children and adult asylum seekers and foreigners under subsidiary protection do not have adequate and planned learning support so that they can more easily overcome the language and other barriers they face upon arrival in Montenegro. For many years, language learning programs have been organized and sporadically implemented by civil society organizations and international organizations. Institutional language learning through the education system does not exist in practice. Only with the adoption of the Montenegrin Language Education Program and the Montenegrin History and Cultural Heritage Education Program for Asylum Seekers and Foreigners under Subsidiary Protection, the first step was made in establishing a formal professional language learning course for asylum seekers. *"Regarding the Montenegrin language skills, 10 people speak the Montenegrin language and they are people from the Russian-speaking area, as well as one person from Morocco. Also, children from Yemen, who attend primary school, know the Montenegrin language well. Other persons cannot be said to have satisfactory command of the Montenegrin language. In 2020/21, eight children attended primary school, three children attended secondary school, while one child attended preschool institution. In 2020 one module of a three-month language learning course was organized and attended by 9 people. Of that number, only one person did not pass the final test. Classes were held in the premises of the Grammar School "Slobodan Škerović". In 2020, there were no courses of Montenegrin history and culture organized in 2020. In 2021, nine people attended a course for learning the Montenegrin language, while 6 people attended a course for learning Montenegrin history and cultural heritage"*³⁵.

Right to permanent residence: The Law on Foreigners prescribes the possibility that after 5 years of uninterrupted and legal residence on the territory of Montenegro, asylum seekers and foreigners granted subsidiary protection can obtain a permanent residence permit on the basis of granted asylum or subsidiary protection³⁶. The Law on International and Temporary Protection, as the umbrella law, does not prescribe the right to permanent residence, so it is necessary to harmonize these two regulations. In practice, it is noticed that there is a failure to inform foreigners granted international protection of the possibility to obtain a permanent residence permit. Despite the fact that a large number of persons, in terms of legal and continuous residence, meet the requirements for obtaining permanent residence, only one person has been granted this right in practice so far. Submission of evidence of accommodation provided and means of subsistence is a serious problem in practice, as asylum seekers and foreigners under subsidiary protection are mostly unemployed persons and cannot provide the evidence.

Right to Montenegrin citizenship: Since 2007, when the asylum system was established in Montenegro, no asylum seeker has obtained Montenegrin citizenship on the basis of the given asylum. Although there are a small number

³⁵ Response to the inquiry-email of the Directorate for Integration from 29.10.2020. and 16.6.2021.

³⁶ Article 86, paragraph 1, item 2 of the Law on Foreigners ("Official Gazette of Montenegro", No. 012/18 of February 23, 2018, 003/19 of January 15, 2019)

of asylum seekers currently in Montenegro, there are cases that can be considered in the context of the possibility of obtaining Montenegrin citizenship. The possibility of admission to Montenegrin citizenship for asylum seekers is currently more declarative in nature. The conditions defined by the Law on Montenegrin Citizenship³⁷ are restrictive because, in practice, asylum seekers cannot meet these conditions. On the other hand, foreigners granted subsidiary protection cannot obtain Montenegrin citizenship because the Law on Montenegrin Citizenship does not recognize them. Obtaining release from previous citizenship and obtaining a certificate of no criminal record, which is insisted on in Article 8 of the Law on Montenegrin Citizenship, puts these persons in an unequal position in relation to other categories of foreigners and practically deprives them of the opportunity to apply for Montenegrin citizenship. Article 90 of the Law on International and Temporary Protection of Foreigners³⁸ stipulates that an asylum seeker and a foreigner under subsidiary protection may acquire Montenegrin citizenship. The Law does not regulate more detailed conditions of naturalization, but refers to the provisions of the Law on Montenegrin Citizenship. According to the Law on Montenegrin Citizenship (Article 13), Montenegrin citizenship can be obtained only by a person who has been granted refugee status in Montenegro. Without the necessary changes and harmonization of regulations related to citizenship (Law on Montenegrin Citizenship and Decision on Criteria for Determining Conditions for Acquiring Montenegrin Citizenship by Admission³⁹) with the Law on International and Temporary Protection of Foreigners, Asylum Seekers and Foreigners under Subsidiary Protection will still not have access to the right to Montenegrin citizenship in practice.

