

BOSNA I HERCEGOVINA
Ministarstvo za ljudska prava i izbjeglice
Bosne i Hercegovine



БОСНА И ХЕРЦЕГОВИНА
Министарство за људска права и изbjеглице
Босне и Херцеговине

INFORMATION ON THE IMPLEMENTATION

Resolution of the UN Human Rights Council number 29/2 entitled "Protection of human rights of migrants - migrants in transit" - **answers to a questionnaire from the note of the Office of the High Commissioner for Human Rights**

- In its letter no. 06-14-2-7489-1 /15 dated 24 November 2015, which we received on 27 November 2015, the **BiH Ministry of Security** provided the following information:

„A) In 2008 the Parliamentary Assembly of Bosnia and Herzegovina adopted the Law on Movement and Stay of Aliens and Asylum, which was amended in 2012 and was in force until 25 November 2015. The Law on Aliens, which was passed by the Parliamentary Assembly of Bosnia and Herzegovina on 10 November 2015, will be in force as of 25 November 2015. The Law on Aliens was brought in line with 10 directives and 11 regulations of the EU Council.

Most of the two laws above were brought in line with international standards and standards of the European Union so it can be said that Bosnia and Herzegovina established and has been continuously adjusting a legal framework with EU standards and has built up an institutional and administrative structure of the immigration and asylum management.

Both the laws: the Law on Movement and Stay of Aliens and Asylum, which is currently in force, as well as the Law on Aliens, which is about to enter into force, contain provisions prohibiting discrimination against foreigners on any grounds, such as gender or sex, race, colour, language, religion, political or other opinion, national or social origin, affiliation with a national minority, property status, status acquired by birth or other status. Further, the Law on Aliens provides that no provision of this Law precludes the exercise and protection of rights of aliens before any competent authority in BiH. Protection of aliens is also ensured through international protection.

An alien will not be forcibly removed or returned to a country where his life or freedom would be threatened on account of his race, religion, nationality, belonging to a particular social group or political opinion. An alien will not be forcibly removed or returned to a country where he is not protected from being sent to such a territory. Exceptionally, an alien who is for justified reasons considered dangerous for the security of BiH or is convicted for a serious crime and represents a risk for BiH, could be deported or returned to another country, unless this will expose him to a real risk of being subjected to death penalty or summary execution, torture, inhuman or degrading treatment or punishment. An alien will not be forcibly removed or returned to a country where he is not protected from being sent to such a territory. (the principle of non-refoulement)

By the time of leaving BiH, an alien can be put under surveillance so that his movement can be restricted to a specific area or place, with his obligation of reporting to the competent authority, (milder surveillance measure) or be placed in a specialized institution for reception of aliens (migration centre). In both cases, the alien is protected from arbitrary detention because the Law on Aliens explicitly prescribes cases when an alien is placed under surveillance. The alien may appeal against the decision on placing him under surveillance with the appellate authority.

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There is a provision for the possibility to appeal against the decision of the appellate authority by initiating an administrative dispute at the Court of BiH. Aliens who are placed in the immigration centre are provided with legal aid.

The competent authorities in BiH are obliged to treat minor aliens with particular attention and respect and to treat them in accordance with the Convention on the Rights of the Child and BiH legislation pertaining to the care of minors and their protection.

Minor aliens who have illegally entered the country and who are not accompanied by a parent or legal guardian or attorney or has been deprived of the presence of those persons upon entering BiH and whom the Service cannot immediately return to the country they came from or turn them over to the representatives of the country of their citizenship, the Service will temporarily accommodate them in the section of the institution specialized for minors, in which event they will inform the responsible centre for social work, which will immediately appoint a temporary guardian.

An alien who is a minor may not be sent back to the country of his/her habitual residence or the country willing to receive him/her prior to the provision of parental care or legal representation or representation of the responsible authorities in the country of return. An unaccompanied minor must under no circumstances be returned in a manner violating the European Convention on Human Rights and Fundamental Freedoms and this Law.

B) In light of the current refugee crisis in the region and the European Union, in September 2015, Bosnia and Herzegovina prepared the "Plan of urgent measures for the provision of additional capacities, control and management of the influx of massive numbers of migrants / refugees in BiH". The plan was prepared in order to provide additional capacities, control and management of the influx of mass numbers of migrants / refugees and to ensure that people should be treated humanely and in accordance with the immigration and asylum legislation, as well as international law respecting asylum and, at the same time, that a security threat should be minimised. "

- In its letter no. 06-37-1278/15 dated 12 November 2015, the **Ministry for Human Rights and Refugees** - Sector for Refugees, Displaced Persons, Readmission and Housing Policy provided the following information:

"In connection with that, we wish to inform you that all legislation and the rights that flow from that are within responsibilities of the Ministry of Security and we are not able to reply to that part of the questionnaire. However, when it comes to any possible arrival of migrants either in transit or wishing to remain in Bosnia and Herzegovina, we want to say the following:

At the 22nd meeting held on 8 September 2015, the Council of Ministers adopted the "Information Paper on the estimates and capabilities of Bosnia and Herzegovina regarding the refugee crisis in the region and the European Union", together with the "Urgent Measures Plan for providing additional capacities, control and management of the influx of massive numbers of migrants / refugees in BiH".

In this regard, the Ministry for Human Rights and Refugees has been tasked with two important assignments:

- In cooperation with the competent Entity institutions and local governments, to identify outdoor space where temporary reception camps could be set up for migrants / refugees and

- in cooperation with relevant Entity institutions and authorities, as well as international organizations dealing with migrants / refugees, to identify existing capacities for the provision of a sufficient number of tents or containers for accommodation, camp beds, mobile toilets, water cisterns etc.

When it comes to identifying the outdoor space and solid objects that can be used for this purpose as we enter the winter period and the possible migrants / refugees cannot be kept in the open, we have gathered certain information about specific sites.

We are working in close cooperation with all institutions and organizations, including particular local communities, which we believe could be on the route of movement of migrants / refugees.

On the other hand, when it comes to activities to identify existing capacities for the provision of a sufficient number of tents or containers for accommodation, camp beds, mobile toilets, water cisterns etc., the Ministry for Human Rights and Refugees held three coordinating meeting .

The coordinating meeting gathered over 20 different institutions and organizations. All three coordinating meetings and numerous other contacts that were made in the meanwhile insisted on specific answers regarding the capacities of each participating institution or organization.

According to the information gathered, we believe that the possible entry of migrants / refugees to the territory of Bosnia and Herzegovina, will not follow adequate material and financial assumptions, and in this regard we take additional measures and actions to strengthen the capacity and resources of all participating organizations and institutions".