Possibilities for reintegration of returnees

In 2020, Montenegro responded positively to requests for return/acceptance mainly from Germany for 194 Montenegrin citizens (Table 1)⁴⁰.

Year	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Total	145	261	238	232	447	692	567	413	266	194

Table 1

Except under readmission agreements, a number of persons return to Montenegro “voluntarily” before the forced return procedure itself begins. There are no estimates of the number of possible returnees. It is difficult to say about the number of people involved, because mechanisms for monitoring and registering voluntary returnees to the country have not been developed. There is no obligation to register persons upon their return to Montenegro, so they evade

³⁷ (“Official Gazette of Montenegro”, No. 13/2008, 40/2010, 28/2011, 46/2011, 20/2014, 54/2016 and 73/2019)

³⁸ (“Official Gazette of Montenegro”, No. 002/17 from 10.01.2017)

³⁹ (“Official Gazette of Montenegro”, No. 47/2008, 80/2008, 30/2010 and 56/2012)

⁴⁰ Ministry of the Interior, Directorate for Foreigners, Migration and Readmission 04/4 No: 225/21-9516/1 dated 26 April, 2021

all existing records.

Providing support to returnee families, Legal Center registered 118 families with a total of 569 members⁴¹. The general characteristic of most returnee families is that they are members of the Roma people who, after the introduction of the visa-free regime, driven by economic problems (unemployment, inability to provide basic living conditions for families, etc.), went to one of the European countries, mostly to Germany. They apply for asylum there and after a certain period of stay, during or after the rejection of the asylum application, they are forced to return to their country. Different examples of returnee families were recorded, but to a lesser extent, in terms of reasons for leaving, the manner and conditions of residence in EU countries, and reasons for return. Among the returnees are those who returned after 5 or more years of residence, with children born there and in need of special support. Many of them do not like to be called “returnees” or “readmitted persons”, because they believe that this determines them in a negative way in relation to other citizens. Upon their return to Montenegro, they do not encounter organized and planned support from institutions at both the state and local level, with considerable lack of information about the manner and procedures for exercising certain rights and available support measures.

After 4 years of residence in Germany, R.A. was deported to Montenegro with 5 children, on November 23, 2020. His illegitimate wife S.Đ. and a minor daughter born in Germany were deported to Serbia, from where they moved to Montenegro to reunite with the family. They settled in a village above Kotor. They live in a neglected and dilapidated building, without water and a bathroom. Even seven months after the arrival, the family have not taken care of their personal documentation. R.A is not employed, does not have a working booklet and is not registered at the register of unemployed persons. S.Đ does not have a regulated residence in Montenegro. A child born in Germany is not registered in the birth and citizenship registry books. The family is not covered by health insurance. Education of the three children, which began in Germany, was interrupted by deportation, and did not continue in Montenegro. The underage daughter of R.A. who is 15 years old is pregnant. The family did not exercise the right to social assistance. As for the visit of competent institutions, they were visited only once by officials of the Directorate for the Integration of Foreigners Granted International Protection and Reintegration of Returnees upon Readmission, and the Center for Social Work.

Many of the returnees live in Roma settlements of informal type and without constructed water and communal infrastructure. Only 5 returnees had the proof of ownership of the building⁴². The lack of ownership of the building is not the problem in relation to the extremely poor quality of housing in terms of equipment and arrangement of living space.

Returnee families are in a very difficult economic situation, with a high unemployment rate. Economic non-independence and dependence on social

⁴¹ Legal Center excel database

⁴² Excel database of Legal Center developed for the needs of the project

assistance are expressed. Centers for social work are the first institution that returnees turn to upon their arrival in Montenegro, and the payment of social assistance is currently the only concrete and available form of institutional support for returnees. According to the statements of the returnees, the amount of social assistance cannot cover the basic needs of the family - food, payment of bills, children's education, hygiene, etc.

In terms of employment, there is an extremely small number of returnees who managed to find a job upon their arrival in Montenegro. Legal Center registered only 8 persons who are employed⁴³, exclusively in companies that deal with maintaining the hygiene of public spaces and garbage collection. Unemployed persons are mostly registered with employment services as unskilled labour. Most returnees have only completed or have not attended primary school at all. In addition to providing adequate accommodation, as the most important form of support in improving their economic position, returnees recognize employment and give it priority over receiving social assistance.

In a number of returnee families, where one spouse or extramarital partner has the citizenship of another state, problems in regulating legal status, inability to provide necessary documentation for regulating residence and inability to pay administrative fees have been recorded. There are also foreign citizens in Montenegro who, upon readmission, return to the countries of their citizenship, Serbia, Kosovo, Bosnia and Herzegovina or Albania, and then continue their journey to Montenegro in order to reunite with another part of the family. These are usually persons who have a regulated permanent residence, obtained on the basis of previous I/DP status in Montenegro, or temporary residence. However, there are also families who do not have a regulated residence at all and are illegally on the territory of Montenegro. Special attention should be paid to the phenomenon of so-called **"nameless children"**, i.e. children who are not registered in the birth registry books and are completely legally invisible. Among the returnee families, as many as 24 children who were not entered in the birth and citizenship registry books⁴⁴ were registered.

The existing institutional, legislative and administrative structure established in an effort to improve and accelerate the reintegration process, systemically and in the long term, is still in the initial stage of development and operation. Although in the initial phase, certain models of practical support to returnees still exist and are being developed in practice, primarily thanks to the engagement and proactive action of the newly formed body within the MIA, the Directorate for Integration of Foreigners Granted International Protection and Reintegration of Returnees. After conducting the first interview with returnees immediately upon their arrival in Montenegro and providing basic information on available forms of support, the Directorate officials provided support in obtaining emergency accommodation, transporting returnees to their place of residence and informing local operational

⁴³ Excel database of Legal Center developed for the needs of the project

⁴⁴ Excel database of Legal Center developed for the needs of the project

teams. With the formation of the Directorate at the state level, which is especially in charge of reintegration, the returnees received special institutional support, so it is important to acquaint them with its existence, work and competencies in the future. However, it is important to keep in mind that this is a newly established body that is just gaining experience and practice within the scope of its prescribed competencies, facing numerous challenges and difficulties in its work.

During the pandemic, the position of returnees was significantly aggravated, so Legal Center, in cooperation with Caritas Montenegro and officials of the Directorate for Reintegration of Returnees, distributed 150 packages of emergency humanitarian assistance to 107 returnee families in 13 Montenegrin municipalities.

The key role in the reintegration process is played by the local self-government units, i.e. local institutions in the cities where these people really live and where reintegration actually takes place. The role of local self-governments, as one of the actors in the reintegration process, has often been neglected. The draft of the new Strategy on Migration and Reintegration of Returnees in Montenegro, for the period 2021-2025, with the Action Plan for 2021 and 2022⁴⁵, recognized the special importance of engaging local self-governments in providing support to returnees. The action plan, within the second Strategic goal, provides a budget of 72,000 euros for the provision of 20 apartments to people in need, and it is planned to increase the number of people provided with services by local readmission teams, 20% compared to 2019. One of the measures⁴⁶ to be implemented by the local self-government units refers to the obligation to provide emergency accommodation for returnees after a period of three days from the day of return to Montenegro, in case it is necessary. According to a letter⁴⁷ from the Union of Municipalities of Montenegro, only a few Montenegrin municipalities have expressed readiness to implement this measure, while Podgorica and the municipalities of Bijelo Polje, Budva, Gusinje, Žabljak, Kotor, Kolašin, Plav, Rožaje and Ulcinj are unable to implement the measure. It seems, however, that there is still a lack of systematic engagement of local actors in support of readmission. Local support mechanisms and resources are currently quite inert and unused in relation to providing concrete support to returnees in accessing rights and providing services. Municipalities in Montenegro still do not have developed systems for identifying returnees and more active dealing with their rights, unless returnees themselves turn to one of the municipal institutions for support. Municipalities do not have data on the number of returnees residing on their territories. Only the municipality of Rožaje, out of 8 contacted Montenegrin municipalities (Podgorica, Nikšić, Bijelo polje, Gusinje, Rožaje, Plav, Petnjica, Pljevlja), has certain data - 8 registered persons for the period 2019/2020, and this only applies to returnees who returned forcibly⁴⁸. Local self-governments do not recognize returnees as citizens who need special forms of

⁴⁵ <https://mup.gov.me>

⁴⁶ Strategic goal II, Operational goal 2: "Accommodation provided for returnees after a period of three days from the day of return to Montenegro, in case it is necessary"

⁴⁷ On request, May 26, 2021 by e-mail

⁴⁸ Information from the Public Institution Center for Social Work Rožaje, dated March 30, 2021

support and are not well acquainted with the problems of returnees. None of the municipalities answered in the affirmative to the inquiry on specially adopted Action Plans for this group of persons. In their budgets, they do not plan and do not allocate funds intended for providing support to returnees (with the exception of the municipality of Pljevlja)⁴⁹; instead, this takes place as part of providing support to all vulnerable groups, i.e. within social assistance for all vulnerable categories⁵⁰.

The competent institutions were primarily concerned with fulfilling the obligations and improving the procedure prescribed by the readmission agreements, and paid less attention to the process of reintegration of returnees. The implemented measures and activities defined by strategic and other documents did not have the necessary effect on combating the main causes that lead to people leaving for European countries. Returnees return to the same environment, with numerous shortcomings and pressure factors that motivate them to leave Montenegro again.

The lack of adequate data on returnees (residence addresses, social, demographic and economic characteristics, reason for their migration), insufficiently developed coordination at all levels of government, lack of quality interaction between the center and local levels to support returnees and underdeveloped specific employment and housing support programs at the local level, significantly affect the lack of concrete results in supporting returnees in reintegration.

Concluding remarks

Considering all the above mentioned, it can be concluded that Montenegro, especially in the normative framework, has made a great progress in the process of migration management. Efforts visible in the field of improving and harmonizing legislation with regulations and standards of the European Union, speak in favor of the fact that, above all, the Montenegrin institutions understand the need to develop systemic solutions and responses, with the aim of adequately addressing all operational challenges brought by the process of migrations. Support to persons seeking international protection, work on the integration of asylum seekers, i.e. reintegration of returnees, is a complex task and challenge, not only for the institutions of the system in Montenegro, but also in other countries in the region. Developing policies that will facilitate economic and social integration in society does not only mean understanding migration trends and adopting certain regulations and laws, but also requires intensive, systematic work on providing comprehensive support to these people, through a multisectoral approach,

⁴⁹ Municipality of Pljevlja, President, Decision No. UPI-01-037/21-148/2 dated 30 March 2021

⁵⁰ Secretariat for Culture, Sports, Youth and Social Welfare, Municipality of Nikšić No. IPI 08-062-15/2 dated 16 March 2021; Secretariat for Social Welfare Capital Podgorica, number: 14-D-037/21-1752/1 dated 23 March 2021; Secretariat for Local Self-Government of the Municipality of Bijelo Polje, No. 04-037/21-1538/1 dated 25 March 2021; Municipality of Pljevlja, President, Decision No. UPI-01-037/21-148/2 dated 30 March 2021; Office of the President of the Municipality of Petnjica, No. 01-UPI-056/21-158 dated 24 March 2021; Secretariat for General Administration and Social Activities, Municipality of Gusinje from March 30, 2021; Office of the President of the Municipality of Rožaje, No. UPI01-037/21-58/1 dated 31 March 2021; Secretariat for Local Self-Government, Municipality of Plav, No. 0321-271, dated 13 April 2021.

and constantly promoting cultural sensitivity and respect for the dignity and fundamental human rights of these persons. Integration and reintegration systems need further strengthening, both in terms of the capacity of the actors implementing them and in defining sustainable and effective policies. In addition, better coherence of policies and measures implemented by different actors in the field of re/integration is necessary. Strengthening the re/integration system is important, because the marginalization and exclusion of foreigners under international protection, but also of readmission returnees, is a great social and economic loss due to the under-utilization of their full potential that can benefit the entire community. Developed re/integration systems require significant investments, but the cost of not having that system for society is much higher.

Recommendations

1. **Effective implementation of regulations and policies of integration and reintegration** related to the protection and promotion of the rights of foreigners under international protection and returnees under the Readmission Agreement
2. **Improving the system of collecting, exchanging and managing data** on returnees and other categories of migrants and creating the Migration Profile of Montenegro⁵¹
3. **Participation** or inclusion of returnees and foreigners under international protection in the processes of defining and developing re/integration policies and plans
4. **Strengthening the role of local self-government units** in re/integration processes through the adoption of local policies, plans and measures aimed at returnees and foreigners granted international protection.

⁵¹ REGULATION (EC) No. 862/2007 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers

